

PSAM submission to PC on COGTA oversight visit 17 Sept. 2022

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Public Service Accountability Monitor (PSAM)

- > Estb. 1999 at Rhodes University > research, training & advocacy institute.
- > Southern Africa focused since 2007.
- > Seek to contribute to addressing societal problems originating from systemic public resource management (PRM) challenges.
- > Engage with country processes & multi-stakeholder groups to support accountability practitioners & democratic reforms.
- > To enable system strengthening, more open & effective government.

Submission structure

- Staffing of Makana LM

- Risks

- Recommendations

- Employee Costs

- Risks

- Recommendations

Staff establishment...

Municipal Systems Act (current law)

s.66(1) A **municipal manager**, within a policy framework determined by the municipal council and subject to any applicable legislation must –

- (a) **develop a staff establishment** for the municipality, and **submit** the staff establishment to the **municipal council for approval**;
 - (b) provide a **job description** for each post on the staff establishment.
 - (c) **attach** to those posts the **remuneration** and other conditions of service.....
 - (d) Establish a process or mechanism to **regularly evaluate the staff establishment** and, if necessary, **review the staff establishment** and the **remuneration** and **conditions of service**
- (3) **No person may be employed** in a municipality **unless** the post....is **provided for in the staff establishment**...

Staff establishment...

Municipal Systems Act (current law) continued

s.66(3) **No person may be employed** in a municipality **unless** the post....is **provided for in the staff establishment...**

s.66(4) **A decision to employ a person** in a municipality, and any contract concluded between the municipality and that person on consequence of the decision, **is null and void** if the appointment was made **in contravention of subsection (3).**

s.66(5) Any person **who takes a decision** contemplated in subsection (4) knowing that decision is in contravention of subsection (3), may be held **personally liable for any irregular or fruitless and wasteful expenditure** as a result of the **invalid** decision.

MSA Regulations – Staff establishment

- (3) The municipal manager must review the municipality's staff establishment within 12 months in any of the following instances:
 - (a) the election of a new municipal council;
 - (b) the adoption of the integrated development plan of the municipality as contemplated in section 25 of the Act;
 - (c) material changes to the functions of the municipality; or
 - (d) the determination of new municipal boundaries.
- (4) The staff establishment must provide for—
 - (a) permanent posts; and
 - (b) fixed term posts.

and

(d) the sustainability of the municipality.

(6) The municipal manager must, within 14 days of finalising the staff establishment, submit the staff establishment, a detailed report and recommendations on the staff establishment to the municipal council for approval.

(7) The report contemplated in subregulation (6) must outline the process followed in developing the staff establishment, which must include—

- (a) a summary of the mandate and service delivery priorities of the municipality and how the proposed staff establishment addresses these;
- (b) a summary of the proposed posts that are envisaged to—
 - (i) materially change;
 - (ii) change to a limited or non-material degree;
 - (iii) be abolished; and
 - (iv) not be affected by the changes;
- (c) a motivation of the proposed changes, including an analysis of the strengths, weaknesses and limitations of the current staff establishment;
- (d) job descriptions, duties, functions, competency requirements and responsibilities according to which one or more posts of the same grade are established, including the grading or relative size and value of a job;
- (e) details of the financial implications of the changes including, but not limited to, the outcomes of job evaluation processes, remuneration costs for senior managers, costs for relocation, new facilities and equipment, if any;
- (f) non-financial implications of the changes, including the impact on existing staff, key stakeholders and other processes within the municipality;
- (g) a project plan that specifies the timeframes within which the implementation is envisaged to take place; and
- (h) the stakeholders and change management requirements.

(8) The municipal council must at its next meeting following receipt of the staff establishment, approve the staff establishment, with or without amendments, as proposed by the municipal manager.

Has Makana complied with s.66 and MSA Regs? Evidence suggests NO....

Date	Explanation	Source
2014 – 2016: Section 139 interventions	“The interventions at the Makana Local Municipality were a result of numerous challenges. They included institutional matters, vacancies in key positions, lack of capacity including the finalisation of the organogram, skills audit.... “	S.139 intervention Makana Municipality: Eastern Cape progress report: https://pmg.org.za/committee-meeting/30930/
28 Mar. 2019	“With the assistance of COGTA, we are currently undertaking a review of the Organogram. ”	Former Mayor Mpahlwa https://grocotts.ru.ac.za/2019/03/28/turning-around-makana-municipality/
24 Mar. 2021	“The failure to adopt a revised organisational structure comprising of evaluated posts with proper job descriptions filled by competent individuals is at the heart of the municipal maladministration. Until the municipality deals decisively with this challenge, the municipality will not be able to address the administrative weaknesses confronting this municipality.”	Former Mayor Mpahlwa - Annexure 3 - referenced in letter to MEC Nqatha

No approved staff establishment in Makana....

