

DRAFT FINANCIAL RECOVERY PLAN

Prepared for the

MAKANA LOCAL MUNICIPALITY

MARCH 2021



Makana LM Draft Financial Recovery Plan

Contents

EXECUTIVE SUMMARY:	4
PART ONE:	5
<i>BACKGROUND</i>	<i>5</i>
1.1 STATUTORY AND LEGISLATIVE CONTEXT	6
1.2 OVERVIEW OF THE FINANCIAL RECOVERY PLAN	9
1.3 PREPARATION, CONSULTATION AND APPROVAL OF THE MANDATORY FINANCIAL RECOVERY PLAN	11
1.4 IMPLEMENTATION OF THE MANDATORY INTERVENTION AND FINANCIAL RECOVERY PLAN	12
1.5 MONITORING AND OVERSIGHT OF THE INTERVENTION AND THE FINANCIAL RECOVERY PLAN	12
1.6 RISKS ASSOCIATED WITH THE IMPLEMENTATION OF THE FINANCIAL RECOVERY PLAN	14
1.7 COMMUNICATION PLAN	15
PART TWO:	16
2.1 A STATUS QUO ASSESSMENT	16
2.2 KEY ISSUES IDENTIFIED	16
2.2.1 GOVERNANCE	17
2.2.2 INSTITUTIONAL/ ORGANISATIONAL/ HUMAN RESOURCES	47
2.2.3 FINANCIAL MANGEMENT	53
2.2.4 SERVICE DELIVERY	63
PART THREE:	70
3.1 PHASE 1: MUNICIPAL RESCUE PHASE	70
3.2 PHASE 2: STABILISATION/RECOVERY PHASE (12 - 24 MONTHS)	30
3.3 PHASE 3: SUSTAINABILITY PHASE (BEYOND 24 MONTHS OR THE TERMINATION OF PHASE 2)	32
PART FOUR:	33
4.1 MONTHLY REPORTING ON ACHIEVEMENT OF TARGETS: MAKANA LOCAL MUNICIPALITY	33
PART FIVE:	34
5.1 REPORTING FRAMEWORK: PROGRESS AGAINST TARGETS: SERVICE DELIVERY:	34
5.2 PROGRESS AGAINST TARGETS: GOVERNANCE:	36
5.3 CONCLUSION: STRATEGIC ASSESSMENT AND CORRECTIVE ACTIONS AS REQUIRED:	42
ANNEXURE A: FRP IMPLEMENTATION PLAN	42

EXECUTIVE SUMMARY:

The Eastern Cape Provincial Executive has instituted an intervention in terms of section 139(1) (b) of the Constitution in respect of the Makana Local Municipality (Makana). The intervention occurred in response to many crises Makana is facing including difficulties in providing basic services and long term financial sustainability. The municipality is faced with numerous financial problems which impact, amongst others, on its ability to meet its financial commitments and the provision of basic services. Given the above and the urgency to ensure service delivery to communities and financial viability and sustainability, the development and the implementation of a Financial Recovery Plan (Plan) has been seen as a critical way forward for Makana. An Administrator was appointed and assumed duty on 1 October 2014 and an Acting Chief Financial Officer was deployed by the Eastern Cape Province to Makana in April 2014 which prompted the initial Financial Recovery plan. During the 2018/19 financial year, the municipality appointed a fixed-term Municipal Manager, with effect from 01 August 2018, and a fixed-term Chief Financial Officer, with effect from 01 December 2018. In January 2019, the municipality also elected a new Executive Mayor with the view of bringing in new leadership to stabilise and turnaround the municipality.

Some progress had been made since the implementation of the FRP. The municipality also in 2019 updated the Financial Recovery Plan based on the 2014 and 2017 plans. The latest progress report contains several recommendations to review the implementation of the targeted financial support and FRP to address the immediate financial, governance, operational and technical needs of the Municipality. The Municipal Finance Management Act, 2003 (Act No. 56 of 2003), requires that in a mandatory intervention, the Municipal Finance Recovery Services Unit (MFRS) within the National Treasury develops a financial recovery plan for the municipality.

The MEC for Finance requested the Minister of Finance, in terms of Section 144 of the MFMA, that the Municipal Financial Recovery Service (MFRS) review and amend the FRP, considering:

- a) changes in context, in the light of the national state of disaster;
- b) progress and challenges in implementation of the current FRP, specifically with respect to Sections 139 and 140 of the MFMA; and
- c) to ensure compliance with the requirements of Section 142 of the MFMA.

The revised FRP will be used as an instrument to guide the municipality in addressing the financial crisis in the municipality as well as to ensure that the municipality regains its financial health within the shortest timeframe whilst ensuring that all issues which adversely affect the financial health of the municipality are comprehensively addressed. This will allow the Municipality and Administrator (financial recovery) and his team to give effect to the revised financial recovery plan and the overall recovery process.

The financial recovery plan adopts a strategic, focused approach which is time-bound yet comprehensive enough to ensure that the underlying causes of the crisis are adequately addressed. To achieve this objective, the draft financial recovery plan presents a phased approach to recovery, differentiating between issues to be addressed in the short, medium and long term. The recovery plan is divided into three distinct but interdependent phases. These include a Rescue Phase (Phase 1) which focuses primarily on cash and restoring the cash position of the municipality, followed by a Stabilisation Phase (Phase 2) which expands on the financial indicators to be monitored and emphasises key governance and institutional issues which must simultaneously be addressed and finally, a Sustainability Phase (Phase 3) to ensure that indicators are developed that will give effect to the long term financial sustainability of the municipality. The approach is designed to ensure that financial recovery is not only achieved, but more importantly, that progress is institutionalised and sustained within the Makana Local Municipality.

PART ONE:

BACKGROUND

Makana Local Municipality (Makana) is a category B Municipality approximately halfway between East London and Port Elizabeth that forms part of the seven local municipalities of the Sarah Baartman (formerly Cacadu) District Municipality in the Eastern Cape Province. Makana's area is bordered in the north-east by Amathole District Municipality with the cities of Port Elizabeth 120km to the west and East London 180 km to east, north-west by Blue Crane Route Local Municipality, in the south by Ndlambe Local Municipality and in the south-west by the Sundays River Valley Local Municipality. In 2011 the Municipality was delimited into fourteen wards.

The Eastern Cape Provincial Executive has instituted an intervention in terms of section 139(1) (b) of the Constitution in respect of the Makana Local Municipality (Makana). The intervention occurred in response to many crises Makana is facing including difficulties in providing basic services and long term financial sustainability. The municipality is faced with numerous financial problems which impact, amongst others, on its ability to meet its financial commitments and the provision of basic services. Given the above and the urgency to ensure service delivery to communities and financial viability and sustainability, the development and the implementation of a Financial Recovery Plan (Plan) has been seen as a critical way forward for Makana. An Administrator was appointed and assumed duty on 1 October 2014 and an Acting Chief Financial Officer was deployed by the Eastern Cape Province to Makana in April 2014 which prompted the initial Financial Recovery plan. During the 2018/19 financial year, the municipality appointed a fixed-term Municipal Manager, with effect from 01 August 2018, and a fixed-term Chief Financial Officer, with effect from 01 December 2018. In January 2019, the municipality also elected a new Executive Mayor with the view of bringing in new leadership to stabilise and turnaround the municipality.

Some progress had been made since the implementation of the FRP. The municipality also in 2019 updated the Financial Recovery Plan based on the 2014 and 2017 plans. The latest progress report contains several recommendations to review the implementation of the targeted financial support and FRP to address the immediate financial, governance, operational and technical needs of the Municipality. The Municipal Finance Management Act, 2003 (Act No. 56 of 2003), requires that in a mandatory intervention, the Municipal Finance Recovery Services Unit (MFRS) within the National Treasury develops a financial recovery plan for the municipality.

1.1 STATUTORY AND LEGISLATIVE CONTEXT

THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996 (ACT NO.108 OF 1996)

The intervention was instituted in terms of S139 (5)(a) and (c) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), read in conjunction with Section 139 of the Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA).

S139(5)(a) of the Constitution reads as follows: “the provincial executive **must** impose a recovery plan aimed at securing the municipality’s ability to meet its obligations to provide basic services or its financial commitments, which

- i. is to be prepared in accordance with the national legislation; and
- ii. binds the municipality in the exercise of its legislative and executive authority but only to the extent necessary to resolve the crisis in its financial affairs”

In terms of the Constitution, the Eastern Cape Provincial EXCO has an obligation to ensure that a recovery plan aligned to the national legislation, in this context, the Municipal Finance Management Act, 2003 is prepared. The recovery plan may also restrict the authority of the Council and the Executive in any matter or area that impacts on the finances of the municipality. Section 139(5)(c) requires the Provincial Executive to assume responsibility for the implementation of the recovery plan to the extent that the municipality cannot or does not otherwise implement the recovery plan.

The Eastern Cape Provincial EXCO is responsible for ensuring that the financial recovery plan is implemented by the Makana Local Municipality. Failure of the Provincial EXCO to oversee the process and ensure full implementation of the recovery plan may result in national intervention in terms of S139 (7) of the Constitution.

THE MUNICIPAL FINANCE MANAGEMENT ACT, 2003 (ACT NO. 56 OF 2003)

Chapter 13 of the MFMA deals with the resolution of financial problems in municipalities and outlines the processes that must be followed in terms of mandatory interventions invoked in terms of S139 (4) and (5) of the Constitution.

- S139 (1) of the MFMA places the responsibility on the Provincial EXCO to request the Municipal Financial Recovery Services (MFRS) unit in the National Treasury to prepare a financial recovery plan, which considers the reasons for the financial crisis and an assessment of the municipality's financial status (status quo assessment).
- Only the MFRS may prepare a financial recovery plan for a mandatory provincial intervention referred to in S139.
- S139(1)(a)(iv) also empowers the MFRS to recommend appropriate changes to the budget and revenue raising measures that will support the implementation of the recovery plan.
- In terms of S139(1)(b), the Mayor of the municipality must be consulted on the recovery plan to obtain cooperation (political support) for the implementation and ensure that the budget and any other legislative measures to support the implementation of the recovery plan are approved.

Section 142 of the MFMA specifies the criteria for financial recovery plans irrespective of whether the plan is discretionary or mandatory in nature. In this regard, the following subsections are important:

S142 (1) A financial recovery plan must be aimed at securing the municipality's ability to meet its obligations to provide basic services or its financial commitments, and such a plan, whether for a mandatory or discretionary intervention –

(a) Must –

Identify the financial problems of the municipality;

- i. Be designed to place the municipality in a sound and sustainable financial condition as soon as possible;
- ii. State the principal strategic objectives of the plan, and ways and means for achieving those objectives;
- iii. Set out a specific strategy for addressing the municipality's financial problems, including a strategy for reducing unnecessary expenditure and increasing the collection of revenue, as may be necessary;
- iv. Identify the human and financial resources needed to assist in resolving financial

- problems, and where those resources are proposed to come from;
- v. Describe the anticipated timeframe for the financial recovery, and milestones to be achieved; and
 - vi. Identify what actions are necessary for the implementation of the plan, distinguishing between actions to be taken by the municipality and actions to be taken by other parties.

Section 142 (2) states that in addition, a financial recovery plan –

(a) For a mandatory intervention **must** –

- i. Set spending limits and revenue targets;
- ii. Provide budget parameters which bind the municipality for a specified period or until stated conditions have been met; and
- iii. Identify specific revenue-raising measures that are necessary for financial recovery, including the rate at which any municipal tax and tariffs must be set to achieve financial recovery.

With regard to the implementation of the financial recovery plan in mandatory provincial interventions, the municipality's attention is drawn to the following provisions of S146 of the MFMA.

S146 (1) If the recovery plan was prepared in a mandatory provincial intervention referred to in section 139 –

- (a) the municipality **must** implement the approved recovery plan;
- (b) all revenue, expenditure and budget decisions must be taken within the framework of, and subject to the limitations of, the recovery plan; and
- (c) the municipality **must** report monthly to the MEC for Finance in the province on the implementation of the plan in such manner as the plan may determine.

In conclusion, unlike a voluntary or discretionary financial intervention, the National Treasury, through the Municipal Finance Recovery Service must develop the financial recovery plan for the MLM. The plan must bind the municipality in terms of its spending and budget parameters and the municipality is obligated to ensure that such a recovery plan is implemented within the timeframes outlined.

1.2 OVERVIEW OF THE FINANCIAL RECOVERY PLAN

This financial recovery plan is prepared in accordance with the requirements of the Municipal Finance Management Act, 2003. It is based on the assessment and consultations, the updated 2019/20 Makana LM FRP, the comments of the Auditor-General and the situational analysis provided by the Provincial Treasury in February 2021.

Additionally, this financial recovery plan is aligned to the 4 pillars used by the National Treasury to assess municipal sustainability. These 4 pillars are: Governance, Institutional Stability, Financial Health and Service Delivery.

The strategic objective of this financial recovery plan is to address the current financial distress by focusing on improving the short-term financial liquidity of the municipality and by improving the long-term financial sustainability of the municipality.

This will be achieved in a phased approach, as indicated previously in this document, with a focus on high level targets to be achieved in each phase. Issues pertaining to governance, institutional stability and service delivery will also be addressed in so far as it undermines the financial recovery of the municipality.

To facilitate implementation, the financial recovery plan is divided into three key phases, namely:

Phase 1: Rescue Phase

In this phase, the focus is primarily on cash and restoring the cash position of the municipality. The indicators for rescue phase includes a funded budget, monitoring of the daily cash and cash balances, cost containment measures, focusing on improving the debtor's collection rate, the ring-fencing of conditional grants and ensuring that creditors are paid timeously and that negotiations are entered into to settle any outstanding debt. There is some focus on service delivery and governance matters, however, these are limited to addressing the most visible and easy to resolve issues. However, as resources become available through better cash management, the collection of outstanding debt and the prioritisation of expenditure, service delivery issues can be addressed more comprehensively to secure the revenue base.

This is a short-term phase and is anticipated to last up to one year from the approval date of the FRP.

Phase 2: Stabilisation Phase

The bulk of the recovery process takes place in the second phase of the recovery plan. This phase is referred to as the stabilisation phase. In this phase, a strong focus on cash, finances and financial management is still maintained but greater attention is placed on the underlying

service delivery, governance and institutional matters perpetuating the financial crisis in the municipality, such as the design of a fit for purpose organogram, plans to address the repairs and maintenance and renewal of infrastructure for the water and electricity network through which the municipality loses significant revenues, ensuring that the property valuation roll is updated and that all customers are billed according and other similar measures.

This phase is expected to last between 13 to 24 months or longer depending on progress made by the municipality.

Phase 3: Sustainability Phase

Phase 3 of the recovery plan precedes the exit of the Provincial Intervention Team. Prior to concluding the intervention, there must be a reasonable assurance that measures implemented in Phase 1 and 2 are sustainable, that the municipality is committed to ensuring the implementation of good practice.

In this phase, it is also important to include indicators that give effect to the long-term financial sustainability of the municipality. These would be derived from the Strategic Development Review of the Municipality and the Long-term financing strategy.

In each of the phases and each of the pillars, appropriate targets have been selected to guide the recovery process. These targets have been identified as most appropriate given the nature of issues confronting the municipality. These targets provide an indication of high-level outcomes that must be achieved but do not specify the steps to be taken or the methods to be used to achieve those outcomes. The choice of methods is at the discretion of the Provincial Executive and the Provincial Intervention Team who will be monitored on the progress made in achieving the set targets.

1.3 PREPARATION, CONSULTATION AND APPROVAL OF THE MANDATORY FINANCIAL RECOVERY PLAN

PREPARATION

In a mandatory intervention, S141(2) of the MFMA requires that the Financial Recovery Plan only be prepared by the Municipal Financial Recovery Services Unit within the National Treasury. In terms of S139 (1) of the MFMA, the Provincial EXCO must request the Municipal Finance Recovery Services unit to prepare an appropriate recovery plan for the municipality.

A request to this effect was received by the National Treasury on 17 June 2020 from the MEC: Finance in the Eastern Cape Province. S139(1)(v)(bb) of the MFMA requires that the financial recovery plan be prepared within a period not exceeding 90 days.

Section 141(3) (b) of the MFMA also requires that any financial recovery plan previously prepared for the municipality be taken into account. In this regard, the 2014 Mandatory Financial Recovery Plan will form the basis of this mandatory financial recovery plan.

