



SOUTH AFRICAN LOCAL
GOVERNMENT ASSOCIATION

SALGA

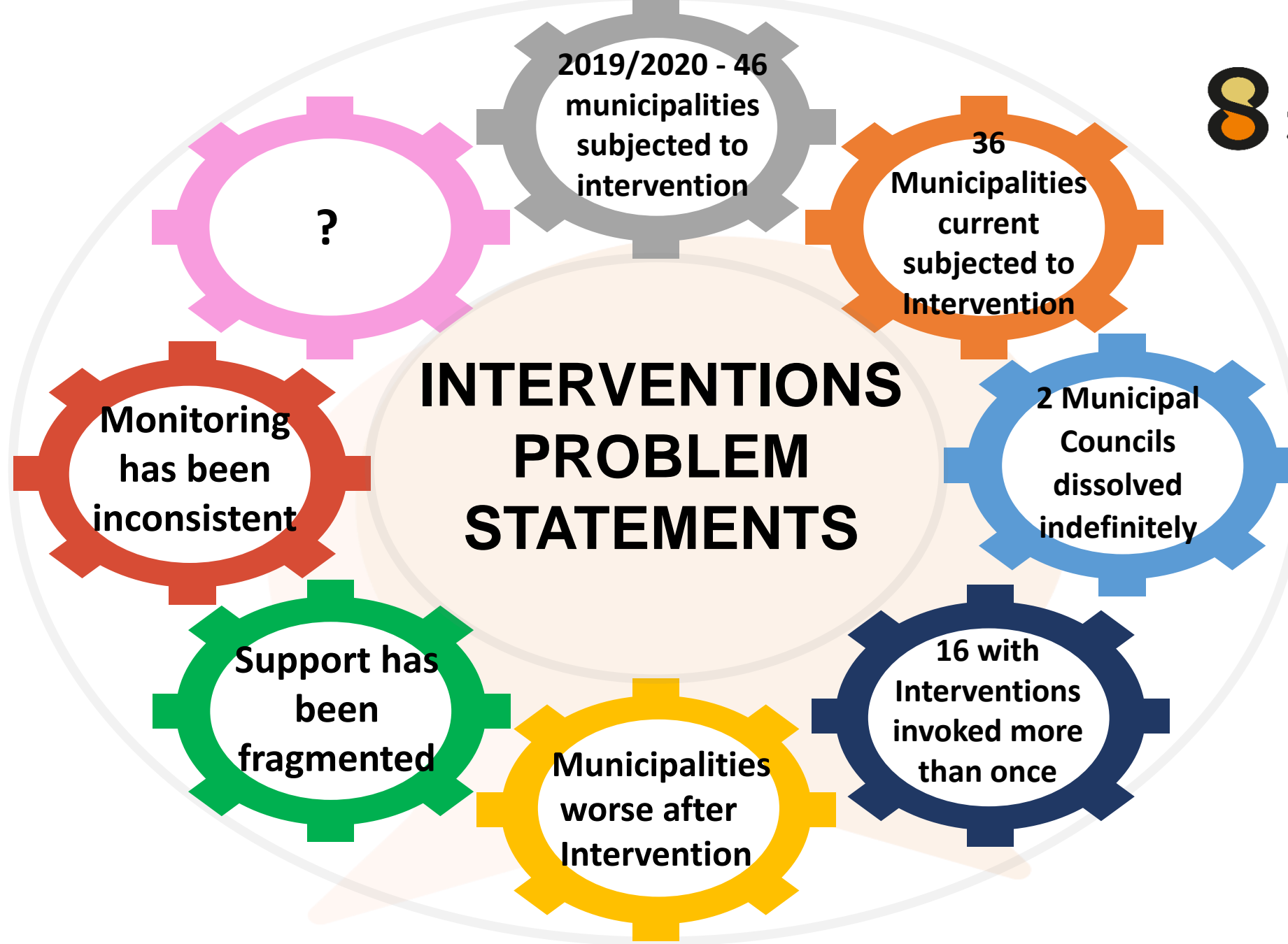
Inspiring service delivery

**A SALGA REFLECTION ON
SECTION 139
INTERVENTIONS**

**NCOP LOCAL GOVERNMENT
WEEK:
10 SEPTEMBER 2020**

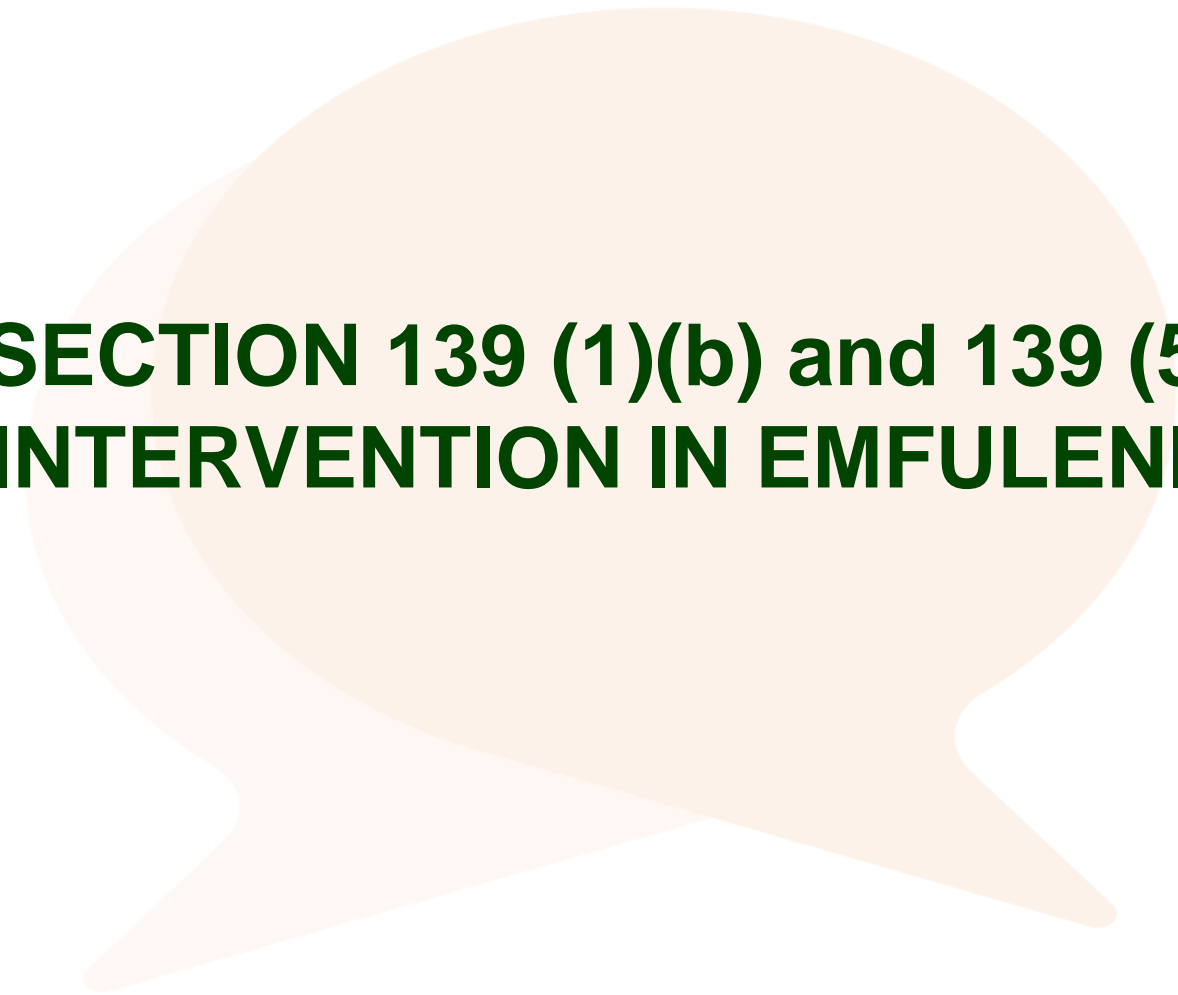
PRESENTATION OUTLINE

1. Interventions Problem Statements
2. Practical Examples of Interventions
 - i. Emfuleni Local Municipality (GP);
 - ii. Mangaung Metro (FS).
3. Proposed SALGA Approach to Support and Monitoring
4. Conclusion





