

**NATIONAL ASSEMBLY
QUESTION FOR WRITTEN REPLY
QUESTION NUMBER: 88 [NW92E]
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88. Mr C H H Hunsinger (DA) to ask the Minister of Finance:

- (1) What is the current status of the Municipal Financial Recovery Service;
- (2) (a) how many financial recovery plans were imposed on municipalities in terms of section 139(1) of the Local Government: Municipal Finance Management Act, Act 56 of 2003, in the (i) 2013-14, (ii) 2014-15 and (iii) 2015-16 financial years and (b) what was the outcome of the imposed recovery plan in each case;
- (3) whether each municipality further defaulted on their obligations after the intervention of the Municipal Financial Recovery Service; if so, what are the relevant details in each case;
- (4) whether any (a) disciplinary and/or (b) other action was instituted against each accounting officer in each defaulting municipality for their failure to comply with the terms of section 65(2)(e) of the specified Act; if not, in each case, why not; if so, what are the relevant details in each case?

NW92E

Reply

- (1) The Municipal Finance Recovery Service (MFRS) was established in 2007 as a Directorate in the National Treasury within the Office of the Accountant-General in the Chief Directorate: Municipal Financial Management Act (MFMA) Implementation as required in terms of Chapter 13 of the MFMA. The MFRS has a staff complement of 2 officials which consist of a Director and Deputy-Director, whose functions are assisted by other officials and specialist's experts, when required.
- (2) The responsibility to intervene in terms of section 139(1) of MFMA lies with the Provincial Executive. During the period 2013/14 to 2015/16 the provincial executive has not invoked section 139(1) of MFMA relating to mandatory intervention as regulated in the MFMA.

However, during ongoing engagements on the implementation of chapter 13, matters relating to the effectiveness of provincial intervention were raised with Provincial Treasuries (PTs), National and Provincial Departments of Cooperative Governance (DCoG), and South African Local Government Association (SALGA). The MFRS requested provinces to approach the MFRS unit for assistance, when required.

The following municipalities were assisted in the preparation of financial recovery plans:

- 2013/14 - Mbombela local municipality and Bushbuckridge local municipality
- 2014/15 - Makana local municipality and Baphalaborwa local municipality
- 2015/16 - Tswaing local municipality, NgakaModiri Molema District municipality and Thabazimbi local municipality

The plans are holistic in nature covering, amongst others, institutional, organisational, human resources, service delivery, and financial management including restructuring of budgets, tariffs, administration, capacity and oversight by councils on its implementation. They highlight implementation aspects covering short, medium and long term challenges.

Provinces are required to monitor progress and report accordingly to provincial legislatures.

- (3) The municipalities who were assisted with the preparation of financial recovery plans have with the assistance of the Provincial Treasuries commenced engagements with creditors to conclude realistic payment arrangements.
- (4) The MFMA provides the enabling legal framework for addressing financial misconduct within municipalities. The MFMA clearly defines when the accounting officer and other officials commit acts of financial misconduct. Therefore, the MFMA sets out the “triggers” for determining whether or not an accounting officer or any of the other municipal officials have committed financial misconduct.

It is important to note that the MFMA merely sets the basis for any action to be taken against municipal officials for acts of financial misconduct. The responsibility for acting against the officials, given the employer / employee relationship, vests with the respective municipal councils. The Minister of Finance has promulgated the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings in May 2014 to assist municipal councils with executing the latter’s responsibilities. Information regarding whether or not the municipal councils of these defaulting municipalities have acted against their accounting officers or other officials is best obtained from the individual municipalities. The reforms also include disclosure in Annual Reports of actions taken. These reforms are being implemented by municipalities and are subject to the compliance audit undertaken by the Auditor-General.