CONSULTATION

In preparing this financial recovery plan, the MFMA requires the Municipal Financial Recovery Service to consult with the municipality, the municipality's suppliers and creditors, the MEC's for Finance and Local Government in the Province and organised labour (MFMA: S141(3)(a)).

A Provincial Intervention Team has been deployed to the municipality who have commenced preliminary negotiations with suppliers, creditors and organised labour. However, further consultation in line with the objectives of the financial recovery must be undertaken. A financial expert has been assigned by the National Treasury to assist the Provincial Intervention Team in this process. Inputs received will be factored into the mandatory financial recovery plan.

14 days prior to the finalisation of the recovery plan, the MFRS unit will as per S141(3)(c) invite comments on the financial recovery plan from the municipality, the MECs for Finance and Local Government in the Eastern Cape Province, organised local government (Provincial SALGA), organised labour and the municipality's suppliers and creditors. The MFRS Unit will also as required in terms of the MFMA, publish in a local newspaper, details of where copies of the draft financial recovery plan can be accessed for free or for a minimal fee and invite comments from the public.

APPROVAL

This Plan will be submitted for approval to MEC for Finance as per section 143 (2) of the MFMA.

1.4 IMPLEMENTATION OF THE MANDATORY INTERVENTION AND FINANCIAL RECOVERY PLAN

As this is a mandatory intervention, the municipality must implement the financial recovery plan. All revenue, expenditure and budget decisions must be taken within the framework of and subject to the limitations of the financial recovery plan (MFMA: S146(1) (a) and (b)).

The municipality is also required in terms of S146(1)(c) to report monthly to the MEC for Finance on the implementation of the financial recovery plan. Given that a Provincial Intervention Team has been deployed, reporting to the MEC for Finance will be done via the Provincial EXCO representative.

It must be emphasised that the strategies set out in this Plan relate to activities that must be institutionalised and performed by various municipal officials, as part of their routine duties and tasks. Those appointed to such positions, even in acting capacities, must be given specific roles and responsibilities, which must be captured in a revised performance agreement. The Provincial Intervention Team will oversee this process.

The **financial resources** required to support the implementation of the Plan, will be realised through restructuring of the budget, implementing the revenue collection strategy and revenue enhancement initiatives and a commitment to stringent expenditure controls, with particular emphasis on the elimination of non-essential expenditure and non-revenue generating activities.

1.5 MONITORING AND OVERSIGHT OF THE INTERVENTION AND THE FINANCIAL RECOVERY PLAN

In ensuring that the directives of the EXCO are implemented, different structures are established in order to give effect to the directives. The different structures are the following:

- ❖ Political Intervention Steering Committee (PISC)
- ❖ The Technical Intervention Steering Committee (TISC)
- ❖ A Provincial FRP Intervention Team Leader (Coordinating Workstreams)
- ❖ Workstreams: Finance, Governance, Service Delivery and Institutional Matters (reporting to the FRP Intervention team leader)

POLITICAL INTERVENTION STEERING COMMITTEE (PISC)

The PISC, as established, comprise of the Deputy Ministers of CoGTA & Treasury; Premier; MEC responsible for cooperative governance and traditional affairs, MEC for responsible for Finance, the Chairperson of SALGA and the Executive Mayor of the municipality.

- PISC shall be chaired by the Premier or MEC responsible for Cooperative Governance if

the Premier is not available, or any representative designated by the MEC.

- The PISC shall meet at least once by-weekly (per fortnight), however, special meetings may be convened as and when necessary.
- The PISC shall oversee the full implementation of the intervention in the municipality and unblock any political and unresolved challenges that may be beyond the capabilities of the TISC.
- The PISC, supported by the TISC, shall conduct scheduled visits to the municipality for the purpose of monitoring progress on the intervention.
- The PISC shall require the MEC responsible for cooperative governance, with the assistance of the Head of Department, to present quarterly progress reports to the Provincial Executive Council; and
- The PISC shall receive quarterly progress reports from the TISC.

TECHNICAL INTERVENTION STEERING COMMITTEE (TISC)

- (a) The TISC comprise of the Heads of Departments, DDGs (responsible for local government affairs) of the following departments/entities:
- (i) National Department of Cooperative Governance
 - (ii) Provincial Department of Cooperative Governance
 - (iii) National Treasury
 - (iv) Provincial Treasury
 - (v) Provincial South African Local Government Association - PEO
 - (vi) Municipal Infrastructure Support Agency (MISA) – CEO
 - (vii) The Municipal Manager and
 - (viii) Any other party that may be invited for the purposes of providing technical support throughout the intervention for the municipality.
- (b) The TISC shall be convened and co-chaired by the COGTA & Provincial Treasury HODs or any person designated by them.
- (c) Department of Cooperative Governance and Traditional Affairs shall provide secretariat support to the TISC.
- (d) COGTA, supported by the secretariat, shall convene the TISC meetings fortnightly with the workstreams meeting weekly during the first two months of the intervention. This may be reviewed after the first two or three months and
- (e) The TISC shall be responsible for, amongst others, the following:

- (i) Monitor and oversee the implementation of the FRP monthly.
- (ii) Receive reports of the work-streams fortnightly.
- (iii) Unblock any administrative challenges faced by the municipality during implementation of the FRP as may be referred to it by the FRP Intervention Team Leader.
- (iv) Leveraging of necessary resources to support the FRP Intervention Team Leader

WORK STREAMS OF THE TECHNICAL INTERVENTION STEERING COMMITTEE

- (a) Work Stream Conveners will facilitate meetings of the work streams for purposes of compiling implementation plans consistent with the objectives of the FRP for approval by the FRP Intervention Team Leader.
- (b) Work Stream Conveners will prepare and submit consolidated progress reports fortnightly on the implementation plans to the FRP Intervention Team Leader and Secretariat of the TISC.
- (c) Each work stream shall engage with the municipality on their respective areas of focus and determine which other sector departments and state-owned entities should participate to support the municipality in their relevant areas of competence to ensure implementation of the FRP intervention plans.
- (d) The Work Streams will be guided by the activities of the strategies contained in the Financial Recovery Plans of the municipality.
- (e) The Work Stream Conveners will appoint a secretariat for their respective work streams to, amongst others, schedule meetings, take minutes and compile reports for TISC meetings.

1.6 RISKS ASSOCIATED WITH THE IMPLEMENTATION OF THE FINANCIAL RECOVERY PLAN

The following risks have been identified which must be mitigated for successful implementation of the financial recovery plan. These risks relate primarily to financial administration, budgeting, financial discipline and governance. It is proposed that a risk matrix be developed and that appropriate mitigation measures be instituted. The risk management matrix must be developed by the Administrator.

The emerging risks identified, include amongst others:

- Lack of political and administrative commitment for the intervention.
- Lack of political and administrative support for identified intervention activities.
- Industrial actions owing to communications and resistance to the changes due to any organisational restructuring or realignment and the implementation thereof.
- Resistance to change by Unions, Management and Councillors.

Makana LM Draft Financial Recovery

- Community service delivery and other protests.
- Loss of grant funding due to non-compliance with grant conditions.
- Continued non-collection of revenue and increase in the debtors' book.
- Failure to materially control and reduce non-revenue electricity losses, which losses will negate the impact of other interventions.
- Failure to reverse the trend of under-maintenance and failure of timely replacement of aged infrastructure.
- Non-commitment to stringent expenditure controls and non-implementation of the revenue enhancement initiatives.
- Inadequate systems of delegation that impact on governance, administration and operational efficiency.
- Litigations issues due to SCM challenges.
- Inadequate implementation of internal controls.

1.7 COMMUNICATION PLAN

It is proposed that the communication of the implementation of the FRP be implemented in line with the road map. The draft road map indicated how the plan will be communicated to internal and external stakeholders.

PART TWO:

2.1 A STATUS QUO ASSESSMENT

The revision of the 2014 and the 2017 financial recovery plans to produce the 2019/20 FRP was led the Makana LM, Eastern Cape Provincial Treasury and the CoGTA, the municipality's political leadership, National Treasury (NT), the national Department of Cooperative Governance and Traditional Affairs (CoGTA). A status quo assessment was undertaken through which a number of challenges were identified.

In developing this financial recovery plan, the following information sources were utilised:

- The 2019/20 Mandatory Financial Recovery Plan.
- Audit reports by the Auditor-General of South Africa.
- The Mid-year Budget and Performance Assessment Report and the Medium-Term Revenue and Expenditure Framework (MTREF) Budget.
- The Integrated Development Plan
- Financial Ratios in accordance with MFMA Circular 71
- The Annual Financial Statements

2.2 KEY ISSUES IDENTIFIED

The status quo assessment will be ordered in terms of the following categories:

- a) Governance;
- b) Institutional stability and capability;
- c) Financial health; and
- d) Service Delivery.

The findings of the status quo assessment will be categorised according to these four pillars.

2.2.1 GOVERNANCE

CONTRACT MANAGEMENT

Contract management is the process of managing contract creation, execution and analysis to maximize operational and financial performance within the municipality while reducing financial risk and exposure. The municipality is encountering an ever-increasing amount of pressure to reduce costs and improve service delivery as a result of poor management practices and absence of governance systems required for effective and efficient contract management.

Section 116 of the Local Government: Municipal Finance Management Act, 2003 provides as follows:

(1) A contract or agreement procured through the supply chain management system of a municipality or municipal entity must—

- (a) be in writing;
- (b) stipulate the terms and conditions of the contract or agreement, which must include provisions providing for—

- (i) the termination of the contract or agreement in the case of non- or underperformance;
- (ii) dispute resolution mechanisms to settle disputes between the parties;
- (iii) a periodic review of the contract or agreement once every three years in the case of a contract or agreement for longer than three years; and
- (iv) any other matters that may be prescribed.

(2) The accounting officer of a municipality or municipal entity must—

- (a) take all reasonable steps to ensure that a contract or agreement procured through the supply chain management policy of the municipality or municipal entity is properly enforced;
- (b) monitor on a monthly basis the performance of the contractor under the contract or agreement;
- (c) establish capacity in the administration of the municipality or municipal entity—
 - (i) to assist the accounting officer in carrying out the duties set out in paragraphs (a) and (b); and
 - (ii) to oversee the day-to-day management of the contract or agreement; and
- (d) regularly report to the council of the municipality or the board of directors of the entity, as may be appropriate, on the management of the contract or agreement and the performance of the contractor.

(3) A contract or agreement procured through the supply chain management policy of the municipality or municipal entity may be amended by the parties, but only after—

- (a) the reasons for the proposed amendment have been tabled in the council of the municipality or, in the case of a municipal entity, in the council of its parent municipality; and
- (b) the local community—
 - (i) has been given reasonable notice of the intention to amend the contract or agreement; and

(ii) has been invited to submit representations to the municipality or municipal entity.”

On a proper construction of the above provisions of the Municipal Finance Management Act, it is clear that there are responsibilities entrusted on the Municipal Manager as the Accounting officer relating to effective management of contracts within the municipality.

Contract management might be a very time-consuming element of operations depending on service delivery model adopted by the municipality, which justifies the need for an effective and automated contract management system.

It is therefore imperative for the municipality to develop a contract management strategy, register and plans to maximise or derive enjoyment of the following benefits:

- To ensure progressive realisation of the financial benefits and identified deliverables;
- The other party is cooperative and responsive to the needs of the municipality;
- To eliminate contractual disputes or undesirable surprises;
- The delivery of services is satisfactory to both parties and benefits the community and advances the interests of the municipality;
- To eliminate irregular and unauthorised expenditure.

Contract management requires a level of flexibility for both parties involved and a willingness to adapt contractual terms and conditions to accommodate changing circumstances. Although challenges are inevitable in the course of contract implementation informed by various reasons and dynamics, the municipality must be prepared for the unexpected challenges and be able to re-negotiate and adjust terms and conditions of any contract as and when required.

While the historical practice is to manage contracts manually, the practice is riddled with inefficiencies that can only negatively impact on the operational performance of the municipality. It is now an accepted good practice to invest in an automated contract management system that will be cost-effective and create value for the municipality.

Through the status quo assessment it was established as follows:

- Payment for services rendered not done within the thirty days as required by section 65(2) of the MFMA;
- Contracted services in the audited annual financial statements for the financial year ending 2019 is recorded as **R55 474 590,00**.
- The percentage of contracted services in terms of the annual report for the financial year 2018/19 is **10%** against the total operating expenditure which is outside the acceptable norms and standards set at 5%;
- The municipality approved deviations in instances where the municipality can procure goods and services that are required on an ongoing basis on a long- term contract, for example, chemicals, water tankers, fleet repairs, etc. To avoid irregular expenditure and to reduce costs and ensure effectiveness in the procurement of goods and services, the municipality must

procure this goods and services on an as and when required for a period of three years through an open tender process;

- The contract performance and monitoring methods were not sufficient to ensure effective contract management, as required by section 116(2)(c) of the MFMA;
- The performance of some contracts or service providers were not monitored on a monthly basis as required by section 116 of the MFMA;
- There are human resources shortcomings impacting the municipality as a whole;
- The municipality is beset with poor internal controls.

A contract management framework needs to be developed to assist the officials of the municipality to properly manage contracts by addressing transition management, performance monitoring and by helping to ensure that both parties fulfil their contractual commitments.

The framework will further assist with early warning systems for contract about to expire in order to trigger procurement processes to avoid potential irregular month to month contracts and usage of outdated contracts.

The municipality must further conduct an audit of all contracts and develop an updated contract register.

GOVERNANCE MODEL

A. COMMITTEES OF COUNCIL

The Constitution of the Republic of South Africa entrust the Council of a municipality with both the Executive and legislative powers. The said Constitution was passed in 1996.

Makana local municipality was established in terms of Section 12 of the Municipal Structures Act, 1998 as a **Category B** municipality (local municipality) with an **Executive Mayoral system** combined with a **participatory ward system**.

It is apposite to note at this point that the fast-tracking of transformation of local government culminated in the enactment of, amongst others, Local Government: Municipal Structures Act, 1998, the Local Government: Municipal Systems Act, 2000 and the Local Government: Municipal Finance Management Act, 2003.

The above enabling and progressive legislation introduced, amongst others, an Executive Mayoral System in municipalities. This therefore necessitate the separation of powers between the Council and the Executive through a corporate system of delegations which is done in terms of the provisions of section 59 of the local Government: Municipal Systems Act, 2000.

Section 79 of the Local Government: Municipal Structures Act, 1998 provides as follows:

“79. (1) A municipal council may-

- (a) Establish one or more committees necessary for the effective and efficient performance of any of its functions or the exercise of any of its powers;
- (b) Appoint the members of such a committee from among its members; and
- (c) Dissolve a committee at any time.

(2) The municipal council-

- (a) Must determine the functions of a committee;
- (b) May delegate duties and powers to it in terms of section 32;
- (c) Must appoint the Chairperson;
- (d) May authorise a committee to co-opt advisory members who are not members of council within the limits determined by the council;
- (e) May remove a member of a committee at any time; and
- (f) May determine a committee procedure.

Whereas **section 80 of the Local Government: Municipal Structures Act, 1998** provides for establishment of committees to assist the Executive committee or Executive Mayor as follows:

“80. (1) If a municipal council has an executive committee of executive mayor, it may appoint in terms of section 79, committees of council to assist the executive committee or executive mayor.

(2) such committees may not in number the number of members of the executive committee or mayoral committee.

(3) the executive committee of executive mayor

- (a) appoints a chairperson for each committee from members of the executive committee or mayoral committee;
- (b) may delegate any powers and duties of the executive committee or executive mayor to the committee;
- (c) is not divested of the responsibility concerning the exercise of the power or the performance of the duty; and
- (d) may vary or revoke any decision taken by the committee subject to any vested rights.

(4) such a committee must report to the executive committee or executive mayor in accordance with the directions of the executive committee or the executive mayor.

It is also important to reflect on the provisions of **section 56 (1) of the Local Government: Municipal Structures Act, 1998** which provide as follows:

“56. (1) An executive mayor is entitled to receive reports from committees of the municipal council and to forward these reports together with a recommendation to the council when the matter cannot be disposed of by the executive mayor in terms of the executive mayors delegated authority.”

On a proper construction of the above statutory prescripts, it is clear that Council has the authority to appoint committees in terms of section 79 of the Structures Act to assist it in executing any of its roles and responsibilities as mandated by the Constitution of the Republic of South Africa which is inclusive of the oversight role over the executive and the administrative components of the municipality.

