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REPORT ON CONSTITUTIONAL INTERVENTIONS IN KWAZULU NATAL AND SUPPORT PROVIDED BY KZN COGTA

NCOP LOCAL GOVERNMENT WEEK 08 – 11 SEPTEMBER 2020



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INTRODUCTION AND BACKGROUND

- There are currently 9 municipalities under intervention in terms of Section 139 of the Constitution in KwaZulu/Natal namely UMzinyathi DM, UThukela DM, Msunduzi LM, Mphahlele LM, Richmond LM, Inkosi Langalibalele LM, Mtubatuba LM, Abaqulusi LM and Emadlangeni LM.
- In April 2020 the Provincial Executive Council resolved to assume further powers across 8 interventions as follows:
 - ✓ The Disciplinary Regulations for Senior Managers, 2010
 - ✓ The Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings, 2014
 - ✓ The Disciplinary Procedures contemplated in Sec 67 of the Systems Act, and
 - ✓ The implementation of findings from any investigations into fraud or maladministration or corruption, including the implementation of findings and recommendations in respect of Unauthorised, Irregular, Fruitless and Wasteful (UIFW) expenditure as contemplated in section 32 of the Municipal Finance Management Act, 2003.
- In Abaqulusi it was necessary for the Executive Council to also add the following item:
 - ✓ The assumption of sections 54a and 56 of the Systems Amendment Act, 2011.
- On 26 August 2020, the Provincial Executive Council resolved to place Emadlangeni Municipality under section 139(1) (b) constitutional intervention.
- The Ministerial Representatives (MRs) have signed performance agreements which are aligned to their terms of reference as approved by the PEC. The MR's provide monthly progress reports based on the performance indicators and performance agreements, which are monitored by the relevant business units.



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CONSTITUTIONAL INTERVENTIONS IN KZN MUNICIPALITIES

MUNICIPALITY AND INTERVENTION TYPE	DATE	SUMMARY REASONS FOR INTERVENTION BY PILLAR				
		Pillar 1 Putting People First	Pillar 2 Delivering Basic Services	Pillar 3 Good Governance	Pillar 4 Sound Financial Management	Pillar 5 Building Institutional Capabilities
1. UMzinyathi DM - 139(1)(b)	July 2017	N/A	Failure to Spend Infrastructure Grants including Stopping of funds by NT	N/A	Poor Cash Flow SCM Challenges Poor Audit Outcomes Maladministration	Failure to appoint senior management
2. Mpofana - 139(1)(b)	Dec 2017	N/A	Failure to Spend Infrastructure Grants including Stopping of funds by NT	Oversight Structures Poorly functional Lack of Consequence Management	Poor Cash Flow SCM Challenges Poor Audit Outcomes Maladministration Ballooning Eskom Debt	Failure to appoint senior management
3. Inkosi Langalibalele - 139(1)(b)	Dec 2017	N/A	Failure to Spend Infrastructure Grants		Poor Cash Flow SCM Challenges Poor Audit Outcomes Maladministration	N/A
4. UThukela DM 139(1)(b)	Aug 2018	Public Protests due to poor Service Delivery	Failure to Spend Infrastructure Grants including Stopping of funds by NT	Oversight Structures Poorly functional Lack of Consequence Management	Poor Cash Flow SCM Challenges Maladministration Ballooning Eskom Debt	Failure to appoint senior management
5. Abaqulusi 139(1)(b)	Feb 2019					Failure to appoint senior management



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CONSTITUTIONAL INTERVENTIONS IN MUNICIPALITIES

MUNICIPALITY AND INTERVENTION TYPE	DATE	SUMMARY REASONS FOR INTERVENTION BY PILLAR				
		Pillar 1 Putting People First	Pillar 2 Delivering Basic Services	Pillar 3 Good Governance	Pillar 4 Sound Financial Management	Pillar 5 Building Institutional Capabilities
6. Richmond LM 139(1)(b)	March 2019	N/A	Sec 106 Investigation re Electricity Projects	Sec 106 Investigation Maladministration	SCM Challenges Poor Audit Outcomes	CFO Suspension MM Dismissal
7. Mtubatuba LM 139(1)(b)	March 2019	N/A	Incomplete Projects	Allegations of Maladministration Fraud and Corruption	Poor Cash Flow SCM Challenges Poor Contract Management	High turnover of senior managers
8. Msunduzi LM 139(1)(b)	April 2019	Ward Committees less than 50% functional	Incomplete Projects. O&M Challenges (Electricity & Refuse)	Allegations of Maladministration Fraud and Corruption. Oversight Structures poorly functional	Poor Cash Flow SCM Challenges Poor Contract Management	Suspension of senior managers including MM
9. Emadlangeni LM 139(1)(b)	August 2020	N/A	N/A	Allegations of Maladministration Fraud and Corruption. Oversight Structures totally dysfunctional	SCM challenges	Suspension of senior managers including MM



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SUMMARY INDICATORS PER MUNICIPALITY