REFLECTION ON RECENT INTERVENTIONS



**SECTION 139 (1)(b) and 139 (5)(a)
INTERVENTION IN EMFULENI LM**

SECTION 139 (1)(b) and 139 (5)(a) INTERVENTION IN EMFULENI LM JUNE 2018 – JUNE 2020

13 June 2018:

GEC resolved to place Emfuleni LM under **Intervention** in terms of **section 139 (1)(b)** and **section 139 (5)(a)** of the Constitution;

June 2018:

GEC also approved an **Intervention Plan** focusing on:-

- **Financial Management;**
- **Basic Services;**
- **Governance and Institutional Management; &**
- **Stakeholder Management.**

Intervention projected to be over a period of **12 months** and the **financial recovery** intervention will implemented within **6 months**

27 Nov 2018:
NCOP approved the intervention

Administrator appointed to execute the intervention on behalf of the Province **UNTIL FEBRUARY 2020.**

LEGISLATIVE OBJECTIVES FOR THE INTERVENTION

Section 139 (1)(b):-

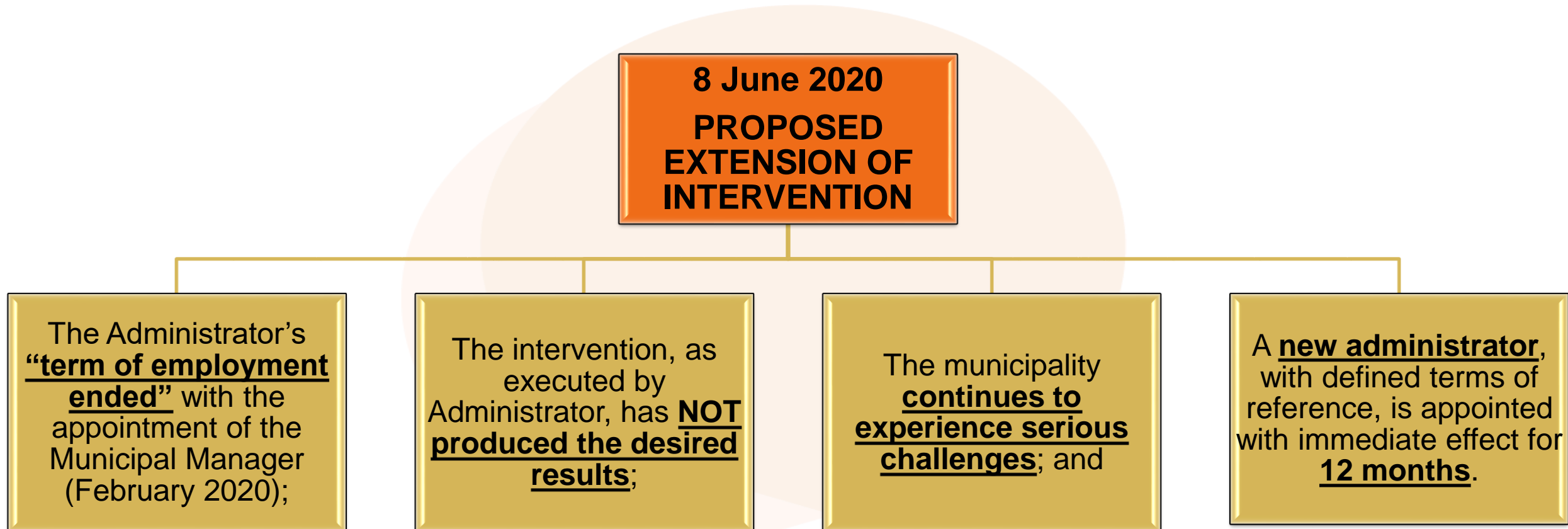
“(b) assuming responsibility for the relevant obligation in that municipality to the extent necessary to-

- i. **Maintain** essential national standards or meet established minimum standards for the **rendering of a service**;*
- ii. **Prevent** that Municipal Council from taking **unreasonable action** that is prejudicial to the interest of another municipality or to the provinces as a whole; or*
- iii. **Maintain economic unity**”.*

Section 139 (5)(a)

- “(a) **impose a recovery plan** aimed at securing the municipality’s ability to meet its obligations to provide basic services or its financial commitments”.*