In light of the above, we have perused and analysed the annual report for the financial year 2018/19 of Makana Municipality to ascertain their current institutional arrangements and have subsequently established the following:

- The annual report confirms that the municipality has one section 79 committee in the form of Municipal Public Accounts committee that plays an oversight role and advises council on its findings;
- No other section 79 committee exists to provide oversight over the executive and administration on matters administered by the municipality in terms of the constitutional mandate;
- The municipality has an annual schedule of meetings and it has been established from the annual report that meetings of Council, Mayoral committee and section 80 committees took place as scheduled although few at rescheduled dates;
- The current financial crisis faced by the municipality demonstrates that there is absolutely no oversight role being exercised over the executive and the administration due to inappropriate institutional arrangements in the municipality;
- The section 80 portfolio committees reports to the executive mayor and are chaired by the members of the mayoral committee appointed by the executive mayor;
- The section 80 committees purpose is reflected in the annual report for the financial year 2018/19 as to deliberate and decide on the rendering of services related to specific portfolio;
- The section 80 portfolio committees established cannot therefore assist council in exercising its oversight role over the executive and the administration due to limitations derived from statutory prescripts;
- There are five (5) section 80 portfolio committees established according to the annual report as follows:
 - Social Services Development
 - Financial Administration, Monitoring and Evaluation
 - Corporate Services
 - Engineering and Infrastructure Development

- Local Economic Development
- The municipality has also established the following committees:
 - Audit Committee
 - Budget Steering committee
 - Section 32 committee
 - Aesthetic committee
 - Health and Safety committee
 - Employment Equity committee
 - Library Advisory committee
- The strategic focus areas as defined by the purpose of the current section 80 portfolio committees in the annual report is on a balance of probabilities not a true reflection of their purpose; this requires assessment of the establishment report as approved by Council;

Based on the current challenges experienced by the municipality a reasonable inference can be drawn that they are not operating at acceptable standards of functionality to assist the municipality to progressively achieve its set objectives;

The Auditor-General in his audit report for the financial year 2018/19 has made the following factual findings:

- to the effect that leadership of the municipality failed to provide oversight with regard to the implementation of internal controls, compliance with laws and regulations and performance management;
- There was inadequate review of the annual financial statements and annual performance reports before same was submitted for auditing;
- There was no oversight provided by Council and the Executive Mayor on UIFW expenditure in terms of reporting, investigations, recovery and consequence management as a result the municipality continues to incur UIFW expenditure with impunity;
- MPAC did not conduct investigations on all UIFW expenditure as required by the MFMA.

It is very clear from the outcome of the assessment of institutional arrangements outlined herein above that there is inadequate separation of powers between the executive, legislative and administrative components of the municipality. This results in unintended consequence of the limitation of oversight role of council which is critical to the provision of sustainable services to the community and expectations emanating from the constitutional mandate to a municipality.

The current institutional arrangements also result in members of council not being adequately informed with regard to the state of affairs of a municipality until a financial crisis is exposed and by then it is late for any meaningful intervention to be made to treat the situation.

Where section 80 portfolio committees of Council are established, the Council's sitting is to a greater extent limited to deciding on those matters where powers and functions have been reserved for a decision by a council resolution and those powers and functions reserved for council by legislation. This arrangement unfortunately has unintended consequence of relegating the critical oversight role to virtually non-existent by design.

This arrangement pertaining to established section 80 portfolio committees is further complicated by the fact that this section 80 portfolio committees are populated by councillors who are supposed to be providing oversight over the executive and the administration. In this instance they make recommendations to the executive mayor who can revoke, vary or reject their recommendations.

To this end, and in consideration of financial implications, it was advised that the institutional arrangements be reviewed with the sole purpose of enhancing efficiencies, accountability, responsiveness and good corporate governance. The reviewed institutional arrangements will facilitate for a more focused and robust oversight role of council over the executive and the administration.

The proposal therefore is that the terms of reference of the current section 79 Public accounts committee be enhanced with additional roles and responsibilities to assist Council with more oversight role.

The additional strategic focus area for the section 79 Public Account committee will upon review be the following:

- To consider and provide oversight on annual reports, IDP and budget processes and related public participation processes,
- To consider and provide oversight on the implementation of corporate plans, IDP, SDBIP, budget, by-laws, rates and tariffs, policies and strategies,
- To consider and provide oversight on statutory monthly reports, quarterly reports, mid-term performance reports and annual performance reports,
- To consider and provide oversight on debt collection and revenue management,
- To provide oversight on participatory governance on all matters administered by the municipality
- To monitor and provide oversight on progress with regard to service delivery and legislative compliance.
- To provide oversight on the implementation of any National or Provincial Government policies, plans and strategies

- To provide oversight on the development and implementation of action plans to address issues raised by the annual audit reports of the Auditor-General.

In addition, the section 79 Public Accounts committee will strengthen council's oversight role through the following:

- Determine priority areas for oversight in respect of each committee which determination will be informed by research and analysis,
- Be structured according to the approved executive portfolio's
- Appropriate guidelines for committee's oversight role,
- Ensure the executive and the management develop and implement action plans to address matters raised in the oversight reports,
- Holding the executive and management accountable for execution of their roles and responsibilities, and delegated authority derived from council resolution and authority derived from legislation.
- To summon members of the mayoral committee and senior management to section 79 oversight committee meetings and to request any document or information required for the performance of oversight responsibilities.

Further that the number and frequency meetings of the Public Accounts committee be increased to facilitate for a more oversight attention over the Executive and the Administration;

The section 80 committees purpose and the terms of reference must be aligned with the powers and functions of the Executive Mayor to provide clarity of purpose.

UIFW EXPENDITURE

The annual financial statement for the financial year 2018/19 of the municipality indicates that the **historical UIFW expenditure** noted is as follows:

Unauthorised expenditure:	R461 480 908.00
Irregular expenditure:	R 227 865 746.00
Fruitless and Wasteful expenditure:	R 25 000 000.00

Upon an annual audit for the financial year ending 2019 by the Auditor-General it was established that the municipality has not included all UIFW expenditure and the following was found to be the true reflection:

Unauthorised expenditure	R36 827 637.00
Irregular expenditure	R17 888 728.00
Fruitless and wasteful expenditure	R 6 100 796.00

Based on the above observation it is therefore necessary to conduct an analysis of root causes of this UIFW expenditure and non-compliance with applicable statutory prescripts with regard to UIFW expenditure and to recommend steps to be taken by the municipality in ensuring compliance. This will lead to material reduction and elimination of this expenditure and increase funding available for implementation of service delivery projects and programmes for the benefit of the community within the municipality's area of jurisdiction.

The historical UIFW expenditure is high and therefore it is imperative for the Accounting Officer to develop a reduction plan to address same.

Section 32 of the Local Government: Municipal Finance Management Act, 2003, amongst others provides that any political office-bearer or official of a municipality who deliberately or negligently committed, made or authorised an irregular, fruitless and wasteful expenditure is liable for that expenditure.

That a municipality must recover unauthorised, irregular or fruitless and wasteful expenditure from the person liable unless the expenditure in the case of unauthorised expenditure is authorised in an adjustment budget or certified by the municipal Council after investigation by a Council committee and certified by Council as irrecoverable and written off.

Further that in terms of section 32(5) of the MFMA the writing-off of any unauthorised, irregular or fruitless expenditure as irrecoverable is no excuse in criminal and disciplinary proceedings against the person charged with the commission of an offence or a breach of the MFMA relating to such unauthorised, irregular, fruitless and wasteful expenditure.

In terms of the report of the Auditor-General for the financial year ending 2019 it was found that the municipality failed to maintain adequate records of expenditure and payments incurred.

The UIFW expenditure disclosure presented in the financial statements presented for audit by the Auditor-General was not based on accurate and complete accounting records.

The UIFW expenditure disclosed in the annual financial statement does not reflect the true extent of the expenditure.

The municipality incurred fruitless and wasteful expenditure due to interest paid on overdue accounts.

Reasonable steps were not taken by the Accounting officer to prevent UIFW expenditure.

It was further established that reasonable steps were not taken to prevent UIFW expenditure and no

investigation was done against officials who caused the expenditure and therefore consequence management was not effected.

National Treasury has also published MFMA Circular 68 that provides guidelines for municipalities on how to treat Unauthorised, Irregular, Fruitless and Wasteful expenditure.

To this end, it is recommended as follows:

- That the municipality customise the MFMA Circular 68 and adopt it as policy to guide the municipality in ensuring compliance with statutory prescripts;
- The accounting Officer must submit a UIFW expenditure reduction plan to Council for consideration and approval;
- The Accounting Officer must in terms of section 65(2)(e) of the MFMA ensure payment of invoices for service rendered within thirty days to eliminate fruitless and wasteful expenditure;
- The Chief Financial Officer ensure monthly submission of UIFW expenditure report to the Accounting Officer;
- That the Accounting Officer through the Mayor ensure quarterly submission of UIFW expenditure reports to Council for oversight purposes;
- That the Council establish the Disciplinary Board if not yet established to deal with financial misconduct against officials and UIFW expenditure cases;
- That the Disciplinary Board/MPAC investigate UIFW expenditure and make appropriate recommendations through quarterly reports to council in line with the approved policy;
- Conduct diagnostic analysis of root causes and review of internal controls, procurement plan, processes and procedures.

RISK MANAGEMENT AND INTERNAL AUDIT

A. RISK MANAGEMENT

The primary aim of undertaking an enterprise-wide risk management is to manage risks on an enterprise wide basis in a consistent manner, to provide reasonable assurance regarding the achievement of the municipality's objectives, to identify and assess the municipality's financial, technological, legal and operational risks exposure and provide for mitigating measures and treatment solutions, to determine the level of tolerance of identified risks by the municipality.

Sound management of risks will enable the municipality to anticipate and respond to the ever-changing environment and to take informed decisions under conditions of uncertainty of achieving objectives of the municipality, to improve internal control measures, increased probability ensuring compliance with laws and regulations.

Although the municipality has approved risk management policy and other risk management documents to ensure that risk is managed effectively and efficiently at the Council through an ongoing process to identify, analyse, assess and manage significant threats and opportunities to ensure that the Council can effectively fulfil its mandate without fear, favour or prejudice, implementation remains a challenge. In addition, the risk based audit plan needs to be reviewed and updated in light of the current challenges at the municipality. Risk management is not fully embedded in the culture and internal control processes of the municipality.

Risk is inherent in all administrative and business activities, and that threat and opportunity are the two sides of the risk equation. All councillors and officials must continuously manage risk. Formal and systematic approaches to managing risk have evolved and they are now regarded as good management practice. The municipality must acknowledge that the adoption of a strategic and formal approach to risk management will improve decision-making, enhance outcomes and accountability.

The aim of the policy is to inculcate a Risk Management culture, processes and structures that are directed towards the effective management of potential opportunities and adverse effects within the municipality's environment.

The risk management policy outlines the municipality's commitment to protecting the Council against adverse outcomes, which may impact negatively on service delivery. It will also confirm the Council's commitment to legal and regulatory compliance.

The policy must be structured and developed in a such way that the following objectives are met:

- The municipality has an active, structured and commonly shared knowledge of organisational risks and the relative priority of risks that must be managed.
- Financial, operational and management systems directly support the management of risk that threaten the achievement of Municipality's objectives.
- Managers at all levels share the same understanding of risks and priorities.
- Business objectives are set in line with Municipality's strategic and operational risk priorities.
- Responsibility for the management of risks is assigned to the appropriate management and staff levels that have the authority to ensure that risks are managed.
- The risk management function is integrated with the business planning processes.

The following are some of the critical risks identified by the municipality, rated with high inherent risk ratings classified priority 1 risks, which are unacceptable and require action to further mitigate the exposure:

- Inability to effectively utilise available resources (human and financial);
- Ineffective utilisation of the budget;
- Non-achievement of revenue targets;

- Silo culture which inhibits communication, information sharing and a common vision. (lack of co-operation between directorates/ departments);
- Lack of adequate investment attraction;
- Lack of a marketing strategy;
- Lack of performance management throughout the municipality;
- Lack of business continuity processes;
- Inadequate communication and implementation of the existing and revised policies;
- Inadequate management and control of confidential municipal information;
- Inability to provide sufficient and safe drinking water;
- The organisational culture does not promote service delivery;
- Lack of implementation of the communication strategy;
- Poor management of inter-governmental relations;
- Thefts, fraud and corruption;
- Critical staff/ skill shortages in key strategic focus areas;
- Not meeting the realistic expectations of stakeholders (community dissatisfaction); • Lack of community awareness on environmental management;
- Increasing crime in the municipal area; and
- Lack of alignment of IDP, SDBIP and budget.

Audit and Risk Committee members were appointed by Council in April 2018 effective from the 01 May 2018 – 30 April 2021. The committee holds its quarterly meetings and performs its function in terms of the Makana Municipality Audit and Risk Committee Charter approved by Council and PMS Framework which are reviewed annually before the start of each financial year.

The municipality has appointed risk champions and have appointed Chairperson of the Risk Committee.

Although the municipality has a strategic risk register and reports produced on the implementation of corrective action quarterly, it is very clear from the challenges facing the municipality which lead to the upgrading of the intervention that there is a possible misdiagnosis of risks and the developed remedial actions are not adequate and responsive.

The municipality developed and adopted a Fraud Prevention Policy Framework and Fraud Prevention strategy which has found expression in the KPAs of the Directors. During the year of review, the Municipality assigned this function to the Risk manager and attempts were made to operationalise fraud-reporting. A Fraud reporting Hotline has been established and a Fraud Whistle Blower Policy was formulated to protect whistle blowers.

The current challenges facing the municipality which lead to the Provincial Executive Council intervening in terms of the provisions of section 139(5) of the Constitution read together with section 139 of the Local Government: Municipal Finance Management Act, 2003 demonstrates that there is inadequate risk management strategies and mitigating measures or alternatively the risk management plans are to a greater extent materially defective and not responsive;

Fraud and corruption matters reported through the Anti-corruption hotline must be reported on a quarterly basis to Council through the Audit and Risk Committee.

A risk register must be updated to serve as an instrument to manage the identified risks. The updated risk register must make provision for root causes, consequences of risk, clear risk descriptions, controls (intervention activities), task details and timeframes aligned with priority areas;

Quarterly progress reports on the implementation of remedial actions to mitigate against the abovementioned risks must be submitted through the audit and risk management committee to Council;

The Auditor-General found that the management of risks by those who are charged with governance remains a concern as there was insufficient focus and pre-emptive measures taken to address emerging risks to the environment the municipality operates within and risk assessment procedures were not adequately performed;

The municipality has not implemented appropriate risk management activities to ensure regular risk assessments including consideration of fraud prevention;

The action plans to mitigate prioritised risks should be included in the risk and action owners performance agreement and individual performance scorecards for the Municipal Manager, Chief Financial Officer and Heads of Directorates to ensure effective implementation;

The controls, indicators, timeframes and targets in the risk register must adhere to the SMART (Specific, Measurable, Achievable, Resources and Timeframe) principles.

B. INTERNAL AUDIT

Internal audit functions are a critical component of combined assurance model providing the political and administrative organs of the municipality with independent and objective assurance on internal controls, risk management, compliance and governance processes.

In compliance with Section 166(2) of the MFMA, Council has an Audit and Risk Committee which is an independent body advising the Municipal Council, the political office-bearers, the accounting officer and the management staff of the municipality, on matters relating to:

- Internal financial control and internal audits;
- risk management;
- accounting policies;
- adequacy, reliability and accuracy of financial reporting and information;
- performance management;
- effective governance;
- compliance with the MFMA, Division of Revenue Act and other applicable legislation;
- performance evaluation and any other matter that may be referred to it by the municipality;
- review annual financial statements;
- issues raised by the Auditor-General in audit reports;
- investigations into the financial affairs of the municipality.

National Treasury has also issued circular 65 in terms of the provisions of Local Government: Municipal Finance Management Act, 2003 that addresses the applicable legal framework and provide guidance and advise on how municipalities must implement and manage systems of accountability and governance.

Although the Municipality has an in-house Internal Audit Unit in place that is in the office of the Municipal Manager, headed by an Internal Audit Manager, it is not adequately resourced and is incubated by instability.