MUNICIPALITY AND INTERVENTION TYPE	START DATE	KEY INDICATORS					
		Audit Outcome (2018/19)	Budget (20/21)	Senior Management Vacancies & Year of Vacancy	MIG Exp (30 June 2020)	Sec 106 Investigation	Consequence Management
1. Umzinyathi 139(1)(b)	July 2017	Disclaimer	Funded	MM(March 2020) Director Community Services	100%	The findings of the report have not been implemented by Council, except for 1 criminal case opened with SAPS.	DCS on suspension
2. Richmond 139(1)(b)	March 2019	Qualified	Funded	MM & DTC(Jan 2020)	93%	Investigation completed, awaiting MEC's approval	PMU Manager under suspension. Disciplinary process underway
3. Mtubatuba 139(1)(b)	March 2019	Qualified	Funded	N/A	100%	Officials and councillors received letters requiring	DCS on suspension
4. Mpofana 139(1)(b)	Dec 2017	Disclaimer	Unfunded	DCS (Dec 2018) DTS (Jan 2018) CFO (June 2016)	100%	Investigation completed and Matter of implicated officials referred to Hawks by the municipality	Matter referred to SAPS



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SUMMARY INDICATORS PER MUNICIPALITY

MUNICIPALITY AND INTERVENTION TYPE	START DATE	KEY INDICATORS					
		Audit Outcome (2018/19)	Budget (2020/21)	Senior Management Vacancies & Year of Vacancy	MIG Exp (30 June 2020)	Sec 106 Investigation	Consequence Management
5. Inkosi Langalibalele 139(1)(b)	Dec 2017	Adverse	Funded	Director Planning (2017)	100%	None	N/A
6. Uthukela DM 139(1)(b)	Aug 2018	Qualified	unfunded	MM (2019)	78%	Draft report being reviewed for tabling with the MEC.	None
7. Abaqulusi 139(1)(b)	Feb 2019	Unqualified	Funded	DTS (2019) DComS (2018)	100%	Investigation Stage. Report to be finalized by 2 September 2020	Judgement confirmed powers to MR to discipline Managers, on 30/7/2020
8. Msunduzi 139(1)(b)	April 2019	Qualified	Unfunded	DTS (2019) DComS (2019)	59%	Awaiting MEC approval	13 officials on suspension
9. Emadlangeni 139(1)(b)	Aug 2020	Unqualified	Funded	All posts are filled	100%	Approved by MEC and investigation currently in August 2020	2 senior managers suspended: MM and Director: Technical



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DETAILED INDICATORS PER MUNICIPALITY - RICHMOND

Governance & Political Stability	Sound Financial Management	Basic Service Delivery	Performance Management
<ul style="list-style-type: none"> – MM post remains vacant but all recruitment processes have been finalized . – Head of Technical Services : appointment finalized and has assumed duty on 1 September 2020 – PMU Manager suspended. Municipality is currently evaluating the responses received before completing the disciplinary process. – Section 106 Report finalized and will be tabled once considered by the MEC – Council and its Committees are functional and political stability has returned to Council – Due to the passing of the Mayor, the process of appointing a new councilor and election of a Mayor has commenced – MPAC functional and will be considering the UIFW report before end of August 2020 – A new Administrator has been appointed and assumed duty on 5 August 2020. 	<ul style="list-style-type: none"> – Regressed to a Qualified audit opinion from the AG for the 2018/2019 FY – Audit Action Plan in place and implemented. 5/12 matters resolved. – Outstanding Creditors – R2.9m – Current Collection rate – 48% – UIFW – R56.4m(Cumulative) – NT have deployed a finance expert for 2 years from June 2020 – Cash coverage stands at 2.2 months – Income severely impacted by Covid 19 – Council adopted a funded budget on 30 June 2020. 	<ul style="list-style-type: none"> – MIG expenditure – 93%, but all funds committed and will apply for rollover – Small Town Rehab grant of R10m – 19% spent. – EPWP – 100% – The municipality received a grant of R10m from the Department in respect of its roads infrastructure development (Magoda Road). Implementation was negatively impacted by the lockdown. R1.8m has been spent, the balance is R9.6.m 	<ul style="list-style-type: none"> - PMS Framework and Policy approved by Council - Skills audit needs to be completed



