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COMMENTS ON THE DRAFT MANDATORY FINANCIAL RECOVERY PLAN – AMATHOLE DISTRICT MUNICIPALITY

BACKGROUND AND CONTEXT





In January 2021, the Eastern Cape Provincial Executive resolved to intervene in the Amathole District Municipality in accordance with the requirements of section 139(5)(a) of the Constitution (1996), read with section 143 of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) to respond to a financial crisis and persistent failures in the provision of essential services in the municipality.

The MEC for Finance has since requested the amendment and review of the existing Financial Recovery Plan (FRP). “The reviewed and amended FRP is envisaged to enhance its effectiveness in addressing the municipality's financial crisis and persistent service delivery failures within its jurisdiction. The plan aims to enable the municipality to meet its obligations to provide minimum basic services and help restore financial health.”

[The Equality Collective](#) makes this submission in terms of a notice published on 29 October 2024, inviting the public, including the local community, in terms of section 141(3)(c)(ii) of the MFMA, to submit written comments in respect of the draft FRP, providing comment on the amended FRP.

The Equality Collective is a community-embedded non-profit organisation based in Nqileni Village, Mbashe local municipality in the rural Eastern Cape's Amathole district. Established in response to the lived experience of rural communities with no direct access to social justice organisations, we have been working—since 2020— in collaboration with community and traditional leaders, researchers, like-minded organisations, and government, to build collaboration and to support evidence-informed actions, including the community monitoring of the Mncwasa Water Scheme, designed to serve 30,000 people. Since we commenced monitoring in partnership with the municipality, water availability has improved from 41% in August 2022, to 70% in July this year, to 92% in September this year.

However, we note that the gains made in respect of the Mncwasa Water Scheme are not sustainable unless the financial position of Amathole District Municipality (Amathole DM) is stabilised.

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The financial situation at Amathole District Municipality remains dire. For the past two consecutive years, the audit outcome has been "disclaimed with findings"—the worst possible result. The Auditor-General is unable to assess the municipality's finances due to a lack of evidence provided, reflecting a severe lack of transparency. It's alarming to see this outcome persist two years after the municipality was placed under financial administration in 2021.

As Amathole District Municipality constituents, and as a civil society organisation, Equality Collective notes, as the FRP says:

1. The 139(5)-intervention aimed to address the multiple challenges that Amathole DM faces, including but not limited to difficulties in providing basic services, securing the immediate and long-term financial sustainability of the municipality.
2. Progress has been made since the FRP was first developed and implemented, but the municipality has not fully implemented the critical activities identified in the plan. It still faces ongoing financial and service delivery issues, which are affecting its ability to effectively fulfil its functions and constitutional mandate.
3. The revised FRP adopts a strategic, focused approach which is time-bound yet comprehensive enough to ensure that the underlying causes of the challenges are adequately addressed. To achieve this objective, the 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 'City' (*sic*).
4. The FRP includes financial modelling indicators to set financial revenue and expenditure targets and to demonstrate the anticipated financial recovery for Amathole DM over the MTREF period, based on the assumption that the FRP will be effectively implemented.
5. The FRP will be used as an instrument to guide the municipality in addressing the financial crisis as well as to ensure that ADM regains its financial health within the shortest timeframe whilst ensuring that all issues that adversely affect the financial health of the municipality are comprehensively addressed.
6. The municipality has submitted monthly progress reports in terms of S146(1)(c) of the MFMA to the MEC for finance in the province on the implementation of the plan in a manner determined by the plan. The municipality, in collaboration with the Provincial Treasury convenes monthly workstream meetings and according to the ECPT, there has been significant improvement noted in the attendance and participation of the municipality.



7. The progress review on the implementation of the mandatory Financial Recovery Plan for 31 March 2024 revealed that since the implementation of Phase 1 (Financial Rescue) of the approved FRP in 2021, 95 out of 159 implementation plan activities (60%) have been completed. A further 54 (34%) activities are in progress, while 10 (6%) activities have not yet commenced.
8. The municipality has implemented several activities as part of the financial recovery plan, but these have not significantly improved the municipality's financial performance and position. The collection rate has seen no improvement, and of concern are the substantial outstanding balances of debtors and creditors.
9. Most of the activities completed are related to non-financial issues such as policy reviews, and their financial impact has not yet been realised. As a result, the municipality is not yet ready to move on from the Rescue Phase into Stabilisation. It may only be able to do so once more activities with an acceptable financial impact or improvement, based on the key financial indicators, are successfully implemented.