It is very clear from the governance challenges faced by the municipality that the internal audit function and system is dysfunctional and needs to be overhauled to restore good governance practices within the municipality. This is further confirmed by the information at our disposal which formed the basis of the status quo assessment that

- The findings on internal control deficiencies by the Auditor-General on critical matters like material misstatements in the annual financial statement, reconciliation of transactions and non-compliance with legislation, demonstrates that internal audit is not effective and efficient and therefore not living up to expectations;
- The Auditor-General found that internal audit function of the municipality is not adequately resourced and capacitated for the nature, size and complexity of the municipality. This in turn affected the efficiency and effectiveness of the audit committee which could not perform its duties per the acceptable norms and standards;
- The audit committee did not ensure that it promotes accountability through evaluating and monitoring responses to risks and providing oversight over the effectiveness of the internal

- control environment including financial and performance reporting and compliance with legislation;
- The recommendations of the Audit committee were not fully implemented by management;
 - The Audit committee has not being able to provide oversight over the performance management system as management failed to submit quarterly performance reports;
 - There is no evidence that the audit committee assessed the finance unit on the appropriateness of the expertise and adequacy of resources within the finance unit for the financial year 2018/19;
 - Management failed to prepare regular accurate and credible quarterly financial and performance information for financial statements and annual performance reports;
 - The internal audit unit did not conduct all planned reviews in accordance with the annual internal audit plan;
 - The Auditor-General's Reports for the 2016, 2017 and 2018 financial years have all reflected a qualified audit opinion with a trend of decreasing number of items reflected every year and many of the reported issues being repeats from previous years. This shows a slow pace of commitment, alternatively no appetite to resolve the issues that are contributing to the adverse audit opinions.
 - The Audit Action Plan for the 2017/18 financial year has 191 issues in the plan but most had a completion date of 30 June 2019 and 31 August 2019, which given the challenges at Makana are unlikely to be achieved. At the end of September 2019 only 117 (61%) of actions were completed and the Auditor General made repeat findings;
 - The lack of dealing with and rectifying issues raised by the Auditor-General resulted in regression in audit findings in the 2018/19 financial year audit and which inevitably resulted in a disclaimer audit opinion;
 - Issues should therefore be categorised and critical issues should be addressed as a priority and the plan should be monitored by the Municipal Manager; CFO; Internal Audit and management on a monthly basis and by the Risk and Audit Committee on a quarterly basis to ensure implementation and progress;
 - The Auditor General's Office concluded their audit during January 2020 and the Audit Opinion expressed on Performance information is Disclaimer opinion for 2018/19. The main issues attributed to the disclaimer is Usefulness and Reliability of reported performance information;

- Annually developed the risk based Annual Internal Audit Plan and internal audit reports were generated and processed through the Audit Committee.

To this end, it is further advised that MFMA Circular 65 as published by National Treasury on its website must be presented to Council for adoption and implementation. This will guide Council, the Executive and Management in practical approaches that will ensure compliance with the Municipal Finance Management Act, 2003. The circular will also serve as an empowering tool to members of Council on legislative expectations relating to an internal audit function.

BY-LAW ENFORCEMENT

Section 151 of the Constitution of the Republic of South Africa provides that the executive and legislative powers of the municipality vests in its municipal Council.

Section 152 of the Constitution of the Republic of South Africa provides for the objects of Local government as follows:

“1. The objects of local government are:

- (a) To provide democratic and accountable government for local communities;
- (b) To ensure the provision of services to communities in a sustainable manner;
- (c) To promote social and economic development;
- (d) To promote a safe and healthy environment;
- (e) To encourage the involvement of communities and community organisations in the matters of the local government

2. A municipality must strive, within its financial and administrative capacity to achieve the objects as set out in sub-section (1).

Section 156(2) of the Constitution provides that a municipality may make and administer by-laws for the effective administration of the matters which it has the right to administer.

By-laws are local laws that are passed by a municipality to regulate the affairs and services provided in its area of jurisdiction in terms of the constitutional mandate to local government.

It is common cause that promulgated and enforceable by-laws that are informed by scholarly developed strategies inherently has the following benefits for the municipality and the community, amongst others:

- Sustainable service delivery through, amongst others, regulatory measures that encourages consumer behaviour towards efficient usage of the scarce water resource, and providing for environmentally sustainable and socially inclusive ways of local mobility, and energy preservation, and waste minimisation and optimisation systems
- Investment attraction through enforcement of by-laws and national building regulations

- Safety and security
- Additional revenue source for the municipality
- Maintenance of infrastructure
- Reduction in electricity and water losses, and eliminating illegal connections
- Land use rights exercised according to approved town-planning scheme thereby protecting public and private investments and facilitating orderly development

A desktop analysis of the status quo was conducted with regard to by-law development and enforcement within the area of jurisdiction of Makana local municipality.

This in addition to ascertaining whether the by-laws are aligned with the current five-year Integrated Development Plan of the municipality.

An assessment and screening of the official website of the municipality indicates that the following by-laws were promulgated as follows:

By-Laws promulgated in provincial gazette on **10 August 1990:-**

- Keeping and Control of Dogs By-law

By-Laws promulgated in provincial gazette on **16 May 2003:-**

- Parking Meters and Parking Grounds By-law

By-Laws promulgated in provincial gazette on **04 February 2005:-**

- Library By-law

By-Laws promulgated in provincial gazette on **02 January 2007:-**

- Electricity Supply by-law
- Street Trading By-law
- Road and Traffic By-law
- Fences and Fencing By-law
- Sporting Facilities By-law
- Commonage By-law
- Outdoor Advertising By-law
- Water Supply and sanitation Services By-law
- Impoundment of Animals By-law
- Funeral Parlours, Cemeteries and Crematoria By-law
- Solid Waste By-law
- Public Amenities By-law
- Customer Care and Revenue management By-law
- Stormwater management By-law
- Prevention of Public Nuisance and keeping of Animals By-law

By-Laws promulgated in provincial gazette on **28 April 2009:-**

- Credit Control and Debt Collection By-law
- Indigent By-law
- Liquor Trading Hours By-law

By-Laws promulgated in provincial gazette on **05 February 2010:-**

- Rules and Orders By-law

The municipality is also not reporting on the effectiveness of the enforcement of the promulgated by-laws and the revenue collected from such enforcement.

The extent of electricity and water losses demonstrates that the electricity and water services by-laws are not enforced effectively.

It is also clear that one by-law was promulgated in 1990 which is even before the democratic dispensation in the country and some in 2003 and 2005 which is approximately fifteen years ago and all the by-laws therefore are outdated and redundant. Inevitably, the penalties in the outdated by-laws are not inflation equivalent.

It is therefore proposed as a way forward that the Municipal Manager must establish an interdepartmental task team to review and rationalise all by-laws through a SMART (Specific, Measurable, Achievable, Timeframes and Resources) compliant implementation plan. This task team should preferably be chaired by the Head of Legal services.

The strategic approach to the integrated approach must be informed by the anticipated benefits as outlined herein-above and to make an assessment whether some of the by-laws in their current form are contributing towards the identified strategic objectives of the municipality and the developmental role of a local government system.

The municipality must initiate engagements with the Department of Justice and the National/Provincial Director of Prosecutions to facilitate for the efficient and effective prosecutions on municipal by-laws through a negotiated tripartite agreement with clear roles and responsibilities and turnaround times.

The key strategic approach for this element of the recovery plan is to align the by-laws with the Integrated Development Plan and to enhance service delivery, revenue collection and promote socio-economic development within the municipality's area of jurisdiction, investment attraction and reduction in electricity and water losses.

POWER AND FUNCTIONS

Makana municipality is a category B municipality as defined in section 155(1) of the Constitution with

a mayoral executive system combined with a ward participatory system as contemplated in section 3 (c) of the Further Determination of Types of Municipalities, 2000.

Section 156 of the Constitution provides that a municipality has executive authority in respect of, and has the right to, administer the local government matters listed in part B of schedule 4 and Part B of schedule 5, and any other matter that may be assigned to it by National or Provincial legislation.

Section 43(3) of the Disaster Management Act, 2002(Act 57 of 2002) provides that a local municipality must establish capacity for the development and co-ordination of a disaster management plan and the implementation of a disaster management function for the municipality which forms part of the disaster management plan as approved by the relevant municipal disaster management centre.

Another option provided by law is found in section 43(4) which provides that a local municipality may establish a disaster management centre after consultation with the district municipality in accordance with the terms set out in a service level agreement between the two parties and in alignment with national norms and standards.

On the **3 January 2003**, the Minister by way of a notice in the Government Gazette exercised the powers vested in him in terms of the provisions of section 84 (3) of the Structures Act, 1998, and after consulting the Ministers for Finance, Health, Minerals and Energy, water Affairs and Forestry, and after consulting the MEC for Local Government in each province, **authorised** the local municipalities under all district municipalities with effect from 1 July 2003, to perform the following functions and powers as follows:

“2. (1) the authorised municipalities are authorised to perform the functions and exercise the powers mentioned in –

- (a) Section 84 (1) (b) and (d) of the Structures Act, in their respective areas of jurisdiction; and
 - (b) Section 84 (1) (c) of the Structures Act, or any aspect thereof, to the extent that those functions and powers were performed or exercised before the effective date referred to in the section 12 notice by the transitional local councils or transitional rural councils mentioned in the definition of “disestablished municipality” in the section 12 notice.
- (2) Any authorised municipality must assume full responsibility and accountability for the functions or powers that it has been authorised to perform or exercise in terms of subitem (1), and their effective and efficient performance or exercise, as the case may be.”

The construction of the notice as gazetted by the Minister does not need any second guessing as it is clear that the Minister has legally authorised all the local municipalities to perform the functions and powers which by law are delegated to the district municipalities. The said functions relate to **portable water supply systems, bulk supply of electricity, which includes for the purpose of such supply, the transmission, distribution, and where applicable, the generation of electricity, and the**

domestic waste-water and sewage disposal systems. (My emphasis)

To this end, the municipality based on the provincial notice as promulgated on 14 January 2003 read together with the notice of 01 July 2003 is responsible for the following main functions and powers:

- Electricity supply
- Water reticulation and supply
- Waste water provision
- Waste management
- Free basic services and indigent support
- Roads and stormwater management
- Transport
- Spatial Planning and Development
- Local economic development
- Cemeteries and crematoriums
- Traffic services and by-law enforcement
- Fire-fighting services
- Disaster management
- Sports and Recreation, Arts and Culture

Section 9 and 10 of the Local Government: Municipal Systems Act, 2000 provides for assignment of functions and powers which are in terms of the Constitution concurrent responsibilities of National and Provincial Governments to municipalities by way of a National or Provincial Act or by way of acts of the executive or by agreement.

The following functions and powers are currently assigned to the municipality:

- Libraries
- Vehicle licensing

It is therefore imperative to conduct an in-depth analysis of the financial implications of the assignment of functions and powers and the support and assistance provided to the municipality to execute the said functions and powers.

ICT MANAGEMENT

It is an internationally accepted good practice for all institutions to have an Information and Communication Technology governance framework and management. It is therefore a responsibility of the Council, the Executive and management to ensure that the delivery of ICT services is aligned with the approved Integrated Development Plan and strategic goals of the municipality.

In the execution of the corporate governance of ICT, the political and administrative leadership must

provide for strategies, frameworks, plans, policies, structures, procedures, processes, mechanisms and controls to derive and exploit maximum benefits, and to cultivate an organisational culture that embraces ICT services.

The benefits of ICT for the municipality is the following:

- Facilitation of progressive realisation of set strategic objectives and goals of the organisation;
- Preservation and protection of the municipality's information;
- Ensures that decision-making processes remains open and transparent through alignment of ICT services with the Integrated development plan and objectives;
- Application of best practices in order to reduce costs and increase efficiencies and effectiveness in the delivery of services to the community;
- Improved stakeholder management and engagement;
- Improved trust between the municipality and the members of the community;
- Appropriate security measures to protect the municipality's information;
- Improved effective service delivery through ICT enabled access to municipal information and services.

In terms of the annual report for the financial year 2018/19, Makana municipality has Information and Communication Technology (ICT) section which is responsible for the following functions: Planning, Network, Data, Security and Support and provides support about 150 users.

The recently reviewed and existing financial recovery plan made the following observations:

- The ICT Organisational structure reflected in the new Organisational Structure of the municipality has not been approved and implemented.
- ICT policies and an ICT Governance Framework are not effectively implemented.
- The role of the ICT and the requisite alignment of the ICT Strategic plan with the IDP or business strategic plan are not clear.
- Makana used the Abakus financial system, which was more than 25 years old and recently migrated to a SCOA compliant system, MunSoft, which is still not yet fully implemented.
- The municipality should also adequately address the management of consultants, ensure that there are champions at the municipality that take the lead in owning the system, increase human resource capacity and ensure training of staff and skill transfer and introduce effective backup procedures relative to the system.

It is noted that the Auditor-General in the audit report for the financial year 2017/18 made the following findings:

- The design and the implementation of the ICT general controls at the municipality on ICT governance, programme change management, user access management, security management and ICT service continuity were not in place and needs intervention;

- This controls form the basis to which an enabling ICT environment is created to aid the municipality in fulfilling its operational and strategic initiatives which ultimately translates into service delivery.

It is therefore imperative for the municipality to prioritise the design and the implementation of ICT general controls around the above strategic focus areas, plans and associated policies to give effect to compliance with ICT governance requirements.

This will enable the municipality to maintain alignment of strategic ICT functions to meet their needs and apply best practices that will enable the municipality to be cost-effective and derive maximum benefits from the implementation of ICT governance in the delivery of services to the local community.

SYSTEM OF DELEGATION

The Constitution of the Republic of South Africa entrust the Council of a municipality with both the Executive and legislative powers. The said Constitution was passed in 1996.

In terms of the annual report for the financial year 2018/19, Makana Municipality is established in terms of Section 12 of the Municipal Structures Act, 1998 (Act 118 of 1998) as a Municipality with a Mayoral Executive System combined with a Ward Participatory System. Section 2(b) of the Municipal Systems Act states that a Municipality is constituted by its Political Structures, Administration and Community.

The Municipality is a Category B Municipality (local municipality) with an Executive Mayoral Committee System combined with a Ward Participatory System, as defined under Chapter 1 of the Local Government: Municipal Structures Act No. 117 of 1998. The Political and Administrative seat is situated in Makhanda.

There is however a notice in the provincial gazette dated **27 September 2000** that purports to establish Makana local municipality as Category B in terms of section 3(d) of the Type of Municipality Act, 2000 (Act 5 of 2000 EC).

It is apposite to note at this point that the fast-tracking of transformation of local government culminated in the enactment of, amongst others, Local Government: Municipal Structures Act, 1998, the Local Government: Municipal Systems Act, 2000 and the Local Government: Municipal Finance Management Act, 2003.

The above enabling and progressive legislation introduced, amongst others, an Executive Mayoral System in municipalities. This therefore necessitate the appropriate separation of powers between the Council, the Executive and the Administration through a corporate system of delegations which is done

in terms of the provisions of section 59 of the local Government: Municipal Systems Act, 2000.

Consistent with the historical evolution of progressive transformation of local government, it is imperative and appropriate that the governance model must be structured in such a manner that it gives effect and meaning to the legislative and policy changes made by government.

To this end, the governance model and system of delegation based on need and desirability be structured as follows:

- All the executive powers that are vested in Council may be delegated to the Executive Mayor in line with the executive mayoral system created by the enactment of Local Government: Municipal Structures Act, 1998.
- The Council's role be limited to legislative and oversight role over the exercising of executive authority by the Executive Mayor and the administrative component under the leadership of a Municipal Manager.
- That the Council retains those legislative and executive powers reserved for Council by the Constitution of the Republic of South Africa and relevant National and Provincial Acts.

B. LEGISLATIVE AND POLICY FRAMEWORK

1. THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA

In terms of section 151 of the Constitution of the Republic of South Africa, the executive and Legislative authority of a municipality is vested in its Council.

Section 160(2) of the Constitution the following powers may not be delegated by a municipal council:

- Passing of by-laws
- Approval of budgets
- Imposition of rates and other taxes and duties,
- The raising of loans

The Constitution in terms of section 195 further makes a determination of the basic values and principles of public administration in order to guide the council and the administration in the governance processes as follows:

- a) a high standard of professional ethics must be promoted and maintained;
- b) efficient, economic and effective use of resources must be promoted;
- c) public administration must be development orientated;
- d) services must be provided impartially, fairly, equitably and without bias;
- e) people's needs must be responded to, and the public must be encouraged to participate in policy making;
- f) public administration must be accountable;
- g) transparency must be fostered by providing the public with timely, accessible and accurate information;

- h) good human resource management and career development practices, to maximise human potential, must be cultivated;
- i) public administration must be broadly representative of the South African with employment and personnel management practices based on ability, objectivity, fairness, and the need to address the imbalances of the past to achieve broad representation.