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DETAILED INDICATORS PER MUNICIPALITY - MSUNDUZI

Governance & Political Stability	Sound Financial Management	Basic Service Delivery	Performance Management
<ul style="list-style-type: none"> – MM commenced duty on 1 April 2020 – GM Community and GM Technical Services. The new incumbents assumed duty on 1 August 2020 – Council and its Committees are functional – MPAC Functional and reports to Council – 33 of the 65 disciplinary cases since 1 July 2019 have been finalised. – 13 employees on suspension as at 26 June 2020, and at different stages of disciplinary process – Only 1 of 4 criminal matters referred to Hawks are ready for prosecution 	<ul style="list-style-type: none"> – Unqualified audit opinion from the AG for the 2018/2019 FY – Audit Action Plan in place and implemented – budget and IDP adopted by Council on 29 June 2020 – Creditors R66m (excluding Eskom & UMngeni) – Eskom debt is R131m. – UMngeni Water debt R127m. -Collection rate increased from 73% to 87 by June 2020 – Cash Coverage 0.02 (norm 1-3months) – Covid 19 has affected income severely, R100m less received in April – Contracted services and salaries remain most cost drivers 	<ul style="list-style-type: none"> – 59%of the R197.5m MIG allocation spent by 30 June 2020. – WSIG expenditure at 85% and projected expenditure as at 30 June 2020 is R46m – The weighbridge which has not worked at the landfill site for years has reopened. – Service Delivery War Room is fully functional and meets twice a month and is chaired by MEC for Finance.. – There was another major fire at the landfill site which was doused within 7 days with the help from eThekweni Fire, UMgungundlovu DM and Working on Fire – 3 service delivery protests were recorded in July 2020 and dealt with by Municipal Leadership and Cogta 	<ul style="list-style-type: none"> – OPMS Review completed including the IPMS Policy – Reviewed Framework and Policy applicable 1 July 2020 – Quarterly reports are submitted to COGTA for review and monitoring of performance.



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DETAILED INDICATORS PER MUNICIPALITY - MPOFANA

Governance & Political Stability	Sound Financial Management	Basic Service Delivery	Performance Management
<ul style="list-style-type: none"> – MM post filled – Municipality completed the process of filling CFO post, but the candidate declined due to a demand for higher salary package which was not acceded to. Currently the municipality has no CFO and post was re-advertised on 19 July 2020. process if filling post us ongoing. – Head of Technical Services interviews scheduled for 20 August. – Council envisages to combine the departments of Community and Corporate Services – COGTA appointed Acting Technical Director who commenced duty on 15 April 2020 – Council and its Committees are functional and commenced meeting virtually after 6 May 2020 – Continues in next slide..... 	<ul style="list-style-type: none"> – Disclaimer audit opinion from the AG for 2018/2019 FY – An Audit Action Plan has been approved, and 40% of AG matters have been resolved. – Eskom debt R172m, last paid in April 2020. The municipality will probably have its assets attached by Eskom shortly. – The municipality remains in severe financial distress. – The MSCOA implementation where the migration from Venus to Sage Evolution was poorly done resulting in no credible monthly and annual financial statements are possible from Sage. – No credible section 71 reports are provided. – The municipality has lost an amount of R8 742 380 revenue for the period March- May 2020 due to Covid 19 impact. – No investigations have been done with regard to cumulative UIFW expenditure amounting to approximately R115 452 791m and COGTA is supporting the municipality to deal with the UIFW 	<ul style="list-style-type: none"> – 12m of MIG allocation is 100 % spent A Service Delivery War Room has been established to deal with all service delivery issues impacting this municipality. – R 745 000.00 was spent in terms of the Stability grant (Covid 19 grant) 	<ul style="list-style-type: none"> – Reviewed PMS Framework and Policy not yet tabled for adoption. – Quarterly performance reports not submitted but COGTA is capacitating the relevant officials on municipal performance reporting . – The skills audit for staff has only been partially completed by Cogta. No skills audit has been undertaken for councilors. Cogta is supporting to finalize the exercise.



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DETAILED INDICATORS PER MUNICIPALITY - MPOFANA

Governance & Political Stability	Sound Financial Management	Basic Service Delivery	Performance Management
<ul style="list-style-type: none">– Implementation of Sec 106 findings & recommendations remains outstanding, but some elements of the report that are criminal have been reported to the Hawks. Cogta Forensic Unit is assisting the municipality in this matter as well as other outstanding matters.	<ul style="list-style-type: none">– Other Creditors R189m. Creditor days – 603 days– Debtors – R143m– Serious cash flow challenges exist within the municipality.	<ul style="list-style-type: none">– See previous slide	<ul style="list-style-type: none">– See previous slide



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DETAILED INDICATORS PER MUNICIPALITY - UTHUKELA

Governance & Political Stability	Sound Financial Management	Basic Service Delivery	Performance Management
<ul style="list-style-type: none"> - The MM has been appointed. - The General Manager: Technical Services has been appointed. - Council and its Committees are functional and commenced meeting virtually after 6 May 2020 - There is political stability within Council - MPAC not fully functional, does not provide reports in terms of section 32 of MFMA - Section 106 is currently underway. 	<ul style="list-style-type: none"> - Qualified audit opinion from the AG for the 2018/2019 FY - Audit Action Plan in place and COGTA has deployed Finance Experts to support the municipality during the audit process to improve audit outcome and will be with the municipality for 6 months. - Major creditors are ILM R4 500 000, water tankers R 6 906 240 and PK valves R3 980 000. Umgeni Water Board R152 146 293 which is in dispute. - Collection rate is 35% - The MR is in the process of reviewing the findings of UIFW report, and will be tabled at Council to deal with UIFW - Cash Coverage 1 month (norm 1-3 months) - Salary bill remains high at 36% - The budget approved by Council was funded, there is some improvement on cash flow. 	<ul style="list-style-type: none"> - MIG expenditure is 78% as at 30 June 2020. - Reprioritised R35m from MIG allocation to fix water and sanitation challenges - WSIG Expenditure is poor only R36m of R108m spent by year end.. - The project of installing a bulk line from Spioenkop Dam has been resuscitated. - The expansion of the Ekuvukeni Olifants water works will ensure that residents of Ekuvukeni have access to potable water. - The Service Delivery War Room has been established. - R 738 000.00 was spent in terms of the Stability grant (Covid 19 grant) 	<ul style="list-style-type: none"> - Framework and Policy are reviewed and approved annually in line with other policies. - 43% of councilors participated in the skills audit while 359 officials participated. Cogta is assisting the municipality with finalizing the remainder of councilors and staff.



