

Debt Collection in the Current Political Environment

Worcester

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BACKGROUND



BACKGROUND TO DEBT COLLECTION

- In May 2018, the Director General for Treasury, Mr Dondo Mogajane said the weakness in most municipalities is linked to political and administrative leadership. He was briefing Parliament's Standing Committee on Public Accounts (scopa) on the status of municipal debt in SA.
- Practically, he blamed weak political leadership and lack of accountability for the municipal debt woes.
- National Treasury had engaged with municipalities to find out why they had failed to pay their creditors, and according to documents submitted by Treasury, **“poor leadership and weak financial management”** led to mismanagement of finances and the escalation of debt.

BACKGROUND TO DEBT COLLECTION

- *Ineffective Councils in some cases and governance structures are not in place - that contributes to the challenges,*” said DG Mogajane.

WHY IS IT PERCEIVED TO BE SO DIFFICULT?

- Municipal debt is preferent above all debt, even above that of a bondholder - *S118(3) of the Municipal Systems Act.*
- Municipalities know where their clients stay and where the services are rendered.
- A plethora of legislative provisions compel municipalities to do credit control and debt collection – *Specifically Chapter 9 of the Municipal Systems Act.*



**LEGISLATIVE FRAMEWORK FOR DEBT
COLLECTION**



WHAT EXACTLY MUST BE DONE?

Section 95 of the Local Government: Municipal Systems Act (Act no. 32 of 2000) determines as follow:

A Municipality **must...**

- (d) where the consumption of services has to be measured, take reasonable steps to ensure that the consumption by individual users of services is measured through accurate and verifiable metering systems;
- (e) ensure that persons liable for payments, receive regular and accurate accounts that indicate the basis for calculating the amounts due;

WHAT EXACTLY MUST BE DONE?

Section 96 of the Local Government: Municipal Systems Act (Act no. 32 of 2000) determines as follow:

A Municipality –

- (a) **Must** collect all money that is due and payable to it, subject to this Act and any other applicable legislation; and
- (b) For this purpose, **must** adopt, maintain and implement a credit control and debt collection policy which is consistent with its rates and tariff policies and complies with the provision of this Act.

WHAT EXACTLY MUST BE DONE?

Section 97 of the Local Government: Municipal Systems Act (Act no. 32 of 2000): Contents of a policy –

A credit control and debt collection policy **must** provide for—

- (a) credit control procedures and mechanisms;
- (b) debt collection procedures and mechanisms;
- (c) provision for indigent debtors that is consistent with its rates and tariff policies and any national policy on indigents;
- (g) termination of services or the restriction of the provision of services when payments are in arrears;
- (h) matters relating to unauthorized consumption of services, theft and damages.

WHAT EXACTLY MUST BE DONE?

- In any legislation it is important to distinguish between two very important words, namely **may and must**. In this instance it is important to notice that the Act determines that all money must be collected and that a credit control and debt collection policy must be adopted.
- It is also important to remember for a credit control and debt collection policy to be implemented it needs to be promulgated in a by-law. The reason for this is to ensure that it can be enforced.
- The role of the council is to approve the policy and to monitor the implementation of the policy and by-law.

WHAT EXACTLY MUST BE DONE?

- The role of the Municipal Manager and his delegated officials is to ensure that the policy and by-law are enforced.
- For the policy and by-law to be successful it is important that the policy should be properly workshopped with the Councillors.
- The Councillors must understand their role and responsibilities and must be made aware that by approving this policy and by-law they commit themselves to the conditions of the policy and by-law.
- What often happens is that Councillors interfere with the enforcement of the policy and thus hamper the municipalities ability to adhere to the requirements of Section 96 of the Municipal Systems Act.

WHAT EXACTLY MUST BE DONE?

- This is a breach of the Code of Conduct for Councillors and also prohibits the Municipal Manager to fulfil his duties.
- The net result of not enforcing the credit control and debt collection policy and by-law is the inability of municipalities to collect money due to them.
- **This is the direct cause for the dire condition of the financial situation of municipalities.**

WHAT EXACTLY MUST BE DONE?

In terms of the best practices manual for local government the role of the Municipal Manager is to:

- implement a proper internal reporting structure on implementation of policy – for example, monthly reports to specified office bearers and the political structure;
- include in the report information on payment levels;
- provide ward-based information (if possible);
- include information on administrative shortcomings and on measures taken or required to address problems; and
- provide information on any interference in implementation of the policy.

WHY IS IT NOT DONE THEN?