2. LOCAL GOVERNMENT : MUNICIPAL SYSTEMS ACT,2000 (Act 32 of 2000)

Section 59 of the Local Government: Municipal Systems Act, 2000 provides for development and adoption of a corporate system of delegations by council of a municipality as follows:

59. (1) A municipal council must develop a system of delegation that will maximise administrative and operational efficiency and provide for adequate checks and balances and in accordance with that system may-

(a) delegate appropriate powers, excluding a power mentioned in section 160(2) of the Constitution and the power to approve its integrated development plan to its-

(i) its executive committee, if it has an executive committee;

(ii) its executive mayor, if it has an executive mayor;

(iii) metropolitan sub-councils, if it has such sub-councils;

(iv) ward committees, if it has ward committees;

(v) other committees or elected office-bearers; and

(vi) municipal manager or any of its officials;

(b) instruct any such committee or functional to perform any of the council's duties.

(c) withdraw any delegation or instruction

Section 59(1) (a) the following powers may also not be delegated by the Council:

a) the power to set tariffs;

b) the power to decide to enter into a service delivery agreement in terms of section 76(b) of the systems Act,2000;

c) the power to approve or amend the Integrated Development Plan of Council.

Section 153 of the local Government: municipal systems Act provides that the Council of a municipality must define the roles and responsibilities of each political structure, and political office bearer and the municipal manager. The said section provides as follows:

“(1) a municipality must within the framework of and in accordance with relevant provisions of the municipal structures Act, this act and other applicable legislation, define the specific role and area of responsibility of each political structure and political office bearer of the municipality and of the municipal manager.

(2) the respective roles and areas of responsibility of each political structure and political office bearer and of the municipal manager must:

(a) be defined in precise terms by way of separate terms of reference, in writing for each political structure of political office bearer or the municipal manager,

(b) be acknowledged and given effect to in the rules, procedures, instructions, policy

statements and other written instruments of the municipality...”

On a proper construction of the above statutory prescripts, it is abundantly clear that the system of delegations must be crafted in such a way that one can have a clear understanding of interface, clear lines of accountability, the roles and responsibilities of structures, political office bearers and the municipal manager.

3. LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003 (ACT 56 OF 2003)

Section 79 of the Local Government: Municipal Finance Management Act, 2003 provides as follows:

“79 Delegations

(1) The accounting officer of a municipality-

(a) must for the proper application of this Act in the municipality’s administration, develop an appropriate system of delegations that will both maximise administrative and operational efficiency and provide adequate checks and balances in the municipality’s financial administration;...”

In interpreting and applying the above statutory provisions, it is clear that a municipality must have a system of delegations for the main purpose of maximising administrative and operational efficiencies in the provision of service delivery and to provide checks and balances in the municipality’s financial administration.

This system of delegations must be reviewed and aligned to institutional arrangements in terms of how the municipality is structured within the political and administrative components in addition to a service delivery mechanism that has been adopted. It should be noted that the dynamics around institutional arrangements will differ from one municipality to the other.

C. STATUS QUO ASSESSMENT

We have perused the delegation framework and I have since established that the framework does not provide for a clear separation of powers between the Council, Executive and the Administration as dictated by the establishment notice of the municipality.

We have made the following observations from the analysis of the current system of delegations:

- There is inadequate separation of the powers and functions of structures, organs and officials of the municipality which are delegated by legislation and those powers and functions that are delegated by Council to the Speaker, Executive/mayor, and from the Executive/Mayor to the Municipal Manager;
- The document does not inadequately give effect and meaning to the new system of governance introduced through the enactment of the local Government: Municipal Structures Act, 1998 consequent to the finalisation of the final phase of local government transformation through legislative and policy changes by National government.

- The council has erroneously and undesirably directly delegated powers and functions to the municipal manager, in certain instances to the Chief Finance Officer and other officials which is a recipe for conflict between the Executive/Mayor, Members of the Mayoral/Executive Committee, the Municipal Manager, the Chief finance Officer and this also is an impediment towards the success of the implementation of the executive mayoral system;
- There is clear separation of those powers and functions reserved for council by legislation and those powers and functions reserved for council by resolution the system does not provide for powers delegated by legislation to the Executive Mayor and those powers and functions delegated to the Executive/Mayor by way of resolution of Council, and to the Speaker, the Accounting Officer and the ;
- The current system of delegations refers to the “Executive Committee” instead of the Mayoral Committee in line with a notice other than a notice in terms of section 12 Notice issued in terms of the provisions of the Municipal Structures Act, 1998 (Act 117 of 1998) that provides for establishment of municipalities probably because it is purported to have been established as a type in terms of **section 3(d) of the Determination of Types of Municipality Act, 2000 (Act 5 of 2000 EC)**;
- Despite the above institutional arrangement, the municipality’s website and the annual report for the financial year 2018/19 refers to the Executive Mayor and Executive Mayoral Committee which is the terminology used for municipalities established in terms of section 12 notice as a type Category B (c) and (d) as provided for in the Municipal Structures Act, 1998;
- The system of delegations does not stipulate all powers and functions to all functionaries of the municipality as provided for by the Local Government: Municipal Finance Management Act, 2003;
- The system of delegation does not clarify the line of accountability from council to the Executive/mayor and subsequently to the municipal manager consistent with the rationale behind the executive mayoral system or Executive Committee system;
- The system does not also provide for the respective structures and organs of the municipality for the oversight role to be exercised for different levels of authority;
- The council has erroneously and undesirably directly delegated powers and functions directly to the municipal manager and heads of department which is a recipe for conflict between the Executive Mayor, Members of the Mayoral Committee, the Municipal Manager, the Chief Finance Officer and this also is an impediment towards the success of the implementation of the executive mayoral system;

- The current system does not provide that all powers and functions delegated to the Municipal Manager by legislation are subject to the oversight role of the Executive Mayor and administrative powers and functions must be delegated to the Municipal Manager by Council through the Executive Mayor;
- The current system of delegations does not make provision for approval by Council through the Executive Mayor all powers and functions to be delegated by the Municipal Manager to Managers reporting directly to the Municipal Manager as required by section 59(4) of the systems Act;
- The system of delegation has erroneously delegated generic powers and functions to all directors reporting to the municipal manager instead of delegating powers and functions based on strategic focus areas of directorates;
- There is also no specific delegations of powers and functions to be delegated by the Municipal Manager to the Chief Finance Officer;
- The generic powers and functions to all directors include procurement which is supposed to be centralised under finance department and the system of delegations must further provide for powers and functions related to supply chain management to be delegated by the municipal manager to supply chain committees and other officials of the municipality;
- Although the system has incorporated those powers and functions to be delegated to section 80 committee, it has erroneously delegated the said powers to section 80 committees, however this powers and functions can only be delegated by the executive mayor and therefore the system must provide that the executive mayor may delegate those powers and functions consistent with section 80 (3) (b). This observation is dependant on establishing what type of municipality is Makana Local municipality;
- The system of delegations in its current form does not record those powers and functions that the Executive mayor may delegate to members of the mayoral committee depending on the type of municipality Makana Municipality is;

It is very clear from the outcome of the assessment of the current system of delegations that it is not structured in a manner that will assist the council, its structures, organs and officials to execute their roles and responsibilities as expected.

The current system of delegations under assessment was on a balance of probability not subjected to quality assurance and was most likely derived from a generic system of delegations probably developed by the province for municipalities in their area of jurisdiction considering that it is possibly littered with omissions, errors and defects in addition to non-compliance with applicable legislation in certain respects. This is also dependent on ascertaining the established type of municipality in terms of applicable legislation.

The separation of powers between the council, the executive and the administrative component is not

embodied and integrated into the current system of delegations making it difficult to hold any structure or organ or official of the municipality to account on any matter in terms of the applicable hierarchy of authority.

The confusion occasioned by the establishment notice for Makana municipality inevitable have a negative impact on the appropriate system of delegations for the municipality and the effective and efficient delivery of services, oversight and accountability, and prudent financial management.

Section 93(2) of the Municipal Structures Act, 1998 provides that if any conflict relating to the matters dealt with in this Act arises between this Act and the provisions of any other law, except the Constitution and Chapter 2 of the Local Government: Municipal Structures Act, 2000, the provisions of this Act prevail.

D. STRATEGIC APPROACH GOING FORWARD

The current system of delegations must be overhauled in its entirety to give effect to the Constitution of the Republic of South Africa and applicable legislation. It is proposed that the framework of the said system of delegations be structured as follows:

- Have an annexure that outlines those powers and functions reserved for council by the constitution and legislation and a second category in the same annexure of those powers and functions relating to executive authority that Council reserves them to it by way of resolution;
- Have an annexure that outlines those powers and functions delegated by legislation to the Executive/Mayor and/or Executive Committee and the second category in the same annexure those executive powers delegated by Council to the Executive Mayor and/or Executive by way of resolution and the third category must outline those executive powers and functions delegated to the Executive Mayor which powers and functions must be exercised by the Executive Mayor together with the other members of the mayoral committee if applicable;
- Have an annexure of those powers and functions delegated by the Executive Mayor to the Members of the Mayoral Committee with a condition that the Executive Mayor can amend or withdraw any such powers and functions, if applicable. This powers and functions is not for approval by Council but for noting and this fact must be included in the recommendations part of the report to Council;
- Have an annexure that outlines those powers and functions relating to the administration except those powers that are reserved by legislation to the municipal manager be delegated to the municipal manager through the Executive/mayor;
- That those powers and functions delegated to the municipal manager be categorised according to departments established in terms of the approved organisational structure and with a condition that the municipal manager may further sub-delegate those powers and functions to the heads of department;

- Have an annexure that outlines those powers and functions reserved by legislation to the Speaker of council and in the same annexure have a second category of those powers and functions delegated to the Speaker by way of Council resolution;
- Have an annexure that outlines those powers and functions reserved for the municipal manager by way of legislation with a condition that those powers must be exercised subject to the oversight and directives of the Executive Mayor;
- Have an annexure of those powers and functions that are delegated by Council to the section 80 committees, section 79 oversight and standing committees of Council;
- Have an annexure outlining powers and functions relating to town-planning matters in terms of spatial planning and land use management framework to an established and dedicated municipal planning tribunal and municipal appeals tribunal;
- That all annexures outlining powers and functions of political structures, political office bearers and the Municipal Manager must have conditions that provides for checks and balances and conditions applicable to exercising of those powers and functions to ensure legal compliance, maximisation of administrative and operational efficiency, accountability, compliance with values and principles of public administration as envisaged by the Constitution.

That the current system of delegations be reviewed consistent with the content of this submission after the Local Government municipal elections scheduled to take place this year 2021 and upon clarity on the type of municipality established for Makana.

LITIGATION AND CONTINGENT LIABILITY

The annual financial statement for the financial year **2018/19** of the municipality indicates that the contingent liability declared is **R44 646 563.82** which decreased from **R46 635 567.00** in the financial year **2017/18**.

Through perusal of the annual report for the financial year, it has been established that due to non-payment of creditors and lack of funding to complete projects the municipality experiences a high volume of litigations which resulted in the municipality's bank account and assets being attached. This results in unnecessary additional legal costs & less cash resources to settle all the arrear debt.

Although the municipality has recorded a minimal decrease in contingent liability and the financial exposure is minimal, it is still necessary to conduct a diagnostic assessment of the root causes of litigation and claims against the municipality per department that will inform appropriate strategic interventions necessary to eliminate such root causes. This help to sustain minimal financial exposure from contingent liabilities related to litigation and claims against the municipality.

Any employee who causes the municipality to incur financial costs due to negligence, dereliction of

duties, omission or reckless behavior must be held accountable.

Once the diagnostic assessment has been concluded key performance areas, indicators and targets must be developed and be incorporated in the individual scorecard of respective Heads of Department. The findings of the assessment must also find expression in the risk register of the municipality.

It is further noted from municipal documents that currently the municipality does have a legal service unit in the office of the Municipal Manager for the rendition of legal services support to structures, political office bearers and the administrative components of the municipality.

The key performance areas of the legal services unit as outlined on the website are not pitched at a strategic level but on operational activities and need to be revised accordingly.

It is recommended that through the review of the organisational structure the legal services structure and the business plan be reviewed outlining how the support will be efficiently and effectively provided. This legal services unit must be centralised and have a deployment strategy for dedicated legal support for both the political and administrative components of the municipality.

It is common cause that it will almost always be impractical to follow the normal tender processes in the appointment of external firm of attorneys to represent the municipality having regard to the nature of the legal cases, the legal principle of every case is decided on its merit, and the doctrine of separation of powers between the Judiciary, the Executive and the Legislature.

To this end, it is necessary when reviewing the delegations by the Municipal Manager on implementation of supply chain management policy to grant a blanket deviation from following the normal procurement processes due to impracticality with regard to appointment of attorneys from the established panel of attorneys. This will also assist the municipality in having a cost effective external legal service through negotiated tariffs with all the panelists.

A case management system must be developed to record all finalised and pending litigation and claims for or against the municipality.

Once a Court application is received, a legal assessment after consultation with the relevant department must be conducted to establish if there are reasonable prospects of success. If the municipality does not have a winnable case they must immediately negotiate to settle the matter.

The Auditor-General has found that the management failed to ensure compliance with laws and regulations and it is therefore recommended that the municipality must develop a legal compliance matrix for implementation and compliance with the Local Government Municipal Finance Management

Act, 2003.

In addition to the overarching governance challenges highlighted by the Auditor-General, the following **internal control deficiencies** were noted with concern:

- The leadership did not effectively monitor and enforce the corrective action;
- The leadership was slow to respond to the recommendations and requests of the Auditor-General;
- The leadership did not implement effective consequence management for poor performance and the non-achievement of deadlines;
- The municipality lacked formalized standard operating procedures (SOPs) to manage performance reporting; and
- Weaknesses in the processes and controls pertaining to asset management were not adequately addressed.

2.2.2 INSTITUTIONAL/ ORGANISATIONAL/ HUMAN RESOURCES

The following institutional, organizational and human resource challenges are noted:

<u>Issues identified</u>	<u>Source</u>
<p>The Organisation Structure was last approved by Council in October 2019. The following problems that are associated with the structure and staffing were identified:</p> <ul style="list-style-type: none"> • Unsystematic absorption of personnel • Irregular appointment processes • Certain (absorbed) appointed staff do not meet minimum competencies and add no value to functioning of MLM • Execution of unfunded/partially funded mandates – provision of water and rural development • Certain personnel are misplaced • Structure is top heavy and over provision of Middle Managers - bloated • Employee related costs are at 44% and projected to rise to 49.4% by 22/23 FY; current costs are way above the norm of 25 to 40% - 	<p>Council report and resolution – October 2019</p> <p>20/21 Mid-Year Assessment Report.</p>

<p>the review of Organisation Structure of 2019 did not address the costs.</p> <ul style="list-style-type: none"> Contracted costs are at about 7.1%. 	
<p>Municipal Minimum Competency Regulations: Gazette 41336:</p> <ul style="list-style-type: none"> Not all affected personnel have completed the minimum course – these include some s56 Managers and staff required in terms of s119 of MFMA. Not all 28 modules have been completed by those enrolled. 	<p>Minimum Competencies Report</p>
<p>Skills Audit:</p> <p>Detailed Skills Audit -not conducted except for the annual WSP process.</p>	<p>May 2020/April 2021 WSP Report</p>
<p>Human Resources Plan: 2016/2021</p> <p>MLM has approved the plan, the following limitations have been noted:</p> <ul style="list-style-type: none"> The Plan will expire in 2021 – initiate review process Staff affordability – not pronounced and efforts to achieve affordability Good governance and Ethical conduct not outlined as part of the key pillars Training on Code of Conduct for employees Pay and Reward pillar does not mitigate against creating unrealistic expectations (it is too open-ended and does not make a commitment about confining such Wage Collective Agreements, Sector allowances, MLM Performance & Reward Management System) 	<p>HR Plan: 2016/2021</p>