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DETAILED INDICATORS PER MUNICIPALITY – INKOSI LANGALIBALELE

Governance & Political Stability	Sound Financial Management	Basic Service Delivery	Performance Management
<ul style="list-style-type: none"> – Deputy Mayor post remains vacant following the resignation of the previous Deputy Mayor. The council resolved that a vacant position will not be filled as part of cost cutting measures – All office bearers remain part-time to save costs – Position of Planning & Development was advertised, appointment going to August Council meeting – Council and its Committees are functional and commenced meeting virtually after 6 May 2020 – MPAC Functional – IGR structures are functional – 15 employees on suspension, facing disciplinary steps. – There are no sec 106 reports undertaken 	<ul style="list-style-type: none"> – Adverse audit opinion from the AG for the 2018/2019 FY. Audit Action Plan in place and implemented. Audit Action Plan war room was established and COGTA has deployed Financial Experts to support the municipality to improve audit outcome. – Eskom debt has been reduced from over R100m to R25m – Collection rate is 75% as at 30 May 2020 – UIFW for 2017/18 amounts to R56 531 044 and for 2018/19 amounts to R197 553 45 m – Cash Coverage 1.4 months (norm 1-3 months) – The municipality has applied for exemption to pay a 6.5% salary hike to curb spiralling employment costs. – This is one municipality that has committed to cost containment measures which has worked. 	<ul style="list-style-type: none"> – 100% of the R37m MIG allocation spent by 30 June 2020. – INEP expenditure is 75% of the R7m allocation . – EPWP is 100% expenditure – Service delivery War Room established and is functional – No service delivery protests have been experienced during 2020 – R 1 221 884 was spent in terms of the Stability grant (Covid 19 grant) 	<ul style="list-style-type: none"> – Framework and Policy are reviewed and approved annually in line with relevant legislation. – 80% of councilors have completed skills audit, while 85% of staff have been audited. All outstanding persons will undergo the audit shortly.



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DETAILED INDICATORS PER MUNICIPALITY - UMZINYATHI

Governance & Political Stability	Sound Financial Management	Basic Service Delivery	Performance Management
<ul style="list-style-type: none"> - Council appointed MM on 25 JUNE 2020 - Recruitment process to fill position of Director Community Services is at an advanced stage. - Director Cooperate Services remains suspended. - Council and its Committees are functional and commenced meeting virtually after 6 May 2020 - MPAC Functional - Implementation of Sec 106 findings & recommendations was poor/slow. however, Investigation report was submitted to SAPS for further investigation. 	<ul style="list-style-type: none"> - Adverse audit opinion from the AG for the 2018/2019 FY. Audit Action Plan in place and implemented - Outstanding Creditors R30.1m - UIFW is being investigated. - Cash Coverage 0.2 months (below the norm of 1-3 months) - Debt collection averages 30% - Eskom debt is up to date, however, There is a dispute on Eskom invoices, the Department is assisting the municipalities to resolve the matter. - No water board debt - A funded budget was approved by Council - Cash flow is monitored through the IFC and reported regularly at EXCO. 	<ul style="list-style-type: none"> - R188m MIG allocation is 100% spent. - The Water Services Infrastructure Grant (WSIG) of R68m is 100% spent. - All other grants are fully spent. - Municipality received 470 static water tanks from Cogta in response to Covid 19. - 293 of these tanks have been distributed across the four local municipalities - Service Delivery War Room was established by the MEC champion before lock down - R 536 000.00 was spent in terms of the Stability grant (Covid 19 grant) 	<ul style="list-style-type: none"> - Performance Management Framework and Policy are reviewed and approved annually in line with relevant legislation. - 27% of councilors participated in the skills audit, and 293 employees. The balance of the employees and officials will be attended to by COGTA.