COMMENTS

Amathole DM has been under section 139(5) administration since 2021. It is not clear to us why the initial Financial Recovery Plan (FRP) approved by the MEC for Finance in October 2021 did not include input from National Treasury's Municipal Financial Recovery Service (MRFS). It is our understanding of the Municipal Finance Management Act (2003) that the MRFS must be involved in the drafting of a plan when it is a section 139(5) intervention, as was the case with Amathole DM. Section 139(1)(a) MFMA provides for the mandatory appointment of the MFRS and the work they are meant to do which includes drafting the FRP. The lack of coordination between the province and National Treasury is an ongoing concern when it comes to municipalities under administration¹. We would like to know how the Province and National Treasury are better coordinating to ensure that Amathole gets the support it needs in its recovery.

Notwithstanding this unforgiveable delay, the Equality Collective welcomes National Treasury's MFRS for undertaking a diagnostic status quo assessment to inform the revised FRP, acknowledging where Amathole DM has made progress and where progress is still needed.

We also welcome the MFRS for adopting a phased approach to recovery across four workstreams, namely (1) Governance, (2) Institutional and Human Resources, (3) Financial Management and (4) Service Delivery.

The FRP is, however, ambitious, planning to complete Phase 1 (Rescue) in 8-12 months, including progress towards a Funded Budget including a budget funding plan; Cash flow; management and periodic cash balancing; Cost Containment; Revenue billing and collection; Reduction in water losses; Payment of Creditors and SCM compliance and value for money.

¹ Mind the Gap: Section 139 Interventions in Theory and Practice, Public Affairs Research Institute (PARI, 2019).



To achieve the targets set out for all four phases in the MTEF budget period, the municipality will require extensive support.

Our submission focuses on two topics critical to the provision of water and other basic services to our community:

- Failure to reverse the trend of under-maintenance
- Public participation

Failure to reverse the trend of under maintenance

As the FRP notes, municipal assets are rapidly deteriorating at an unsustainable rate. Maintenance of assets is not prioritised, and the lack of asset maintenance leads to infrastructure breakdowns and service delivery limitations, specifically to potable water supply.

The 2024/5 Medium Term Revenue and Expenditure Framework (MTREF) budget provides for repairs of R52.8 million (3% of the operating expenditure) on municipal buildings, equipment, vehicles, and water and wastewater treatment plants. Amathole DMs 2022/3 financial year repairs and maintenance budget was 0.27% of the asset carrying value, a far cry from the 8% recommended by National Treasury.

The FRP sets a target for a 30% increase in repair and budget maintenance allocations in the coming two financial years in order to progressively achieve the 8% target set out by National Treasury.

The FRP foregrounds improved cost recovery as a key strategy to generate municipal revenue. The municipality, in its second IDP Review for the 2024/5 Draft Integrated Development Plan (the IDP), acknowledges a low collection rate of 28% of the current debt, and that it plans for 79% bad debts. The IDP states that “the municipality is looking into new and innovative strategies to increase the collection rate. Any viable and relevant recommendations from the Section 139(5)(a) intervention will be implemented to assist in improving collections”.

The IDP further notes that water tariffs “have increased between a rate of 7% to 20% with the strategy to increase water tariffs by 41% plus inflation rate for the next five years as part of a proposition to obtain a cost reflective tariff but remain affordable while bridging the gap.” The tariffs for the other services will increase between 6% to 15% to factor inflation and other main cost drivers such as electricity, bulk purchases and salaries.

The IDP further notes that its 2023/4 budget reflects a 241% increase from 2022/3 for repairs and maintenance. It acknowledges that repairs and maintenance constitute 1.5% of the total operating budget. “ADM is aware of its need to allocate sufficient funding for repairs and maintenance, but this is practically impossible given the financial situation of the institution. Alternative revenue sources need to be sought to ensure that sufficient funding is allocated to maintain ADM assets.”

Improving cost recovery requires significant investment in accurate metering and billing, on which the municipality falls short.



At the same time, we urge the National Treasury to take account of the extreme and increasing poverty prevalent in the district. In its 2021/2 IDP, the municipality notes that in 2018, 22.6% of all the households in the district were living on R30,000 or less per year. It noted that upwards of 76% of the people living in the district live in poverty.

The 2021/2 IDP further notes that only 26,106 of households live in formal or 'very formal' dwelling types, while 874,507 live in informal and traditional dwellings. Nearly 30% of the households in the district are informal or traditional and simply not able to pay for services.

Many are also not registered as indigent, because registration is onerous and expensive and requires, as the FRP notes, proof of a pay slip, South African ID, an affidavit of gross income, and a certificate for the local councillor. The FRP further notes that the municipality should "Review all indigent debtors per the system of supporting documentation. Invalid indigent debtors to be removed from the system and further steps should be considered."