<ul style="list-style-type: none"> Assessment of HR Maturity levels Change Management 	
Performance Management and Strategic Planning: <ul style="list-style-type: none"> The PMS is inadequate 	Report of the Auditor General SA – Eastern Cape Provincial Legislature
Performance Agreements – Senior Managers: <ul style="list-style-type: none"> The Accounting Officer and Senior Managers did not sign annual performance agreements within the prescribed period in line with MSA s57(2)(a). 	Report of the Auditor General SA – Eastern Cape Provincial Legislature
Placement, Promotion, Demotion & Transfer Policy – the following limitations are noted: <ul style="list-style-type: none"> Inconsistencies in the application for different levels – apply promotion through internal recruitment across the municipality. Ensure demotion sanction is aligned with Disciplinary Code Collective Agreement – 2018. Transfers are partly done as a result of an adverse disciplinary outcome. Transfers are not aligned to the outcomes of skills audit and competencies assessment to determine an employee suitability to a role to improve productivity, good governance and service delivery. The policy inculcates issues of incapacity of employees due to ill health or bad conduct. The policy does not state the financial implications related to a geographic relocation of an employee as a result of operational requirement – only one month accommodation is provided for. The policy does not make provision for the signing of a transfer agreement to avoid disputes 	Placement, Promotion, Demotion & Transfer Policy

<p>and interpretations.</p> <ul style="list-style-type: none"> • Clause 6 – relates to Overtime and its approval <p>NB: The policy in its current form has a potential of causing labour grievances and disputes which may compromise labour peace and costly disputes which will further compromise the already precarious financial position of the municipality).</p>	
<p>Recruitment and Selection Policy:</p> <ul style="list-style-type: none"> • Policy makes provision for fixed term contracts to be limited to MM and his/her direct reports only (consider clarifying other contract employment posts within MLM) • Policy does not make a denouncement on the absorption of staff (absorption of staff be discouraged through a Council policy as it leads to bloated organization structures and escalation of employee costs). • The Induction Programme does not make provision for the training of new employee/s on the Municipal Code of Conduct – the employee is only presented with the documents. 	Recruitment and Selection Policy
<p>Labour related contingent liabilities:</p> <ul style="list-style-type: none"> • The municipality is defendant in labour matter with estimated value of R368 000. 00 	AFS – 2019/2020 Financial Year
<p>Record Management:</p> <ul style="list-style-type: none"> • Poor record keeping which exposes the municipality to unmitigated risks. 	20/21 Mid-Year Assessment Report.
<p>Subsistence and Travelling Policy:</p> <p>The following limitations have been noted:</p> <ul style="list-style-type: none"> • The policy has some loopholes and needs to be reviewed (e.g. claiming of travel expenses before the trip is undertaken). – Clauses 3 and 9 are contradictory. 	Subsistence and Travelling Person

<ul style="list-style-type: none"> • Councillors are included - travel claims for Councillors are managed by means of the Upper limits and SALGA guidelines. • The policy does not specify a maximum amount or hotel star level the municipality will pay for overnight stays and does not specify the minimum kilometers travelled to qualify an employee for a stay over. • The policy does not specify air travel class (economy/business) 	
<p>Change Management Policy:</p> <p>The current policy is only limited to ICT processes. Well designed Change Management interventions will assist the municipality with the following:</p> <ul style="list-style-type: none"> • Smooth transitions and transformations • Help employees to understand and adapt to new developments and changes and embrace the FRP proces • Help the Executive and Council to understand and adapt to new developments and changes • Improve staff morale • Create a competitive environment • Motivate staff/ employees • Create an understanding for introduction of new interventions (i.e. FRP, new innovations, new IDP goals, budget reforms like mSCOA, regulations, new policies, broad municipal strategies, national, provincial and district policy frameworks like the NDP, B2B, etc. • To find synergies • Management of new ICT systems and Applications (Apps) 	<p>ICT Change Management Policy</p>
<p>Consequence Management:</p> <p>The following limitations have been noted:</p> <ul style="list-style-type: none"> • Disciplinary Case Management Registers lack integrity:- <ul style="list-style-type: none"> ○ Some recorded cases do not reflect particulars of the cases (dates of transgressions/report, progress) • Some cases are taking too long to resolve. • Some cases related to misconduct are not reported – some of these are related to abuse of municipal assets like vehicles 	<p>Case Management Register</p> <p>LLF report dated 04/02/2021</p> <p>Report of the Auditor General SA – Eastern Cape Provincial Legislature</p> <p>20/21 Mid-Year Assessment Report.</p>

<ul style="list-style-type: none"> • The investigation related to UIF&W were not conducted • The Disciplinary Board is dysfunctional 	
<p>Cellular Phone Policy:</p> <p>The following limitations are noted:</p> <ul style="list-style-type: none"> • There is no quantum for the various categories of recipients – this opens the policy for abuse and manipulation. • The time period for the policy is not stated and no evidence of Council approval. 	<p>Council Cellular Phone Policy</p>
<p>Local Labour Forum:</p> <p>Functionality of the Local Labour Forum (LLF) – LLF is functional.</p>	<p>LLF Report dated 02/04/2021</p>
<p>Overtime Policy:</p> <p>Approved June 2017, the following is noted:</p> <ul style="list-style-type: none"> • Endeavored to align to BCEA • Well regulated • Noted limitations: <ul style="list-style-type: none"> ○ Allows 60 hours of overtime per month per essential worker yet an essential worker is not defined, there is no evidence for the conclusion of Essential Services Agreement, this opens the possibility for abuse and manipulation. ○ The policy does not clarify the application of s16 of the BCEA ○ The policy has not been reviewed over the last 3 years. ○ The status of the policy approval regime is not stated (Overtime policy is the reserve of the Divisional Council i.t.o Main Collective Agreement – Council may adopt it OR approve its own as an interim measure in the instance the 	<p>Overtime Policy (2017)</p> <p>BCEA</p> <p>Report of the Auditor General SA – Eastern Cape Provincial Legislature</p>

Makana LM Draft Financial Recovery

<p>Division has not pronounced on one).</p> <ul style="list-style-type: none"> Application of overtime – note the following irregularities: <ul style="list-style-type: none"> Overtime worked not paid in accordance with policy Overtime paid did not correspond with hours worked resulting in excess in payment No adequate overtime controls No record keeping for overtime worked and allowances paid to employees 	
<p>Wage Collective Agreement:</p> <ul style="list-style-type: none"> Salaries and allowances were not paid in accordance with the applicable Bargaining Council agreement Employee related costs were overstated <p>Remuneration of s54A and s56 Managers:</p> <ul style="list-style-type: none"> In line with Upper Limits of Remuneration of MMs and Managers accountable to MM 	<p>Report of the Auditor General SA – Eastern Cape Provincial Legislature</p> <p>AFS – June 2020 – silent on this...</p>

2.2.3 FINANCIAL MANAGEMENT

<u>Issues identified</u>	<u>Source</u>
<p><u>1. Unfunded Budget:</u></p> <ul style="list-style-type: none"> Commended for the approval of a funded 2020/21 MTREF budget after a persistent adoption of unfunded budgets in the past years Unfunded budget 2018/19 Unfunded budget 2019/20 Funded budget 2020/21 Tariffs are cost reflective Heavy reliance on grants to fund the operations and capital projects. 	<p>Auditor-General Audit Outcome Auditor-General Audit National Treasury Norms and National Treasury Standards Norms and Standards Eastern Cape Western Cape Provincial Treasury Status Quo Report Existing FRP Existing FRP 2019/20 MTREF Budget Review 2020/21 MTREF Budget Review Eastern Cape MTREF and Mid-Year budget</p>

<ul style="list-style-type: none"> ▪ The municipality has conducted Mayoral road shows and IDP representative forums in preparation for the budget process; ▪ The 2020/21 IDP and budget was approved within 90 days (26 March 2020) of the beginning of the new financial year as required by the MFMA; ▪ The A Schedule submitted by the municipality was generated from the financial system and the data strings submitted. ▪ The municipality has detailed the basis of assumptions and the guidelines in preparing its 2020/21 draft budget ; ▪ The municipality has budgeted for surpluses over the MTREF; ▪ The 2020/21 budget is funded over the MTREF. The cash position reflects a positive outlook and does provide reasonable assurance that municipality could meet its financial obligations when prudently managing its financial affairs; ▪ The capital budget is funded from government grants. This trends continues over the MTREF; ▪ The municipality has also applied a straight line methods in projecting operating revenue and expenditure and has not taken into account seasonal influences / timing of the occurrence; as reflected in the supporting tables. ▪ The trading services has been provided at a surplus and this has been consistent over the 3 years as reflected in table A2 of the 2020/21 draft budget ▪ The gross consumer debtors balances are increasing over the years which means that the collection rate of the municipality is below the norm of 95 per cent as per MFMA circular 71; <p><u>2. Revenue Management:</u></p> <ul style="list-style-type: none"> ▪ Persistent under collection of revenue for the past three years below the NT norm. The 2019/20 FY unaudited shows improved collection rate, demonstrating 'effective' revenue management strategies. ▪ Audited collection rate for 2017/18: 84%. ▪ Audited collection rate for 2018/19: 56%. ▪ Audited collection rate for 2019/20: 71% 	<p>assessment reports</p>
--	---------------------------

- Unmetered consumption.
- Persistent growth in outstanding debtors- gross debtors from R421m in 2017/18 FY to R644 million in 2018/19 FY, an increase of R223m. As at 30 June 2020, the gross debtors per the AFS was R683 million, being an increase of R39 million.
- According to the 2019/20 AG report, the municipality did not disclose the debt impairment losses on receivables from both exchange and non exchange and the reconciliation of allowance for impairment thereof, as required by GRAP 104, Financial instruments. Failure to collect outstanding households, business and government debt: R611m, R59m and R30m respectively as at 31 December 2020
- Councillors owing the municipality for more than 90 days contravening the MSA.

3. Expenditure Management:

3.1 The 2019/20 AG report revealed the following:-

- Money owed by the municipality was not always paid within 30 days as required by section 65(2)(e) of the MFMA;
- An adequate management, accounting and information system is not in place which recognized expenditure when it was incurred and accounted for creditors made, as required by section 65(2)(b) of the MFMA;
- Reasonable steps were not taken to prevent fruitless and wasteful expenditure of R29 million (2019:R26 million), in contradiction of section 62(1)(d) of the MFMA. The majority of the disclosed fruitless and wasteful expenditure was caused by non-payment of service providers within 30 days;
- Reasonable steps were also not taken to prevent unauthorized and irregular expenditure, as required by section 62(1)(d) of the MFMA. The full extent of both unauthorized and irregular expenditure could not be quantified in the basis for disclaimer of opinion paragraphs. However, the majority of the disclosed unauthorized expenditure was expenditure exceeding the budget and weak budgetary controls while the majority of disclosed irregular expenditure was caused by non-compliance with SCM regulations;
- Unauthorised expenditure, irregular expenditure and some fruitless and wasteful expenditure incurred by the municipality was not investigated to determine whether any person was liable for the expenditure, as required by section 32(2)(a) and (b) of the MFMA

3.2 Other expenditure matters

- Escalation of the unauthorized expenditure from R557

<p>million(2019) to R577 million(2020)</p> <ul style="list-style-type: none"> ▪ Escalation of the fruitless and wasteful expenditure from R26 million (2019) to R29million (2020). ▪ Escalation of the irregular expenditure from R299 million (2019) to R339m. ▪ Payables from exchange transactions including VAT payable is standing at R199 million(2020) and R221 million(2019) ▪ Creditors payment days 409 days for 2017/18 ▪ Creditors payment days 321 days for 2018/19 ▪ Creditors payment days 265 days for 2019/20 ▪ Remuneration as a percentage of Total Operating Expenditure has increased from 32% in 2018/19 to 42% in 2019/20 ▪ Unspent conditional grants amounted to R47million and R21million for 2018/19 and 2019/20 FY respectively ▪ Below norm spending on repairs and maintenance impacting on the reliability of service delivery and placing the revenue base at risk(3% for 2018/19 and 2% for 2019/20) <p><u>4. Supply Chain Management</u></p> <ul style="list-style-type: none"> ▪ According to the 2019/20 AG report, some goods and services were procured without adherence to SCM regulations, resulting in deviations; some goods and services with transaction value below R200 000 were procured without obtaining the required price quotations, in contravention of SCM regulation 17(!)(a), while some goods and services with transaction value above R200 000 were procured without inviting competitive bids as required by SCM regulation 19(a).Deviations were also approved by the accounting officer even though it was not impractical to invite competitive bids, in contravention of SCM regulation 36(1). <p><u>5.Cash Flow Management:</u></p> <ul style="list-style-type: none"> ▪ Cash balances for 2017/18: R13.5millionillion ▪ Cash balances for 2018/19: R67.8m ▪ Cash balances for 2019/20: R35million ▪ The municipality has inadequate cash to cover the short-term municipal obligations. ▪ Unspent Conditional Grants is however cash backed ▪ The municipality relies heavily on grants to funds the operations and capital projects. <p><u>6. Internal Controls:</u></p> <ul style="list-style-type: none"> ▪ Inadequate oversight regarding implementation of Audit Action Plan resulted in recurring audit findings on compliance with laws and regulations. ▪ Poor financial management, operations and administrative 	
--	--

<p>inefficiencies</p> <ul style="list-style-type: none"> ▪ Lacking effective system of Risk Management to achieve the objectives of a strengthened internal control environment and to mitigate the risks of material misstatements in the Annual Financial Statements. 		

An analysis of key financial ratios:

Ratio	Ratio for 2017/18	Ratio for 2018/19	Ratio for 2019/20	Remarks
Asset Management Utilisation				
Capital Expenditure to Total Expenditure – indicates the prioritisation of expenditure towards current operations versus future capacity in terms of Municipal Services. The norm is 10% - 20%.	7%	5%	11%	<p>The spending on capital expenditure is substantially improving.</p> <p>The municipality continues to reduce the potential risks to service delivery. It is important for the municipality to have a well-maintained revenue generating asset base to ensure the continued operations and service provision.</p>
Repairs and Maintenance to Property, Plant and Equipment and Investment Property – measures the level of repairs and maintenance to ensure adequate repairs and maintenance to prevent breakdowns and interruptions to services delivery. The norm is 8%.	0,78%	0,21%	0.07%	<p>The municipality's percentage ratio is significantly below the norm and continue to be declining. This is an indication of insufficient expenditure incurred on repairs and maintenance to the extent that it could impact on the use of the assets and have a resulting increase of impairment of useful assets. The municipality must ensure adequate maintenance of asset to prevent breakdowns and interruptions to service delivery</p>

Debtors Management				
Annual Collection Rate - indicates the level of payments as a percentage of revenue billed on credit. The norm is 95%.	84%	56%	87%	<p>A municipality with outstanding debtors should aim at achieving a collection rate of more than 100% so as to ensure a reduction in the outstanding debt.</p> <p>The municipality's Collection Rate appears to be improving. The municipality must ensure improvement towards achieving the norm of 95%..</p>
Bad Debts Written-off as % of the Bad Debt Provision The Ratio compares the value of Bad Debts Written-off on Consumer Debtors to Bad Debts Provided for Consumer Debtors to ensure that the Provision for Bad Debts is sufficient. The norm is 100%.	5%	17%	22%	<p>The municipality's ratio is way below the norm for both the 2017/18, 2018/19 and 2019/20 financial years.</p> <p>Municipality should only write-off Bad Debts already provided for and ensure that policies and procedures regarding irrecoverable debt are in place to avoid over or under provision of bad debts.</p>

Makana LM Draft Financial Recovery

<p>Debtors Management Net Debtors Days – indicates the average number of days taken for debtors to pay their accounts.</p> <p>The norm is 30 days.</p>	39 days	30 days	386 days	<p>Net debtors days ratio is considerably regressing as compared to the past four financial years' ratios.</p> <p>It is clear the municipality does have serious problems in managing debtors.</p>
--	---------	---------	----------	--

Liquidity Management				
Cash/ Cost Coverage Ratio (Excluding Unspent Conditional Grants) The Ratio indicates the Municipality's or Municipal Entity's ability to meet at least its monthly fixed operating commitments from cash and short-term investment without collecting any additional revenue. The norm is 1-3months	0 month	1 month	0 month	The municipality's ratio remained below the norm for the past three financial years. This situation is vulnerable and poses a high risk in the event of financial "shocks/set-backs." It is clear that the municipality's ability to meet its obligations to provide basic services or its financial commitment is compromised. In order to improve the situation, the following must be achieved in the shortest possible time: - <ul style="list-style-type: none"> • Immediate reduction in expenditure on non-essentials, non-core activities, non-revenue generating activities. • Increase revenue through improved collections and billing efficiencies and seeking alternate revenue sources. • Ensuring proper administrative and governance arrangements are in place to manage daily bank deposits and withdrawals.
Current Ratio - this ratio indicates the extent to which current assets can be used to settle short-term liabilities. If current assets do not exceed current liabilities it means a liquidity problem i.e. insufficient cash to meet financial obligations. The norm is 1.5 - 2:1.	0,22	0.40	0,53	The current ratio is significantly low for all the years though it is showing some improvement. This an indication that current liabilities exceed current assets, highlighting insufficient cash to meet short-term financial obligations. The municipality must therefore increase its current assets to appropriately cover current liabilities otherwise there is a risk that non-current assets will need to be liquidated to settle current liabilities.
Liability Management				
Capital Cost (Interest Paid and Redemption) as a % of Total Operating Expenditure - indicates the cost required to service the borrowing. It assesses the borrowing or payment obligation expressed as a percentage of total operating expenditure. The norm is 6% - 8%	3%	4%	3%	The ratio did not exceed the norm range of 6%-8% for the 3years. However, this does not mean the municipality was able to service its current debt levels and can take up additional financing. It means the municipality, due to its current cash flow problems is unable to access borrowed funds or the funding decisions of the municipality impacts on these levels.