Oversight Issues

- There appears to be a lack of experience amongst political leaders that has to perform these oversight roles.
- Relative short periods between elections, providing for a lack of long term planning and gaining of experience.
- Political leaders pleasing the customers / voters by restriction of credit control and debt collection actions to only certain areas not realising the impact on service delivery.
- No actions taken against defaulting managers for lack of implementation of policies.

WHY IS IT NOT DONE THEN?

Oversight Issues

- Not appointing managers – many positions remain vacant for years or are managed through acting managers.
- Not demanding adherence to national and world standards regarding requirements for maintenance thereby providing inadequately for the maintenance of meters.



THE COST OF NON-COMPLIANCE



IMPACT OF NON-COMPLIANCE

- Municipalities struggle to prepare funded budgets.
- A struggle to fund the budget will result in the same problems to fund daily operations.
- Politicians in an effort to stay in power demand more and more from employees to weaken debt collection policies to prevent debt collection from consumers
- Numerous municipalities, due to political pressure, unrealistically increase capital budgets in an effort to please consumers and rate payers. This put even more strain on the cash flow situation of municipalities.

IMPACT OF NON-COMPLIANCE

- Although municipalities receive huge amounts in grants for capital funding, they are also required to invest huge amounts as co-funding to receive the allocated grants. All of this put more and more strain on municipal cash flow.
- One of the main reasons for the uncoordinated capital budgets is that many municipalities do not have proper long-term planning.
- Strategic objectives set in the IDP are often ignored in an attempt to please the community.
- Politicians demand huge investments in infrastructure to satisfy demands by the community. In spite of this service delivery protests become more and more.

IMPACT OF NON-COMPLIANCE

- The main reason for the poor condition of existing infrastructure is the direct result of poor planning and the cut of expenditure on repairs and maintenance of existing assets.
- Municipalities have no proper asset management strategies resulting in assets not being replaced or at least renewed when it reaches the end of its intended useful life.
- To fund their budgets municipalities often budget for unrealistically high collection rates. It is shocking, in many instances, to compare budgeted collection rates with reality. This creates a going concern issue.

IMPACT OF NON-COMPLIANCE

- The rehabilitation of landfill sites is another huge concern. Municipal tariffs are supposed to include costs for rehabilitation of landfill sites. That is the reason why provision has to be made for this. Although municipalities make provision these provisions are very seldom cash backed. In other words the tariffs were set to include rehabilitation costs, but the money collected has been used for something else.
- The main reason for the poor financial position of municipalities and their inability to maintain and/or replace municipal assets is the inability of municipalities to collect money owed to them.



HOW CAN THE SITUATION BE IMPROVED?



HOW DO WE TURN IT AROUND?

Comply with the statutory provisions as per Chapter 9 of the Municipal Systems Act.

- Train political leaders / emphasise the importance of their oversight role;
- Train municipal managers and staff on their respective responsibilities;
- Read meters and fix the meters that don't work;
- Send out accurate accounts;
- Provide for the indigent;

HOW DO WE TURN IT AROUND?

Comply with the statutory provisions as per Chapter 9 of the Municipal Systems Act.

- Conduct public participation process to inform public on the measures to be implemented;
- Implement Credit Control & Debt Collection procedures. Be consistent;
- Use specialised contractors for Credit Control, Debt Collection and for Indigent Management;
- Focus on service delivery;
- Continuous public support by the Executive Mayor and Councillors for the implementation and enforcement of policies and bylaws;

HOW DO WE TURN IT AROUND?

Other issues that needs to be addressed:

- When a municipal account is issued it must be followed up timeously. Municipalities should get on top of the issue from the first week or 2, sending reminders, SMSs, etc. They often leave it until its too late, one month arrears and you have potentially lost that debtor!
- Many municipalities have disjointed processes and systems, i.e. A finance system, then an add-on debt management system, then they add a panel of attorneys to collect the debt and this is not managed adequately by the municipality. They need to deploy a one stop shop to ensure revenue is accurate, ensure the soft collection is done quickly and if necessary take a harder approach for appropriate debtors.

HOW DO WE TURN IT AROUND?

Other issues that needs to be addressed:

- Every debtor is different and the municipalities often treat them all the same. They should be segmented and treated with the best approach to ensure a win-win.
- Smart metering solutions can be implemented.
- Data cleansing of debtors book in order to determine who can pay, for example the identification of deceased accounts and the accuracy of ID numbers and cellphone numbers.

QUESTIONS

