

AUDITOR GENERAL AND TREASURY OVERSIGHT GAPS IN MUNICIPAL RATES

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1. WHY AUDITOR GENERAL DOES NOT REPORT ON RATES INCREASES REASONABLENESS:

AUDIT SCOPE LIMITATIONS:

- Auditor General audits financial statements for accuracy and compliance with specific legislation
- Audit does not assess whether rates increases are "reasonable" or "fair"
- Audit focuses on: (a) Material misstatements in financial statements, (b) Compliance with key legislation, (c) Internal control deficiencies
- Audit does NOT assess: Policy decisions, rates reasonableness, affordability impact

CLEAN AUDIT PARADOX:

- A "clean" or "unqualified" audit opinion means financial statements are fairly presented
- Clean audit does NOT mean all compliance issues are resolved
- Auditor can give clean audit while reporting findings on non-compliance with Treasury guidelines
- Mossel Bay received clean audits (2018-2022) while rates increased well above inflation

MATERIAL MISSTATEMENT THRESHOLD:

- Auditor only reports on "material" misstatements
- Rates increases, while excessive, may not be material to financial statements
- Auditor focuses on accuracy of reported rates, not appropriateness of rates levels

LEGISLATIVE FOCUS:

- Auditor checks compliance with MFMA and PFMA
- MFMA requires sound financial management but does not specify rates increase limits
- Treasury guidelines on rates increases are NOT part of MFMA
- Therefore, auditor may not report on Treasury guideline non-compliance

2. NATIONAL TREASURY OVERSIGHT GAPS:

WEAK ENFORCEMENT MECHANISMS:

- National Treasury issues guidelines on rates increases (should follow inflation)
- Treasury has NO direct enforcement power over municipalities
- Treasury can issue circulars and guidance but cannot force compliance
- Enforcement relies on Provincial Treasury and Municipal Council

SECTION 71 MONITORING:

- Section 71 of MFMA requires monthly budget statements to Provincial Treasury
- Section 71 reports monitor budget compliance and financial performance
- Section 71 does NOT specifically monitor rates increase reasonableness
- Monitoring is financial, not policy-based

PROVINCIAL TREASURY ROLE:

- Provincial Treasury receives Section 71 reports
- Provincial Treasury can identify financial distress but has limited intervention power
- Provincial Treasury cannot directly override municipal rates decisions
- Intervention requires escalation to higher levels

MUNICIPAL COUNCIL RESPONSIBILITY:

- Municipal Council is responsible for adopting rates policies
- Council must comply with MFMA and MPRA requirements
- Council has discretion in setting rates levels
- Oversight is through council processes, not external enforcement

3. LEGAL FRAMEWORK GAPS:

MFMA LIMITATIONS:

- MFMA requires "sound financial management" but does not define rates increase limits

- MFMA requires sustainability but does not specify affordability thresholds
- MFMA compliance can be achieved with above-inflation rates increases

MPRA LIMITATIONS:

- Municipal Property Rates Act Section 16 requires rates not be "unreasonably prejudicial"
- "Unreasonably prejudicial" is not defined with specific metrics
- Courts have not clearly defined what constitutes "unreasonable" rates increases
- Enforcement requires legal action by ratepayers

CONSTITUTION LIMITATIONS:

- Section 153 requires priority to basic needs but does not specify rates limits
- Section 27 guarantees access to services but does not define affordability
- Constitutional enforcement requires court action

4. COORDINATION FAILURES:

AUDITOR GENERAL - TREASURY DISCONNECT:

- Auditor General reports audit findings to Parliament and Provincial Legislature
- National Treasury issues guidelines separately
- No formal mechanism linking audit findings to Treasury enforcement
- Auditor findings on rates do not trigger Treasury intervention

PROVINCIAL TREASURY - MUNICIPAL COUNCIL DISCONNECT:

- Provincial Treasury monitors financial performance
- Municipal Council makes rates decisions
- No formal mechanism for Provincial Treasury to challenge rates increases
- Intervention requires escalation through political channels

5. ENFORCEMENT GAPS:

LACK OF SPECIFIC STANDARDS:

- No specific percentage limit on annual rates increases (Treasury guideline is inflation-linked but not binding)
- No specific affordability threshold (e.g., rates should not exceed X% of household income)
- No specific formula for calculating reasonable rates increases

WEAK CONSEQUENCES:

- Municipalities receiving clean audits despite above-inflation rates increases
- No automatic penalties for exceeding Treasury guidelines
- Intervention requires formal complaint and escalation
- Enforcement is reactive, not proactive

RATEPAYER REMEDIES GAPS:

- Ratepayers must take legal action to challenge rates
- Legal process is expensive and time-consuming
- Courts have not established clear precedent on rates reasonableness
- No class action mechanism for collective ratepayer claims

6. MOSSEL BAY SPECIFIC IMPLICATIONS:

CLEAN AUDITS DESPITE NON-COMPLIANCE:

- Mossel Bay received clean audits (2018-2022) while rates increased 70%+ over 6 years
- Audit did not report on Treasury guideline non-compliance
- Audit did not assess affordability impact
- Audit focused on financial statement accuracy, not policy reasonableness

TREASURY MONITORING GAPS:

- National Treasury aware of above-inflation rates increases across municipalities

- Treasury issued guidelines but has limited enforcement power
- Treasury monitoring through Section 71 reports but no specific action on rates
- Enforcement gap allows municipalities to continue above-inflation increases

MUNICIPAL COUNCIL DISCRETION:

- Mossel Bay Council has discretion to set rates levels
- Council decisions are subject to MFMA and MPRA but not Treasury guidelines
- Council can justify rates increases based on operational costs
- Political accountability is weak for rates decisions

7. RECOMMENDATIONS FOR CLOSING GAPS:

FOR AUDITOR GENERAL:

- Expand audit scope to assess rates increase reasonableness
- Report specifically on Treasury guideline compliance
- Flag excessive rates increases as "findings" even if not material misstatements
- Coordinate with Treasury on audit findings related to rates

FOR NATIONAL TREASURY:

- Establish binding rates increase limits (e.g., inflation + 2%)
- Create enforcement mechanism for municipalities exceeding limits
- Link Treasury monitoring to Auditor General findings
- Establish affordability thresholds for rates increases

FOR PROVINCIAL TREASURY:

- Monitor rates increases through Section 71 reports
- Escalate excessive increases to National Treasury
- Provide support to municipalities to manage costs without excessive rates increases
- Coordinate with Municipal Council on rates policy

FOR MUNICIPAL COUNCIL:

- Adopt rates policies that comply with Treasury guidelines
- Conduct affordability impact assessments before adopting rates increases
- Provide public participation in rates policy development
- Publish rates increase justifications

FOR RATEPAYERS:

- Organize through associations (MPOA, MossRates) to challenge rates
- Demand compliance with Treasury guidelines
- Seek legal remedies for "unreasonably prejudicial" rates increases
- Request Provincial Treasury intervention for excessive increases