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DETAILED INDICATORS PER MUNICIPALITY - ABAQULUSI

Governance & Political Stability	Sound Financial Management	Basic Service Delivery	Performance Management
<ul style="list-style-type: none"> - Council and its Committees commenced meeting virtually after 6 May 2020 and are all functional. - MPAC is Functional - Section 106 investigation has commenced and will be finalised by September 2020 - The municipality remains without a Mayor as the previous Mayor resigned in July 2019. - While the Ministerial Representative was in the process of recharging the MM, the municipality started a process of challenging the new powers in court. Judgement was delivered on 30 July 2020, the application was dismissed with costs. The MR has re-started the disciplinary process and letter of suspension was served on 5 August 2020. MM and Mayor are challenging the suspension. An interdict will be served in court on 17 September 2020 to interdict MM from entering offices. 	<ul style="list-style-type: none"> - Unqualified audit opinion from the AG for the 2018/2019 FY. All AG findings have been resolved. - Outstanding Creditors of R43.4m will be settled by 30 October 2020. - Eskom debt is R19.2 and is envisaged to be settled by end of third quarter of 2020/21 FY - Collection rate is within the norm - UIFW:R499.6m. Council resolved to write-off, condone and refer matters for further investigation on 30 June 2020. MR is in process of reviewing matters. - Cash Coverage – 1:0.071(norm 1-3 months) - Financial experts have been assigned to the municipality by Cogta to support on financial management and the audit process. - A funded budget was adopted by Council 	<ul style="list-style-type: none"> - MIG expenditure stood at 100% as at 30 June 2020 - INEP Expenditure stood at 100% as at 30 June 2020. - A Service Delivery War Room has been established and is functional. - A bi-lateral meeting was held between Municipality and Zululand DM regarding the transfer of the water function from Abaqulusi to Zululand DM. A decision was taken that a section 78 report will be commenced with shortly, and Council is considering to appoint a specialist to mediate in the matter. - R 1 157 528 was spent in terms of the Stability grant (Covid 19 grant) 	<ul style="list-style-type: none"> - Framework and Policies are reviewed and approved annually in line with legislative requirements. - 40 councilors have undergone skills audit, and 90 staff members. All outstanding persons will undergo the audit during the current skills audit project.



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DETAILED INDICATORS PER MUNICIPALITY - MTUBATUBA

Governance & Political Stability	Sound Financial Management	Basic Service Delivery	Performance Management
<ul style="list-style-type: none"> - All senior management positions are filled. - Director: Community Services is currently on suspension. - Ministerial Representative presently implementing consequence management measures arising from several internal investigations. 14 officials including senior and junior management employees remain on suspension. - The reports have also implicated councillors. - Reports show irregularities in the appointment of managers including those who have questionable qualifications. - MPAC is not functional. - There are sporadic council walk outs when sensitive matters are to be discussed. Investigation report was supposed to be tabled on 29 June 2020, however, the council meeting collapsed - There is political instability within council 	<ul style="list-style-type: none"> - Regressed to Qualified audit opinion from the AG for the 2018/2019 FY - Audit Action Plan as well as an Audit War Room in place. - Outstanding Creditors R3m - Collection rate is 83% - Accumulative UIFW R96 761 975 (Balance brought forward - R84 070 693m and Expenditure incurred 2019/2020 - R12 691 282) - Cash Coverage 4months (norm 1-3 months) - A funded budget was approved by council on 29 May 2020 	<ul style="list-style-type: none"> - 100%of the R31.7m MIG allocation spent - INEP expenditure R14m against the allocation of R17m. - The first meeting of the Service Delivery War Room was held on 16 July 2020. - R 689 000 out of R1.3m was spent in terms of the Stability grant (Covid 19 grant) 	<ul style="list-style-type: none"> - PMS Policy and Framework adopted with IDP - A skills audit was done on managerial staff below section 56 managers. It was found that 50% of managers do not meet the minimum requirements. 15 Councillors participated in the skills audit. The municipality will complete the remaining councillors and staff. - Continues in next slide..



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DETAILED INDICATORS PER MUNICIPALITY - MTUBATUBA

Governance & Political Stability	Sound Financial Management	Basic Service Delivery	Performance Management
<ul style="list-style-type: none"> - There is an uncommon and unprecedented situation where almost 82% of councillors are implicated in allegations of fraud, corruption and gross dishonesty. - MM was directed on 01 May 2020 to open cases as per Sec 32 of the MFMA. Cogta is also processing the report. <p>Challenges : Limitation of scope</p> <ul style="list-style-type: none"> - Almost entire institution at strategic level is implicated in wrongdoing. - The MEC has issued a letter to the Speaker with regard to fraudulent travel claims 	<ul style="list-style-type: none"> - The municipal actual closing cash has decreased over the last four years from positive cash balance of R2, 9 Million in 2016 to a negative balance of R10, 2 million 2017, R17,8 million 2018 and R34,5million in 2019 financial year, 2020 to still to be determined after audit. - Disaster Relief Grant allocation from Cogta – R1 341 000 - COGTA has deployed Financial Experts to support the municipality. 	<p>See previous slide</p>	<ul style="list-style-type: none"> - See previous slide



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DETAILED INDICATORS PER MUNICIPALITY - EMADLANGENI

Governance & Political Stability	Sound Financial Management	Basic Service Delivery	Performance Management
<ul style="list-style-type: none"> - The MM and Director Technical Services are on suspension and the council appointed the CFO as Acting MM. - Community staged a protests in January 2020 and levelled allegations of maladministration and corruption against the Acting MM/CFO. - Councillors were divided with some calling for Acting MM suspension and others against that. - The municipal council had disintegrated due to these differences amongst councillors and affected all other councils structures which have become dysfunctional. - A 	<ul style="list-style-type: none"> - The municipality approved a funded budget, but this was approved after the financial year end due to a council that was no longer functional. Approval occurred after intervention of Cogta. 	<p>Though the municipality was one on under spenders of MIG last year, this improved in 2020.</p>	<p>The municipality is being assisted to comply with all Performance management regulations.</p>