SECTION 139 (1)(b) and 139 (5)(a) INTERVENTION IN EMFULENI LM JUNE 2018 – JUNE 2020



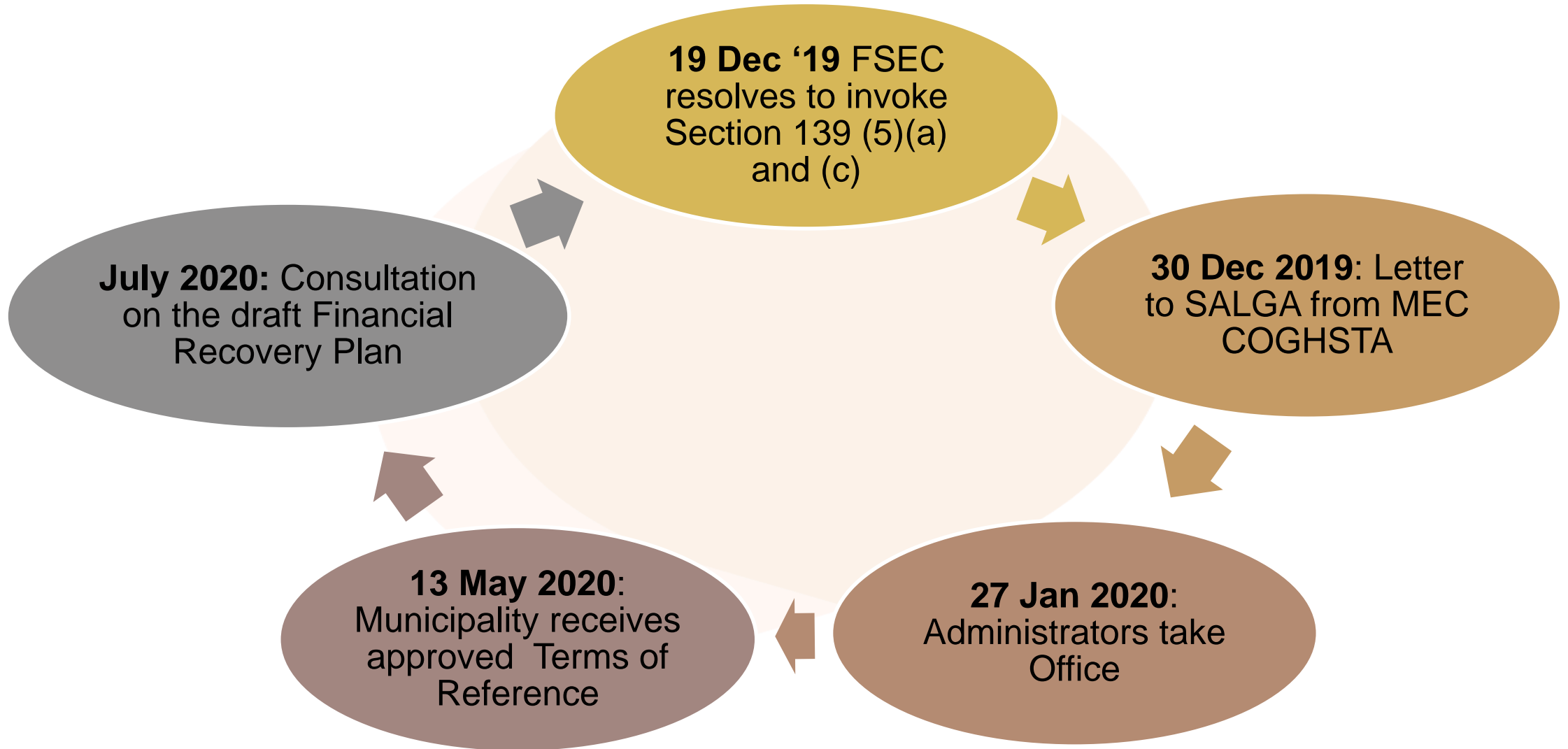
CONCERNS WITH EXTENSION OF INTERVENTION

- Was a **detailed analysis or assessment** conducted of the Section 139 Intervention, including the **status of the implementation** of the Financial Recovery Plan, which dictated that the GEC review its intervention?
- If the municipality was under Intervention how has the Municipal Council & Administration **contributed to the intervention not producing the desired outcomes?**
- What are the **legislative obligations** that the municipality continues to fail to execute?
- What is the **link** between the legislative obligations to be assumed and the **terms of reference** for the new Administrator?
- How will a new “administrator” **produce** a different and much more desired outcome?