Makana LM Draft Financial Recovery

Debt (Total Borrowings)/ Revenue - indicates the extent of total borrowings in relation to total operating revenue. The purpose of the ratio is to provide assurance that sufficient revenue will be generated to repay liabilities. Alternatively stated, the ratio indicates the affordability of the total borrowings. The norm is 45%.	13%	10%	9%	The ratio is within the norm. This is an indication that the municipality might take up increased funding from borrowings, however, this should be considered within the cash flow requirements of the municipality
Net Operating Surplus Margin – measures the net surplus or deficit as a percentage of revenue. The norm is > 0%	-10%	-4%	8%	The ratio is improving which is an indication that the municipality is beginning to operate at a surplus and this therefore has to be sustained to ensure sustainable service delivery.
Distribution Losses				
Electricity Distribution Losses (%) The purpose is to measure the percentage loss of potential revenue from Electricity Services through electricity units purchased and generated but not sold as a result of losses incurred The norm is 7% - 10%	13%	12%	-	Electricity Distribution Losses norm range is 7%-10% and the municipality's percentage ratio for both 2018FY and 2019FY are outside the norm.

Revenue Management				
Revenue Growth (%) – measures the growth in revenue year on year. The norm is at the rate of CPI	4%	14%	4%	Revenue growth percentage ratio measures the overall revenue growth. Municipality's revenue growth percentage ratio has been way outside the norm for all the 3 years.
Revenue Growth (%) - Excluding Capital Grants Measures the growth in revenue excluding capital grants year on year. The norm is > 5%.	1%	14%	4%	Revenue growth percentage excluding capital grants measures the overall revenue growth adjusted for capital grants. Municipality revenue growth percentage excluding capital grants ratio has been outside the norm for the 2018FY and 2020FY.
Expenditure Management				
Creditors Payment Period This ratio indicates the average number of days taken for trade creditors to be paid. The norm is 30 days.	308 days	279 days	208 days	The municipality's ratio is way beyond the norm and an urgent attention must be given to cash flow management which need to be addressed to avoid unnecessary interest charges by creditors. Non-compliance with MFMA regulation guiding the payment of creditors should be considered.
Irregular, Fruitless and Wasteful and Unauthorised Expenditure to Total Expenditure – this ratio measures the extent of irregular, fruitless and wasteful and unauthorised expenditure to total expenditure. The norm is 0%.	141%	161%	178%	Irregular, Fruitless and Wasteful and Unauthorized expenditures' norm range is 0%. The municipality's ratio for the past three financial years is way beyond the norm, This indicates weaknesses within the municipality's SCM processes and non-compliance with procurement regulations and guidelines. The municipality must investigate these expenditures in line with applicable legislation

Remuneration (Councillor Remuneration and Employee Related Costs) as % of Total Operating Expenditure - Indicates the extent to which expenditure is applied to the payment of personnel. The norm is 25% - 40%.	33%	32%	42%	Remuneration as a percentage of Total Operating Expenditure has been within the norm range for all the years. It is concerning however that the ratio for the 2019/20 is exactly at the ceiling of 40% from the previous ratio of 32%.
Contracted Services as a % of Total Operating Expenditure - indicates the extent to which the municipalities resources are committed towards contracted services to perform Municipal related functions. The norm is 2%-5%.	4%	10%	6%	Contracted Services' ratio is way beyond the norm range of 2%-5% for the financial years 2019 and 2020 from the ratio of 4% which is within the norm for the 2018 FY. This is an indication of the absence of a Contract Management policy and over reliant on contracted services to perform municipal related functions as opposed to filling critical positions based on the new well researched and informed organisational structure that is fit for purpose and appointment of qualifying and skilled people.

2.2.4 SERVICE DELIVERY

<u>Issues identified</u>	<u>Source</u>
REVENUE MANAGEMENT: The municipality has an Eskom outstanding debt of more than 90-days. The payment arrangement in place needs to be confirmed that it is affordable and adhered to. The Makana Local Municipality owes R37.9-million to Eskom. Not all customers are being billed. The municipality has losses for water and electricity that are above the norm. Water losses must be less than 30%. Electricity losses must be less than 10%. Cost reflective tariffs must be in place.	2017/18 AFS FRP 2019/20 MTREF Review of the 2014 and 2017 editions
WATER: Water Losses must be less than 30%. Based on the 2017/18 audited AFS, water losses were at 76 per cent (37%:2019) which amounted to a loss in revenue of R14.8 million. <u>Water Resources</u> The water used in the municipality is abstracted from Howieson's Poort Dam, Settlers Dam, Jameson Dam,	Department of Water and Sanitation (2012)

<p>Milner Dam and Glen Melville Dam (Department of Water and Sanitation).</p> <p>The municipal dams are old having been established before the 1960s. The municipality must ensure it adheres to regulations as far as safety of dams is concerned.</p> <p>High turbidity @ Glen Melville Dam</p> <p>Unstable pumping system and rising main capacity challenges.</p> <p>On the IDP it is reported that inadequate electricity on the Western side results in inability to supply raw water abstraction for purification.</p> <p><u>Makhanda West Water Purification</u></p> <p>Makhanda West is supplied from the Waainek Water Purification Works. The source for the works is the Howieson's Poort, Settlers, Jameson and Milner Dams. This water works is supplied by the Howieson's Poort Pumping Main. The design capacity is 9MI/day which currently not operating optimally.</p> <p>Maintenance is required raw water storage reservoir liners.</p> <p><u>Makhanda East Water Purification</u></p> <p>Makhanda East is supplied by the Jameson Water Purification Works. The source for the works is the Fish River from the Glen Melville Dam owned by Department of Water and Sanitation. The works design capacity is 10MI/day but operating above this design capacity to 13MI/day.</p> <p>This is a serious risk. Mechanical and electrical needs to be maintained.</p> <p>Makhanda's daily water requirements is indicated to be more than 18MI/day and any outage in the system results in poor water service delivery to the community.</p> <p>The last Blue Drop scores reported on indicated that the DWQ Compliance, asset management and loss management activities for Alicedale, Makhanda and Riebeek East was low and needed to be improved upon.</p> <p>The Municipality has a backlog to provide water services while the drought condition is also contributing to the water crisis.</p> <p>Poor maintenance of the Municipality's ageing infrastructure underlies the high volume of water losses.</p>	<p>Makana IDP 2019-20</p>
---	---------------------------

<p>Water leaks due to pipe burst leads to escalation of overtime costs which is a major contributing factor to the high wage bill of the Municipality.</p> <p>Vandalism and theft of essential infrastructure exacerbates the challenges and the municipality needs to ensure security of its infrastructure .e.g. fencing, telemetry.</p> <p>The municipality needs to identify and strategically keep critical spares to enable timeous repairs .e.g. coupling for Howieson's Poort pipeline, valve, pump spares for treatment works.</p> <p>Provisioning of water done using water tankers from municipality and donor organizations.</p> <p>There is a shortage of water tanks in the community for water supply.</p> <p>The storage retention capacity is also below the recommended 48hrs (Makana less than 12hrs).</p> <p>Network Water Leaks due to leaking valves, burst pipes and meters.</p> <p>An audit finding was made that bulk metering was not in place to enable confirmation of the bulk purchases.</p> <p>Institutionalization of water conservation and demand management is key to water saving initiatives. This would give account of the municipality's strategy of amongst others metering and pressure management.</p>	
<p>ELECTRICITY:</p> <p>Makana Local Municipality owes R37.9-million to Eskom.</p> <p>The municipality needs to have a credible arrangement for payment of Eskom.</p> <p>The municipality must monitor electricity purchases against billing.</p> <p>Electricity losses of 12% (2019, 13%:2018) which have been recorded are more than the norm of 7-10%.</p> <p>The municipality needs to ensure that it applies for electricity licensing for all new areas that are being developed where it is making financial sense for the municipality. The municipality needs to have the wheeling agreement template in place in order to be able to facilitate this.</p> <p>The municipality needs to review streetlighting accounts from Eskom in order to ensure that there is value for money on services provided.</p>	<p>Makana IDP 2019-20</p>

<p>There is an indication that there is no electricity master plan. This needs to be developed urgently to guide business planning for future projects.</p> <p>The maintenance plan is in place but it is said that it is not being implemented because of staff shortages.</p> <p>The municipality needs to comply with General Machinery Regulations.</p> <p>The municipality needs to develop an integrated resource plan, a feasibility study and a road map for its future energy provision.</p> <p>It is critical to secure infrastructure due to theft and vandalism.</p> <p>The distribution substations require new isolators for breakers.</p> <p>A conditional assessment needs to be conducted for mini-substations and the outcome used to prioritize maintenance.</p> <p>A conditional assessment needs to be conducted for all major substations and the outcome used to prioritize maintenance (Substation yard, substation rooms, switchgear, primary transformers, outdoor isolator and breakers, overhead line gear).</p> <p>There is a shortage of tools of trade.</p> <p>Insufficient training for electrical trade tests and HV regulation training.</p>	
<p>WASTE MANAGEMENT (Waste Collection and Landfills):</p> <p>The municipality has an IWMP approved in 2018. The municipality has a local waste management plan. The municipality also has by-laws on waste management.</p> <p>The municipality has three landfill sites namely, Makana, Alicedale and Riebeek East.</p> <p>The municipality has reported that all the landfill sites are licensed.</p> <p>Makhanda Landfill (125T/day waste, 10Ha area) was established in 1996 and is projected to have remaining</p>	<p>Draft Integrated Waste Management Plan (2007)</p>

useful life of 20 years.

- Significant increase in waste transportation due to illegal dumping.
- Old fleet proving to be a challenge
- Challenges with abattoir waste (need to get deep dug trench covered immediately after disposal with lime treatment).

Alicedale Landfills (1.56T/day waste, 0.9Ha area) was established in 2005 and is projected to have remaining useful life of 20 years.

- No landfill closure plan
- No closure liability calculation available during the assessment.

Riebeeck East Landfills (No data for T/day waste, 0.5Ha area) was established in 2005 and is projected to have remaining useful life of 15 years.

- No landfill closure plan
- No closure liability calculation available during the assessment

- Limited capacity relating to waste management within the LM

- Waste recovery and recycling initiatives are limited

- Waste by-laws and enforcement thereof is limited

The municipality has appointed a waste management officer.

The community complaint has been withdrawn from court.

Gas monitoring needs to take place consistently in line with license conditions.

Ground-water monitoring needs to take place consistently in line with license conditions.

Surface water monitoring needs to take place

consistently in line with license conditions.	
<p>FLEET MANAGEMENT:</p> <p>The municipality needs to develop a fleet management plan that takes into account the current scenario and also a plan that anticipate changes in the future.</p> <p>Fleet management is in the 2019-20 FRP and the project implementation plan recommends the development of a business plan for funding of the municipal fleet.</p> <p>The municipality is currently struggling to collect refuse because of inappropriate fleet and this also presents Occupational Health and Safety Hazards to the employees within the refuse collection section.</p>	Makana IDP 2019-20
<p>SANITATION AND WASTE-WATER TREATMENT:</p> <p>In the 2016 Green Drop report Waste-Water Treatment Works (WWTW) are classified into three categories namely, low risk, medium risk, high risk and critical risk.</p> <p>The municipality needs to operate its facilities in line with the National Water Act of 1998 (Act No. 36 of 1998, Government Notice No 1191) in accordance with the Permit requirements of Department of Water and Sanitation.</p> <p>There were three wastewater treatment facilities indicated in the IDP.</p> <p>Alicedale WWTW was indicated to have a capacity of 0.85Ml/day and operated at 151% of its design capacity.</p> <p>Belmont Valley WWTW was indicated to have a capacity of 5.4Ml/day and operated at 139% of its design capacity.</p> <p>Mayfield WWTW was indicated to have a capacity of 2.5Ml/day and operated at 112% of its design capacity.</p> <p>An assessment needs to be done to check on progress on rectifying this situation and continue to develop wastewater treatment works to accommodate growth.</p>	<p>2014 Green Drop Progress Report</p> <p>2019/20 FRP</p>

<p>MASTERPLANS, POLICIES AND BY-LAWS:</p> <p>The municipality needs to have number of Masterplans, policies and by-laws in place. The municipality needs to have all the relevant by-laws in place, including fines for enforcement of the by-laws. The key plans with associated policies and by-laws that need to be in place are:-</p> <p>Integrated Infrastructure Asset Management Plan Electricity Master Plan (incl. Electrification Plan) Water and Sanitation Master Plan Water Service Delivery Plan Water Conservation and Water Demand Mgmt Plan Fleet Management Plan Roads and Stormwater Plan Integrated Transport Plan Integrated Waste Management Plan Human Settlements Plan</p>	
<p>LAND USE MANAGEMENT</p> <ul style="list-style-type: none"> • Review of the 5 year SDF to facilitate land use management. • Review of municipal property portfolio. • Undertake complete property audit & review of all leases. • Review the possible sale of municipal properties. Investigate & where possible terminate leases where municipality is lessee. • Provision of land for housing development • Land audit of municipal properties/open space. • Influx of informal settlements • Provision of land for community services 	<p>Makana IDP 2019-20 Financial Recovery Plan</p>

PART THREE:

3.1 PHASE 1: MUNICIPAL RESCUE PHASE

Given that this intervention has been invoked as a result of a crisis in the financial affairs of the municipality, in this phase of the recovery plan, emphasis will be placed on the cash and cash position of the municipality, as well as restoring some of the basic principles of good financial management. The strong emphasis on improving the cash position is to create an availability of resources to address some of the most immediate and visible service delivery challenges. However, an emphasis on cash and municipal finances does not preclude the Provincial Intervention Team from addressing governance and institutional issues.

In this phase, emphasis also leans towards “quick wins” - what are the issues that require relatively little effort or resources to be addressed, but would make meaningful inroads towards the overall recovery process?

The phase is expected to last between 8 to 12 months. A few critical, high level indicators have been selected to guide this phase of the recovery plan. Progress on meeting these indicators will be monitored monthly by both the Provincial Executive as well as the Technical War Room.

The 6 high level indicators selected for this Phase are:

- A funded budget;
- Daily cash and cash balances;
- Cost containment;
- Debtors collection rate;
- Payment of creditors; and
- Ring-fencing of conditional grants.

In addition, indicators relating to the capital programme and the reduction of unaccounted, irregular, fruitless and wasteful expenditure have been included. High level targets for governance and service delivery are specified separately.