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VACANT SENIOR MANAGEMENT POSITIONS AS AT SEPTEMBER 2020

Line No	MM	CFO	CORPORATE	TECHNICAL	PLANNING	COMMUNITY
1	Richmond	Mpofana	Mpofana	Mpofana	Inkosi Langalibalele	Mpofana
2				Msunduzi		Abaqulusi
3				Abaqulusi		Umzinyathi
4				UMzinyathi		Msunduzi



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CHALLENGES / ROOT CAUSES FOR THE NON-FILLING OF VACANCIES REPORTED BY MUNICIPALITIES

- Governance challenge
- Political instability
- Structures outside Council having an influence on the appointment process.
Many municipalities have cited delays by external stakeholder structures as the reason for not filling posts.



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CONSEQUENCE MANAGEMENT: SENIOR MANAGERS

- Regulation 6 of the Local Government: Disciplinary Regulations for Managers, 2010 deals with Precautionary suspension of Senior Managers.
- Regulation 8(4) directs that where a Senior Manager is accused of a Financial Misconduct which constitutes a criminal offence, the Mayor or Municipal Manager, as the case may be, must report the matter to the South African Police in terms of the Municipal Finance Management Act, 2003.
- Regulation 10(1)(a) provides that the disciplinary hearing must commence within three months of the resolution to institute disciplinary action. However, there is no minimum or maximum time period for the finalization of the disciplinary process. This anomaly has been raised with DCOG; a formal recommendation that consideration be given to an amendment to Regulation 10(1) to provide that a disciplinary process must be concluded within a period of six months from date of commencement, has been sent to the DG: DCOG.
- In terms of the MEC's Circular, cases to be finalised within 6 months; MEC requested municipalities to co-operate.

- **As at September 2020**, there are currently 5 Senior Management Disciplinary Cases in 4 Municipalities, viz.
Corporate Services - UMzinyathi DM
Community Services - Mtubatuba LM
MM - Abaqulusi LM, Emadlangeni LM



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FUNCTIONALITY OF GOVERNANCE STRUCTURES

Functionality of Municipal Councils	Current Status	Reasons for ongoing Challenges	Remedial Steps	Time frame (Remedial Steps)
Functionality of Council Structures				
Mtubatuba	Partially Functional	Walkouts affecting council functionality	139 intervention introduced to catalyse the functionality of council	Ongoing
uMsunduzi	Functional	N/A	N/A	N/A
Mpofana	Functional	N/A	N/A	N/A
uMzinyathi	Functional	N/A	N/A	N/A
Richmond	Functional	N/A	N/A	N/A
uThukela	Functional	N/A	N/A	N/A
Inkosi Langalibalele	Functional	N/A	N/A	N/A
Abaqulusi	Partially Functional	50-50 stalemate in council affects decision making as there is no clear majority.	S139 intervention introduced to catalyse restore functionality of council	Ongoing
Emadlangeni	Dysfunctional	Inter-party conflict	S139 intervention introduced to restore	Ongoing



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FUNCTIONALITY OF GOVERNANCE STRUCTURES

Functionality of Executive Committees	Current Status	Reasons for ongoing Challenges	Remedial Steps
Functionality of Executive Committees			
Mtubatuba – Lack of Quorum	Functional – ExCo Meetings over past 9 months quorate	N/A	N/A
Richmond – Mayor passed away	Vacancy	Vacancy	Election of Mayor
uThukela	Functional	N/A	N/A
Inkosi Langalibalele	Functional	N/A	N/A
Abaqulusi	Partially Functional	Mayoral Vacancy	Election of Mayor
uMzinyathi	Functional	N/A	N/A
uMsunduzi	Functional	N/A	N/A
Emadlangeni	Dysfunctional	Inter-party conflict	S139 intervention introduced to catalyse restore functionality of all council structures



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FUNCTIONALITY OF GOVERNANCE STRUCTURES

Functionality of MPACs	Current Status	Reasons for ongoing Challenges
FUNCTIONALITY OF MPAC		
Mpofana	Partial functionality	Elected councillors unable to examine and scrutinise reports and process complex matters
uThukela	Partial functionality	Elected councillors unable to examine and scrutinise reports and process complex matters
Mtubatuba	Partial functionality	Elected councillors unable to examine and scrutinize reports
UMzinyathi	Partial functionality	Elected councillors unable to examine and scrutinize reports
Abaqulusi	Partial functionality	Elected councilors unable to examine and scrutinize reports
Richmond	Partial functionality	Elected councilors unable to examine and scrutinize reports
Inkosi Langalibalele	Functional	
Msunduzi	Functional	
Emadlangeni	Dysfunctional	Inter-party conflict. S139 intervention introduced to catalyse restore functionality of council structures