The FRP refers to the need for the municipality to undertake "indigent management" including to "Explore proactive and alternative measures such as smart metering and token systems for provision and metering water usage for indigent households using communal taps."

Indigent households relying on communal taps will not be able to afford a 41% tariff increase in the next five years, let alone the current increases of between 7 and 20%.

We urge the National Treasury to ensure that water cost recovery efforts are rational and equitable, and focus on formal households, businesses, officials and councillors, where ensuring credit control and debt collection procedures are implemented, is both appropriate and urgent.

Along with other former homeland municipalities, the Amathole DM has unique challenges in generating revenue from cost recovery, which need to be considered in revisions to the municipal fiscal framework to ensure that municipalities are funded to deliver on their constitutional mandate, especially where their revenue base is extremely low.

Public participation

We welcome the FRP's actions to strengthen communication, including an internal and external communications plan, extensive media engagement and information sharing using various platforms for purposes of creating stakeholder and community awareness. The FRP recommends "Periodic media briefings must be convened on progress to brief stakeholders and collaborative partnerships from businesses, residents, and government to solicit technical and financial support."

A more specific time period would be useful for implementation and monitoring purposes.

Better utilisation of social media, local media and community/ ward committee meetings is encouraged, alongside the need to establish "open communication channels to gather feedback from employees, community members, and stakeholders". The FRP further notes that "municipal leaders must be visible and vocal champions of the change, regularly communicate updates, address concerns, and emphasise the positive impact."



Critically, in addition to the monthly progress reports to NT and Council; quality assurance processes to verify performance; confirmation that political decisions are consistent with the FRP, and that FRP implementation records are maintained, Amathole constituents and civil society need to be equipped to engage with, monitor and support the FRP implementation progress.

As the FRP notes: “the municipality needs to provide publicly available updates against the FRP”. It is critical that we as communities hold the municipality accountable for implementing the Amended FRP. To do this, we need access to progress reports. The FRP supports these principles, but, for meaningful public accountability, a commitment to the publication of quarterly progress reports, on the municipality’s website and social media, is essential.

Public participation is a legal requirement. Amathole DM’s Draft IDP (2023/4) was not published on any of its online platforms and their social media gave no details of where or how IDP submissions could be made, or by what date. The municipality’s website was down for most of 2023.

For all these reasons, we urge the National Treasury to escalate and make more specific the public participation and communications actions of the revised FRP.

CONCLUSIONS

In short, we welcome the diagnostic and phased approach the FRP takes. We note that it is urgent to address the significant under allocation for maintenance and repairs alongside increased expenditure of national conditional grants (particularly for capital infrastructure), and systems to address unauthorised, irregular, fruitless and wasteful expenditure².

² The FRP notes 1) a high incidence of unauthorised, irregular, fruitless and wasteful expenditure (UIFW) is directly linked to the budget deficit and associated penalties. In the last financial year, the UIFW ratio was significantly above the norm, indicating weaknesses within the municipality’s supply chain management (SCM) processes and non-compliance with procurement regulations. Fruitless and wasteful expenditure increased from R50.4 million in 2020/21 to R61.3 million in 2021/22 and R83.1 million in 2022/23. 2) The municipality is consistently underspending its capital budget. This indicates discrepancies in planning and budgeting, capacity challenges to implement projects and/or SCM process failures, with 68% of capital budgets spent in 2020/1 to 37% in 2022/3.



We also agree that customers who can afford to pay must pay for services, and that municipal efforts are required to improve billing and cost recovery to generate municipal revenue. We note however that the municipality faces unique challenges as a consequence of structural inequality prevalent across the country and most stark in former homeland areas, and that additional funding support will also be required.

We further recommend that, in keeping with the National Framework and Guidelines for the Implementation of Municipal Indigent Policies, National Treasury together with CoGTA, consider supporting the municipality to adopt other methods like the cost of residential dwellings to identify indigent households, and put in place a plan to ensure that all households are identified within a clear timeframe.

We are gravely concerned that since the initial publication of a recovery plan in 2021, the critical financial issues have not been addressed. While we welcome this plan, we call on the National Treasury and the Eastern Cape MEC to take a fresh approach, to provide more support, and to intervene more rapidly. This Amended FRP is long overdue. The communities living in Amathole cannot afford for national and provincial departments, who are constitutionally enjoined to assist municipalities, to take another three years to set Amathole DM on the path to recovery.

Sincerely,

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