SECTION 139 (5)(a) & (c) INTERVENTION IN MANGAUNG

INTERVENTION DEVELOPMENTS



LEGISLATIVE FRAMEWORK FOR SECTION 139(5) INTERVENTION

In implementing Section 139 (5) Intervention a **two-stage process** must be followed:

- 1. The imposition of a financial recovery plan:** Must be developed in terms of national legislation (MFMA);
- 2. Implementation of the financial recovery plan:** To be implemented by municipality or dissolution of the council or the assumption of the responsibility by the province.

**SALGA HAS IDENTIFIED A NUMBER OF CONCERNS WITH THE
PROCESSES FOLLOWED WITH THE IMPLEMENTATION OF THE SECTION
139 (5) INTERVENTION**

SALGA EFFORTS TO RESPOND TO SECTION 139 INTERVENTION IN MANGAUNG METRO



Member of the Executive Council for
Cooperative Governance and Traditional
Affairs
FREE STATE PROVINCE

**To: Mr Sebenzile Ngangelizwe
President
Salga Free State**

Dear Mr. S Ngangelizwe

RE: ENFORCEMENT OF EXCO RESOLUTION NO 1.6

Kindly take note that the Executive Council during its special sitting held on the 19th December 2019, resolved among others, that the Exco Representative must ratify and concur to the city managers administrative and financial decisions.

The Mec for Cogta and MEC for Treasury are in the process of identifying and appointing the Exco representative and the support team. Pending the appointment of the aforesaid, you are informed that all the financial decisions excluding the payment of salaries and third parties, must first be approved by the HOD for Cogta and/or HOD for Treasury before processing.

Kind Regards,

**ST Nxangisa, MPL
Member of the Executive Council**

30th December 2019

SALGA EFFORTS TO RESPOND TO SECTION 139 INTERVENTION IN MANGAUNG METRO



- Jan '20 correspondence from MEC, advising that it resolved to intervene in Mangaung Metro and in so doing “all the financial decisions...must first be approved by the HOD for COGTA and/or HOD for Treasury before processing”.
- SALGA met with Mangaung and the following became evident:-
 - Mangaung is experienced **serious financial challenges** resulting in the development and implementation of a voluntary Financial Recovery Plan;
 - Concerns have been raised by National Treasury pertaining to the “**poor implementation**” of the Financial Recovery Plan, coupled with a “**dysfunctional administration and poor council oversight**”;
 - Free State Executive Council resolved on **19 Dec '19** to invoke Section 139 (5)(a) and (c) of the Constitution;
 - Communiqués were sent to Mangaung Metro and SALGA to this effect.

SALGA CONCERNS WITH INTERVENTION IN MANGAUNG METRO

- the Administrators took office (**27 Jan '20**):-
 - With NO Terms of Reference (**13 May '20**);
 - With NO Financial Recovery Plan (**still being consulted upon**).
- This is a financial intervention yet as at end of June 2020 Mangaung was owed:-
 - **R 629 949 667** by provincial government; and
 - **R 121 519 249** for schools.

Has provincial government not contributed to the financial collapse of Mangaung Metro?



SALGA SUGGESTED APPROACH FOR SUPPORT TO MUNICIPALITIES

1

DEVELOP EARLY WARNING SYSTEM using

Statutory and periodic reports:

- AG reports
- MFMA Section 71 reports
- MFMA Section 72 reports
- MFMA Section 73 reports
- MSA section 106 reports (where such were evoked)
- Quarterly performance reports

2

ONGOING SELF-ASSESSMENT:
 Identify underperformance and self-correct

3

ONGOING MONITORING:
 Provincial & National Monitoring Support

4

IDENTIFY TARGETED SUPPORT:
 Agreement with municipality on support requirements

4a

Contract targeted support

4b

Monitoring Support

4c

Monitoring and Support Report (s154 Report)

5

S46 Quarterly Reports

6

S47 Report

7

S48 Report

ONGOING MUNICIPAL SUPPORT



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Thank You