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FUNCTIONALITY OF GOVERNANCE STRUCTURES

Functionality of TROIKA	Current Status	Reasons for ongoing Challenges	Remedial Steps	Time frame (Remedial Steps)
Functionality of TROIKA				
Mtubatuba	Functional	N/A	N/A	N/A
Richmond	Functional	N/A	N/A	N/A
uThukela	Functional	N/A	N/A	N/A
Inkosi Langalibalele	Functional	N/A	N/A	N/A
Abaqulusi	Non-existent	Not legislated	N/A	N/A
uMzinyathi	Non-existent	Not legislated	N/A	N/A
uMsunduzi	Functional	N/A	N/A	N/A
Emadlangeni	Dysfunctional	Inter-party conflict	S139 intervention introduced to catalyse restore functionality of council	Not yet known



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ESKOM DEBT

- Four of the intervention municipalities are owing ESKOM, namely Abaqulusi, Mpofana, Inkosi Langalibalele and Msunduzi.
- Two out of four intervention municipalities were able to reduce their debt from the inception of the payment plans.
 - ✓ Inkosi Langalibalele municipality was able to reduce its debt by 67%.
 - ✓ Abaqulusi municipality reduced its debt by 34%.
 - ✓ Mpofana municipality debt increased by 213%.
 - ✓ Msunduzi municipality debt has increased to R131.m
- The Provincial Government, particularly Cogta and the PT are working together to support the municipalities owing Eskom. However, the current Covid 19 situation is likely to make matters worse for municipalities as more consumers will be unable to pay for services.



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MANAGEMENT OF UIFW

The Provincial Executive Council directed Administrators to focus on the reduction of Unauthorized, Irregular, Fruitless and Wasteful Expenditure (UIFW) at the 9 intervention municipalities.

MUNICIPALITY	CUMULATIVE BALANCE OVER THE LAST 3 YEARS			
	Unauthorised	Irregular	Fruitless and Wasteful	Total
Abaqulusi	304,455,712	174,659,274	21,174,963	500,289,949.00
Mpofana	128,526,676	85,198,107	17,815,806	231,540,589.00
Inkosi Langalibalele	66,555,671	266,206,453	35,554,759	368,316,883.00
Mtubatuba	61,000,949	26,658,408	801,785	88,461,142.00
Uthukela DM	140,631,224	519,177,277	2,002,957	661,811,458.00
Msunduzi	147,009,644	532,001,980	33,305,136	712,316,760.00
Umzinyathi	39,291,648	598,698,813	75,109	638,065,570.00
Richmond	37,125,380	39,050,538	8,862,016	85,037,934.00
Emadlangeni	41,450,052	67,176,883	177.536	108,804,471



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MANAGEMENT OF UIFW

MUNICIPALITY	DETAILS
ABAQULUSI	<p>Investigations were conducted by the financial experts and internal audit as per request of MPAC. The following was recommended and approved by Council for write off as no person was held liable:</p> <ul style="list-style-type: none">• Irregular expenditure, R14.781 181;• Unauthorized expenditure, R101 430 393;• Fruitless and wasteful expenditure, R19 504 987.• The municipality reported that they incurred irregular expenditure of R595 593 and Fruitless and Wasteful expenditure of R837 316 during the 2019/20 FY.• COGTA is monitoring that the MR oversees the aspect to Consequence management
INKOSI LANGALIBALELE	<p>The municipality intends writing off irregular expenditure of R50 070 311, fruitless and wasteful expenditure of R4 313 365, unauthorised expenditure of R199 700 819 totalling R254m. The municipality provided comprehensive UIFW registers for the relevant financial years. The irregular expenditure related to contravention of SCM legislation. All projects awarded and were completed hence there was value for money received. Fruitless and wasteful expenditure was incurred due to interest on late payments due to the municipality having cash low problems. COGTA is monitoring implementation of consequence management.</p>
MPOFANA	<ul style="list-style-type: none">• The municipality incurred an amount of R21 004 169 irregular expenditure and R15 260 304 Fruitless and Wasteful expenditure during the 2019/20 financial year. No investigation reports were provided to COGTA. And the MR has been directed to submit reports.