Date	Explanation	Source
6 Dec 2021 4 Mar 2022	“Municipalities are encouraged to perform an annual head count and payroll verification process by undertaking a once-a-year manual salary disbursement , in order to root out ghost employees ”	National Treasury - MFMA Circular No. 112 ; MFMA Circular No. 115
31 May 2022	<p>“The budgeted allocation for employee related costs for the 2022/23 totals R 238 million, which equals 38% of the total operating expenditure. Employee related cost has reached the upper limit of an acceptable ratio for employee cost to total expenditure being 39% the target set in the financial recovery plan of 5 per cent reduction. The municipality is currently busy with the organogram review and also cost analyses on current year expenditure to find ways of reducing costs.”</p> <p>“The organogram review process and cost analysis study will determine the way forward and strict control over salary and related expenses needs to be done to curb escalating staff cost”</p>	Makana Municipality 2022/23 Medium Term Revenue & Expenditure Forecast dated 31 May 2022

Risks: Where no approved staff establishment; no JD's; failure to head count; do salary verification; :

- > Inadequate Planning & Budgeting
- > Inadequate Performance Management
- > Overpay; opportunities for abuse > ghost workers...
- > Salaries crowd our Cap. Exp – impact on service delivery

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Msunduzi Municipality uncovers over one hundred of ghost workers in its payroll

27 February 2021, 7:02 PM | Nonkululeko Hlope | @SABCNews

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NEWS

Mangaung ghost workers hold city manager hostage, force him to sign off millions in salaries

Mangaung acting city manager's hostage takers threatened to throw him from the 12th floor of the metro's headquarters over unpaid salaries.

'Ghost' municipal employees' salaries withdrawn

Wednesday 26 August 2020 - 10:05am

f t e +

eNCA 'Ghost' employees' salaries withdrawn **LIVE 07:10** Copy link

CITY OF TSHWANE HAS RECALLED SALARIES OF ABOUT 7,000 'UNVERIFIED' WORKERS

Watch on YouTube

USD DOLLAR = 16.81 GB POUND = 22.08 EUR EURO = 19.85

eNCA NO FEAR, NO FAVOUR

COURTS & CRIME

Hawks probe 'ghost' worker at Makana

By SUE MACLENNAN — October 22, 2018 — Updated: October 26, 2018 No Comments 2 Mins Read

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Recommendations

- Require MLM to submit **monthly progress reports** to PC of COGTA and MEC on action taken to comply with s.66 & Regs.
- Require MLM to **agree on clear timeline** to comply with s.66 & Regs;
- Require MLM to **undertake a staff head count; payroll verification & manual salary disbursement by Dec. 2022**
 - > Provide a publicly accessible report on findings of verification process;
- Require MLM to commit to **publicizing the approved staff establishment** on its website; and **any reviews/updates**.
- Ensure speedy **proclamation of commencement date of key clauses** MSA Amendment Act 3. of 2022 – See Below

Employee costs

2018/19 Audit Report iro MLM

Employee related costs

25. The municipality did not ensure that overtime worked by municipal officials was correctly paid in accordance with the municipality's overtime policy and that salaries and allowances were paid in accordance with the applicable bargaining council agreement. The overtime hours paid to employees did not correlate with overtime hours worked resulting in payments being made to employees that were in excess of what was due. Consequently, employee-related costs were overstated and receivables from exchange transactions were understated by R4,8 million respectively.
26. Additionally, the municipality did not have adequate internal controls to maintain records for overtime payments and allowances to employees. Consequently, I was unable to obtain

sufficient audit evidence for overtime payments and some allowances. I was unable to determine whether any further adjustment was necessary to employee-related costs stated at R165,7 million in the financial statements.

2019/20 Audit Report iro MLM

Employee related costs

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27. Additionally, the municipality did not have adequate internal controls to maintain records for overtime payments and allowances to employees. Consequently, I was unable to obtain sufficient audit evidence for overtime payments and some allowances. I was unable to determine whether any further adjustment was necessary to employee-related costs, stated at R165,7 million in the financial statements.

Risks where inadequate controls exists wrt Employee Costs & HR Records

- Staff can be paid whilst often absent
- Overtime could be claimed and paid under fraudulent circumstances...
- Staff with legitimate claims for overtime – especially essential service staff - may not be paid if budgets under pressure.
- Annual Leave may be abused
- Allowances may be abused

Recommendations

- Engage MEC to act i.t.o section 106 of the Municipal Systems Act

“If an MEC has reason to believe that a municipality.... cannot or does not fulfil a statutory obligation... or that maladministration, fraud, corruption or any other serious malpractice has occurred or is occurring..., the MEC must-

(a) by written notice... , request the municipal council or municipal manager to provide the MEC with information required in the notice; or

(b) if the MEC considers it necessary, designate a person... to investigate the matter.

THANK YOU