PHASE 1: FINANCIAL TARGETS (RESCUE PHASE):

NO	PERFORMANCE AREA	ASSUMPTION/ BUDGET PARAMETER	2020/21FY	2021/22FY BUDGET TARGET	2022/23FY BUDGET TARGET	2023/24FY BUDGET TARGET
1	Property Rates Targets	Revenue Management Value Chain efficiencies Valuation roll reconciled with billing system monthly	100% of Valuation Roll reconciled with Billing System	New Valuation Roll reconciled with Billing System (calculated tariff for CPI adjustment)	2021/22 Budget + CPI	2022/23 Budget + CPI
2	Service Charges Targets	Revenue Management Value Chain efficiencies in line with FRP Implementation Plan	100% of Budget	2020/21 + CPI + Growth (in accordance with consumer demand and revised tariff structure and levels)	2021/22 + CPI + Growth (in accordance with consumer demand and revised tariff structure and levels)	2022/23 + CPI + Growth (in accordance with consumer demand and revised tariff structure and levels)
3	Unbilled consumption	Baseline: Calculated water and electricity balance breakdown per FRP Phase 1 activity	2% reduction in unbilled consumption	10% reduction in unbilled consumption	10% reduction in unbilled consumption	10% reduction in unbilled consumption
4	Traffic Fines	Improved efficiencies per approved Budget Funding Plan	Per approved Budget Funding Plan	Per approved Budget Funding Plan	Per approved Budget Funding Plan	Per approved Budget Funding Plan
5	Operating Expenditure Targets	Employee Cost: < 35% of OPEX Councillor REM: 100% per Gazetted maximums, subject to FRP Progress Depreciation: 100% per GRAP 17 Standard	Per approved Budget Parameter	Per approved Budget Parameter	Per approved Budget Parameter	Per approved Budget Parameter

NO	PERFORMANCE AREA	ASSUMPTION/ BUDGET PARAMETER	2020/21FY	2021/22FY BUDGET TARGET	2022/23FY BUDGET TARGET	2023/24FY BUDGET TARGET
		Debt Impairment: 100% - Budgeted Collection Rate Contracted Services: < 8% of OPEX(2020/21), 6% (2021/22), 5% (2022/23) Other: BFP Parameters				
6	Cash/ Bank Balances	Adherence to approved Budget	Targeted ratios: ▪ Cash Coverage: 0 Month ▪ Current Ratio: 0.75:1 (Per Budget Funding Plan)	Targeted ratios: ▪ Cash Coverage: 1 Month ▪ Current Ratio: 1.5:1 (Norm = 1.5:2.1)	Targeted ratios: ▪ Cash Coverage: 1,5 Month ▪ Current Ratio: 1.6:1 (Norm = 1.5:2.1)	Targeted ratios: ▪ Cash Coverage: 1,5 Month ▪ Current Ratio: 1.7:1 (Norm = 1.5:2.1))
7	Consumer debtor's collection rate	Adherence to approved Budget	84%	88%	90%	92%
8	Government debtor's payment plan	Adherence to payment plan	100% of payment arrangement	100% of payment arrangement	100% of payment arrangement	100% of payment arrangement
9	Government creditor's payment plan	Adherence to payment plan	100% of payment arrangement	100% of payment arrangement	100% of payment arrangement	100% of payment arrangement
10	Ring-fencing of Conditional Grants	Adherence to SOPs 100% Cash-backed	All bank accounts and sub-account balances reported on monthly			
11	Repair and Maintenance Budget allocation	National Treasury Norm = 8% of OPEX	Per approved Budget	8% of OPEX	8% of OPEX	8% of OPEX
12	Cost-containment		Per Budget Funding Plan adopted for 2020/21	Maintain savings from 2020/21 BFP and ensure full	Maintain savings from 2020/21 BFP and ensure full	Maintain savings from 2020/21 BFP and ensure

NO	PERFORMANCE AREA	ASSUMPTION/ BUDGET PARAMETER	2020/21FY	2021/22FY BUDGET TARGET	2022/23FY BUDGET TARGET	2023/24FY BUDGET TARGET
				compliance with regulations + further savings	compliance with regulations + further savings	full compliance with regulations + further savings

SERVICE DELIVERY AND GOVERNANCE (RESCUE PHASE):

To support the achievement of the financial recovery plan and the targets specified for Phase 1, it is recommended that the Provincial Intervention Team focus on the following service delivery and governance issues:

Team focus on the following service delivery and governance issues:

- Implement cost cutting measures.
- Continue implementing processes related to the approved organisational structure and contract appointments.
- Limit appointment of non-critical staff appointments and contract appointments.
- Prioritise the repair of all visible water losses and sewer leaks.
- Prioritise collection on all current and outstanding accounts.
- Apply all permissible and reasonable debt collection mechanisms available to the municipality.
- Ensure that grants are ring-fenced and spent timeously.
- Ensure that Eskom and all other creditor accounts are paid as per arrangement.
- Prioritize compliance with all environmental requirements for the landfill sites.
- Prioritize effective models for acquiring skilled human resources to ensure that the plan can be executed.
- Prioritize using correct fleet for waste collection to ensure compliance with health and safety requirements.
- Perform all repairs on infrastructure assets (e.g. streetlighting, etc.).
- Perform regular and programmed maintenance on all water, sewer and electricity networks. Undertake road maintenance by focusing on the fixing of potholes, curbside maintenance, and other visible issues.
- Ensure that governance and oversight committees are appropriately constituted, functional and that their capacity is strengthened.
- Review the system of delegations and ensure that an interim delegation framework to support this financial recovery plan is in place.
- Ensure that an audit committee is established and have regular meetings to deal with the issues raised by the Auditor-General.
- Prioritise all litigation matters and update the litigation register.
- Establish a qualified disciplinary board to investigate and deal with issues of maladministration and fraud.



Makana Draft Financial Recovery Plan

3.2 PHASE 2: STABILISATION/RECOVERY PHASE (12 - 24 MONTHS)

In this phase of the recovery process, the focus is intended to shift from quick and visible wins to addressing and institutionalising the achievements of phase 1. Financial targets under Phase 1 will still be monitored and additional targets may be added as necessary from the work undertaken in Phase 1.

With regard to the maintenance of infrastructure, the emphasis will be on strategies to address longer term reductions in water losses. Issues of organisational overstaffing will also be addressed by redesigning an organogram that is fit for purpose. The focus of the financial recovery plan is to address the underlying financial crisis. Organisational and governance issues will be considered in so far as they contribute to the financial crisis.

FINANCIAL TARGETS (STABILISATION/RECOVERY PHASE):

No	Performance Area	Baseline	TO BE DETERMINED
----	------------------	----------	------------------

SERVICE DELIVERY, INSTITUTIONAL INDICATORS AND GOVERNANCE (STABILISATION/RECOVERY PHASE):

To support the achievement of the financial recovery plan and the targets specified for Phase 2, it is recommended that the Provincial Intervention Team focus on the following service delivery, institutional and governance issues:

DRAFT

3.3 PHASE 3: SUSTAINABILITY PHASE (BEYOND 24 MONTHS OR THE TERMINATION OF PHASE 2)

In this phase of the recovery process, the focus is to ensure the institutionalization of processes in Phase 1 and 2 of the recovery process. It is also envisaged that the municipality will consider long-term planning and issues necessary to ensure the sustainability of the municipality's finances. The municipality is expected to conform to norms set for financial ratios and to ensure that plans are put in place to buffer the municipality in the event of national or provincial economic and fiscal shocks.

DRAFT

PART FOUR:

4.1 MONTHLY REPORTING ON ACHIEVEMENT OF TARGETS: MAKANA LOCAL MUNICIPALITY

COMPREHENSIVE SCHEDULE OF REPORTING AND COMMITTEE MEETING DATES:

No.	Report for month OF	Report due from Intervention Team ON	Report considered by War Room ON	Considered by FS Executive BY	Considered by Political Oversight Committee BY
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					

PART FIVE:**5.1 REPORTING FRAMEWORK: PROGRESS AGAINST TARGETS: SERVICE DELIVERY:**

(Under each heading, please provide a brief narrative account of any steps taken, progress made and any other noteworthy developments.)

5.1.1 Refuse removal in formal and informal areas

1	Problem statement	Refuse removal frequently not collected in formal and informal areas
2	Recommendations	<ul style="list-style-type: none"> • Determine a baseline • Properly determine the fundamental reasons for such failures • Develop a plan to address the reasons • Make key interventions to address the reasons
3	Steps taken	
4	Progress made	
5	Other noteworthy developments	

5.1.2 Visible water losses

1	Problem statement	Visible water losses frequently left unattended for long periods
2	Recommendations	<ul style="list-style-type: none"> • Determine a baseline • Properly determine the fundamental reasons for such failures • Develop a plan to address the reasons • Make key interventions to address the reasons
3	Steps taken	
4	Progress made	
5	Other noteworthy developments	

5.1.3 Overall water losses

1	Problem statement	60% water losses (technical and commercial)
2	Recommendations	<ul style="list-style-type: none"> • Prioritise the development, financing and implementation of a proper programme to address technical water losses. • Properly determine the fundamental reasons for commercial water losses (i.e. non-payment) • Develop a plan to address the reasons • Make key interventions to address the reasons
3	Steps taken	

4	Progress made	
5	Other noteworthy developments	

5.1.4 Visible sewer spillages

1	Problem statement	Visible sewer spillages frequently left unattended for long periods
2	Recommendations	<ul style="list-style-type: none"> • Determine a baseline • Properly determine the fundamental reasons for such failures • Develop a plan to address the reasons • Make key interventions to address the reasons
3	Steps taken	
4	Progress made	
5	Other noteworthy developments	
6	Problem statement	

5.1.5 Road maintenance

1	Problem statement	Potholes frequently left unattended for long periods
2	Recommendations	<ul style="list-style-type: none"> • Determine a baseline • Properly determine the fundamental reasons for such failures • Develop a plan to address the reasons • Make key interventions to address the reasons
3	Steps taken	
4	Progress made	
5	Other noteworthy developments	
6	Problem statement	

5.2 PROGRESS AGAINST TARGETS: GOVERNANCE:

5.1.6 Political-Administrative Interface

1	Problem statement	Infrequent or even lack of Troika meetings
2	Recommendations	<ul style="list-style-type: none"> • Properly determine the fundamental reasons for such failure • Make key interventions to address the reasons • Ensure adherence to schedule of meetings required for effective Council decision-making
3	Steps taken	
4	Progress made	
5	Other noteworthy developments	
6	Problem statement	

1	Problem statement	Councillor interference
2	Recommendations	<ul style="list-style-type: none"> • Properly determine the fundamental reasons for such failure • Make key interventions to address the reasons • Ensure that any cases are escalated to appropriate structures as provided for in legislation
3	Steps taken	
4	Progress made	

5	Other noteworthy developments	
6	Problem statement	

5.2.1 Council governance & oversight

1	Problem statement	Weaknesses in Council oversight
2	Recommendations	<ul style="list-style-type: none"> • Properly determine the fundamental reasons for such failure • Make key interventions to address the reasons • Analysis of rules and orders • Adherence to council order of business in meetings • Development of schedule of meetings and legal compliance MFMA matrix • Implement schedule of meetings and legal compliance MFMA matrix • Schedule an induction for Councillors on governance, financial management and oversight; • Schedule a training session on ethics and code of conduct for councillors; • Ensure that the identified unauthorised, irregular, fruitless and wasteful expenditure(s), are investigated and acted upon (consequences managed); • Quarterly progress reports submitted to Council
3	Steps taken	
4	Progress made	
5	Other noteworthy developments	

5.2.3 System of Delegations

1	Problem statement	Inadequate Checks and Balances
2	Recommendations	<ul style="list-style-type: none"> • Determine a baseline • Properly determine the fundamental reasons for such failures • Develop a plan to address the reasons • Review financial delegation framework • Implement improved delegations • Make key interventions to address the reasons
3	Steps taken	
4	Progress made	
5	Other noteworthy developments	
6	Problem statement	

5.2.4 Executive Management Team meetings

1	Problem statement	Below optimal functioning of Executive Management Team
2	Recommendations	<ul style="list-style-type: none"> • Determine a baseline • Properly determine the fundamental reasons for such failures • Develop a plan to address the reasons • Make key interventions to address the reasons • Develop schedule of meetings and prioritise for discussion in • Convene Executive Management Team meeting.
3	Steps taken	
4	Progress made	
5	Other noteworthy developments	
6	Problem statement	

5.2.5 Audit Committee

1	Problem statement	Ineffective Audit Committee
2	Recommendations	<ul style="list-style-type: none"> • Determine a baseline • Properly determine the fundamental reasons for such failures • Develop a plan to address the reasons • Make key interventions to address the reasons • Advocacy and education on Audit committee • Review composition of the Audit Committee and incorporate clauses that will allow for termination in case of non- attendance • Circular 65 to serve at Council for adoption as a guiding document
3	Steps taken	
4	Progress made	
5	Other noteworthy developments	
6	Problem statement	

5.2.6 Audit Outcome

1	Problem statement	Qualified Audit Opinions
2	Recommendations	<ul style="list-style-type: none"> • Determine a baseline • Properly determine the fundamental reasons for such failures • Develop a plan to address the reasons • Make key interventions to address the reasons • Develop and implement an Audit Action Plan for 2018/19 findings
3	Steps taken	
4	Progress made	
5	Other noteworthy developments	
6	Problem statement	

5.2.7 Risk Management

1	Problem statement	Absence of Risk Management policy
2	Recommendations	<ul style="list-style-type: none"> • Determine a baseline • Properly determine the fundamental reasons for such failures • Develop a plan to address the reasons • Make key interventions to address the reasons • Develop, approve and implement Risk Management Policy
3	Steps taken	
4	Progress made	
5	Other noteworthy developments	
6	Problem statement	

5.2.8 ICT governance framework

1	Problem statement	Absence of ICT governance framework
2	Recommendations	<ul style="list-style-type: none"> • Determine a baseline • Properly determine the fundamental reasons for such failures • Develop a plan to address the reasons • Make key interventions to address the reasons <p>Develop and approve the following policies:</p> <ul style="list-style-type: none"> • ICT Corporate Governance Framework Policy • ICT Security Policy • ICT User Access & Password Control Policy • ICT Change Management Policy

		<ul style="list-style-type: none"> • ICT Request for Change Terms • Backup and Disaster Recovery • Design and Configuration Manual
3	Steps taken	
4	Progress made	
5	Other noteworthy developments	
6	Problem statement	

5.2.9 Labour relations

1	Problem statement	Poor relations between unions and management
2	Recommendations	<ul style="list-style-type: none"> • Determine a baseline • Properly determine the fundamental reasons for such failures • Develop a plan to address the reasons • Make key interventions to address the reasons • Diagnosis of labour relations challenges and produce high level report. • Present findings of report to Technical and Political structures. • Implement findings of status quo report
3	Steps taken	
4	Progress made	
5	Other noteworthy developments	
6	Problem statement	

5.2.10 Procurement

1	Problem statement	Interference with procurement processes
2	Recommendations	<ul style="list-style-type: none"> • Determine a baseline • Properly determine the fundamental reasons for such failures • Develop a plan to address the reasons • Make key interventions to address the reasons • Establish database to verify Council, Section 56 & 57 managers interests in companies to be contracted by City • Number of tenders verified against database prior to awards issued
3	Steps taken	
4	Progress made	

5	Other noteworthy developments	
6	Problem statement	

5.2.11 Litigation

1	Problem statement	Numerous court judgements
2	Recommendations	<ul style="list-style-type: none"> • Determine a baseline • Properly determine the fundamental reasons for such failures • Develop a plan to address the reasons • Make key interventions to address the reasons • Develop and update the litigation and liability register • Conduct a reasonable prospect of success. • Conduct a diagnostic analysis of the root cause of litigations and claims against the municipality.
3	Steps taken	
4	Progress made	
5	Other noteworthy developments	
6	Problem statement	

5.2.12 Disciplinary Board

1	Problem statement	Ineffective Disciplinary Board and lack of consequence management
2	Recommendations	<ul style="list-style-type: none"> • Determine a baseline • Properly determine the fundamental reasons for such failures • Develop a plan to address the reasons • Make key interventions to address the reasons • Consider and implement the requirements of Municipal Regulations on Financial Misconduct to ensure effective disciplinary board
3	Steps taken	
4	Progress made	
5	Other noteworthy developments	
6	Problem statement	

5.2.13 Legal

1	Problem statement	Ineffective Legal Services
2	Recommendations	<ul style="list-style-type: none"> • Determine a baseline • Properly determine the fundamental reasons for such failures • Develop a plan to address the reasons • Make key interventions to address the reasons
3	Steps taken	
4	Progress made	
5	Other noteworthy developments	
6	Problem statement	

5.2.14 Contract Management

1	Problem statement	Contracts not adhering to procurement legislation
2	Recommendations	<ul style="list-style-type: none"> • Audit all contracts to determine a baseline • Properly determine the fundamental reasons for such failures • Develop a plan to address the reasons • Make key interventions to address the reasons
3	Steps taken	
4	Progress made	
5	Other noteworthy developments	
6	Problem statement	

5.3 CONCLUSION: STRATEGIC ASSESSMENT AND CORRECTIVE ACTIONS AS REQUIRED:

(Please provide some concluding text with a strategic perspective on the position and progress of the financial recovery programme to the end of the relevant month, and also envisaged next steps to ensure achievement of programme goals.)

ANNEXURE A: FRP IMPLEMENTATION PLAN