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MANAGEMENT OF UIFW

MUNICIPALITY	DETAILS
MTUBATUBA	An amount of R33 417 386m in UIFW was incurred during the 2019/20 FY. The municipality has not written off any UIFW expenditure, however there have been investigations conducted, although the AG did not accept the process which was followed. Hence no section 32(2) of the MFMA could be followed. The MR is being assisted by the COGTA-assigned Financial Experts to address the UIFW .
UTHUKELA	The UIFW incurred during the 2019/20 FY has been disclosed as R43.69m. The fruitless and wasteful expenditure is due to interest incurred on late payments to Eskom, Alfred Duma, Auditor General and Telkom. The municipality provided UIFW registers which are incomplete and confusing. No finalised reports have been tabled with MPAC or Council. The MR will be assisted by the Finance Experts to deal with the UIFW
MSUNDUZI	During the 2019/20 FY the municipality incurred R28 587 456 irregular expenditure as a result of non compliance with SCM regulations. Consultants were appointed to start on 15 June 2020 to investigate 17 transactions totalling R7 717 606. Fruitless and Wasteful expenditure of R4 696 058 was incurred mainly on interest on Telkom and Eskom accounts. All unauthorized expenditure was referred to Forensic Investigation for further investigation with a view to deal with them in line with MFMA requirements. Two investigations on irregular expenditure were finalized recommending write off of R143 300 and R3 523 112. One investigation was finalized recommending the removal of irregular expenditure from the register amounting to R458 682. Consultants investigate 197 transactions of fruitless and wasteful expenditure amounting to R174 360 274. No write off has taken place yet as no council decision has been taken as yet. COGTA ins monitoring closely and advising on consequence management relative to UIFW.



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MANAGEMENT OF UIFW

MUNICIPALITY	DETAILS
UMZINYATHI	<ul style="list-style-type: none">• The municipality contracted a legal firm to investigate UIFW for the two previous financial years, the investigation has been concluded and the report was presented to Council on the 29th of May 2020. This will address the UIFW expenditure for 2017-2019. Recommendations are currently being implemented upon approval by Council.• The municipality reported R83 138 as at 31 May 2020 due to fruitless and wasteful expenditure, mostly for late payments to Eskom.• Unauthorised expenditure amounting to R16.3m was reported for the current year due to overspending on line items as a result of under budgeting.• No consequence management was implemented and the MR has been directed to work with the Finance Expert to address any consequence management issues.
RICHMOND	<ul style="list-style-type: none">• The municipality incurred R7 016 853m as Irregular expenditure for the current financial year and R589 807 as Fruitless and wasteful expenditure. R63 013 015 UIFW expenditure for the previous years.• An MPAC report that was tabled at a council meeting held on 20 August 2020 but this was not done in terms of section 32 Of the MFMA.• The MR has been directed to oversee the correct processes and consequence management being applied.
EMADLANGENI	<ul style="list-style-type: none">• As a new intervention, information is being currently being sourced for production of a credible report.



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CONSEQUENCE MANAGEMENT: SECTION 106 REPORTS

- The Forensic Business Unit of KZN COGTA has developed a monitoring tool whereby Section 106 Forensic Reports as well as other investigation reports are monitored on a monthly basis.
- Ministerial Representatives have been tasked to ensure reports are tabled at Council meetings for firm resolutions to be taken on consequence management emanating from forensic reports.
- They will then ensure relevant processes are put in place to ensure compliance with the recommendations contained in forensic reports.



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ESTABLISHMENT OF SERVICE DELIVERY WAR-ROOM AND AUDIT WAR-ROOMS

- It should be noted that SDWRs were established in all the intervention municipalities and are chaired by respective MECs who are Champions of that particular district. Some of the meetings have been interrupted by the National Lock down but all systems are back to normal and virtual meetings are being held.
- Audit war-rooms have been established at all intervention municipalities and meet on a weekly basis to oversee the pre and post audit processes. These are Chaired by the Ministerial Representatives and the Municipal Managers.
- These meetings are also attended amongst others by the financial experts that have been deployed by Cogta as well as departmental champions .
- Representatives from the Auditor General office also attends these meetings.



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COVID 19 – POST LOCKDOWN PLANS

- The Provincial Command Council and indeed the Provincial Executive Council directed all clusters to prepare post lockdown recovery and mitigation plans guided by the National and Provincial imperatives.
- These plans are directed at ensuring that the impact of Covid 19 on service delivery, policy, oversight and implementation of government programmes is mitigated in the short, medium and long term.
- All intervention municipalities have approved post lock down recovery plans except Abaqulusi municipality. Cogta officials met with the municipality on 3 August 2020 to assist in preparing one.
- Through the District and Metropolitan Command Councils, municipalities have been directed to prepare their own post lockdown plans. It is trite knowledge that Covid 19 has caused untold misery to communities, businesses and indeed municipalities. Most municipalities in the province have reported a dramatic decline in revenues which will inadvertently impact their ability to render services to communities. Pressure groups and individuals have started pressuring the municipalities to give rebates to both individual and business consumers. Time will tell whether this can be sustained. There is no doubt that such moves will put further strain on the finances of municipalities.



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CONCLUSION

- There is no doubt that the 9 municipalities, and indeed a few others that are not under intervention still require intensive support in order to improve their performance
- The Department has indeed deployed additional support at these intervention municipalities including the Ugu District Municipality, which, although not under intervention, it has been struggling to provide water and sanitation services to its residents and is experiencing serious cash flow challenges.
- Ministerial Representatives have been given strict instructions to ensure that these municipalities are turned around by 31 March 2021. It is the desire of the Provincial Executive Council that the turn around be achieved sooner as the costs of providing this type of support to municipalities is high.
- Progress report for each municipality are prepared and submitted for tabling at the Provincial Executive Council meetings or as deemed appropriate by the relevant authorities.



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Thank You