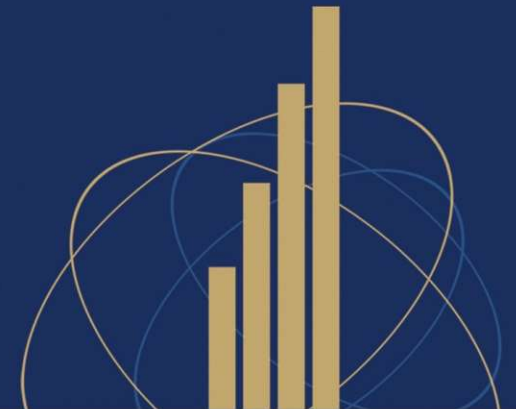




Legislation as driver to enhance
credit control actions and
minimize revenue losses



CIGFARO
Chartered Institute of
Government Finance, Audit & Risk Officers

www.cigfaro.co.za

SAQA Recognised Professional Body

SARPA



Founded in 1997 by **IMFO**, AMEU and Eskom. SARPA promotes the exchange of information and finding of solutions in protecting the income and assets of utilities against pilfering, misapplication and misappropriation.

- **Promote the sharing of information**, best practices and finding of solutions to minimize revenue losses and combatting of essential infrastructure crimes in Utilities
- Has **nine regional branches** in SA provinces and Namibia.
- **Membership** consist of utilities supplying electricity, water and gas, as well as contractors, consultants, service providers, manufacturers involved in the field of Revenue Protection.
- Provides training and support to its members in Africa
- **Contributes to developing legislative frameworks, national regulatory standards and amendments.**

Current situation



SARPA President – Mr. Manoj Hanuman (Ethekwini Metro)

President Elect – Kenneth Samolapo (CFO Sol Plaatje Municipality)

CIFARO – Founding member of SARPA

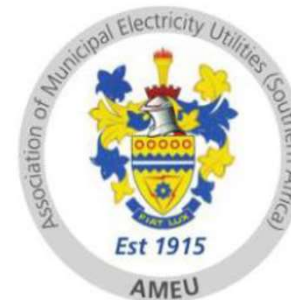
CIGFARO – Executive member (Mrs. Louise Muller)

CIGFARO / SARPA – Memorandum of understanding

SALGA – Memorandum of agreement



SARPA PARTNERSHIPS



**National
Prosecuting
Authority**
of South Africa





EDUCATIONAL PROGRAMS

Courses are specifically designed to focus on electricity, water, finance and law enforcement

Revenue Protection

- *Basic Course*
- *Management Course*
- *Advance Course*
- *Specialist Masterclass*

Essential infrastructure crimes

- *Essential Infrastructure Crimes Course*
- *Investigation Skills Development Course*
- *Sensitizing Workshops*

EEC inquiry regarding the investigation course



Revenue Recovery Survey

SARPA Revenue Recovery Survey and Gap analysis process is to assist ailing Utilities in South Africa to minimize their non-technical revenue losses and recover lost revenue at very low cost

Best Project = Botswana Power Corporation (BPC)



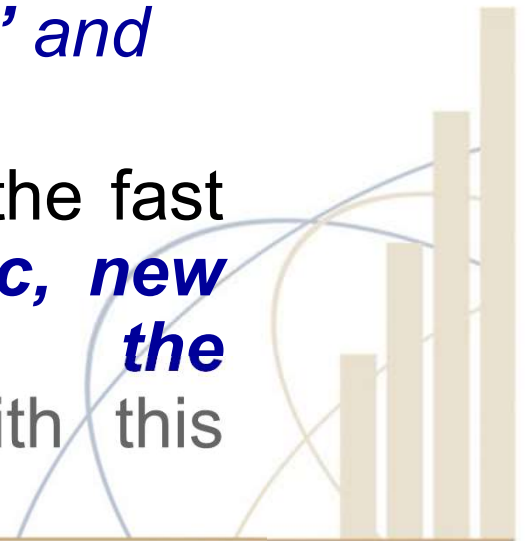
Evolution of Revenue Loss Management

The Revenue Loss Management concept in Southern Africa has gone through an evolution process in the past 20 years, resulting in the need for a *“higher level of expertise and professionalism.”*



This has resulted in the need for those involved to go to the *“next level of specialization”* and

These changes has mainly been due to the fast tracking of *the impact of the pandemic, new technology and “managing the consequences”* of not keeping up with this changing environment



Current situation

The Revenue Loss Management concept in Southern Africa has gone through an evolution process in the past 20 years, resulting in the need for a *“higher level of expertise and professionalism.”*

This has resulted in the need for those involved to go to the ***“next level of specialization”***

These changes has mainly been due to the fast tracking of ***the impact of the pandemic, new technology and “managing the consequences”*** of not keeping up with this changing environment



NO! DUCK
BACK
HERE



CYBER
SECURITY



Q

WHAT WILL THE
WARRIOR-GUARDIAN
OF THE FUTURE
LOOK LIKE?

What have changed?

OLD APPROACH

Focus credit control measures

Maximum interaction and contact in the field

“**shotgun approach**” by chasing the meter audit numbers

Focus on operational meter **exercises**

Punitive fees as penalties for illegal acts

NEW APPROACH

Focus on finding ways to immediately **recover revenue**

Introduction of data systems like AI and MI

“**targeted approach**” by identifying specific issues through AI and MI

Focus on data analysis “**desk top exercises**”

Higher fees and enhanced Legal measures

Dynamics of Revenue Protection

Please note that to develop a Revenue Loss Strategy, one need to understand that this is an ongoing processes and not a “once-off exercise”

- It is therefore necessary to **proactively identify and target** consumers that actively contribute to revenue losses and involve all the relevant role players that can assist in the processes
- The next step is to **integrate all the processes** and take the right reactive measures, to ensure that there is enough resources and assets available to effectively complete the tasks
- The strategy must **identify the most effective remedial actions** and best practices that should be introduced, in to restore an enhanced flow of income and direct the implementation of all the necessary actions to ensure sustainability for a long period of time

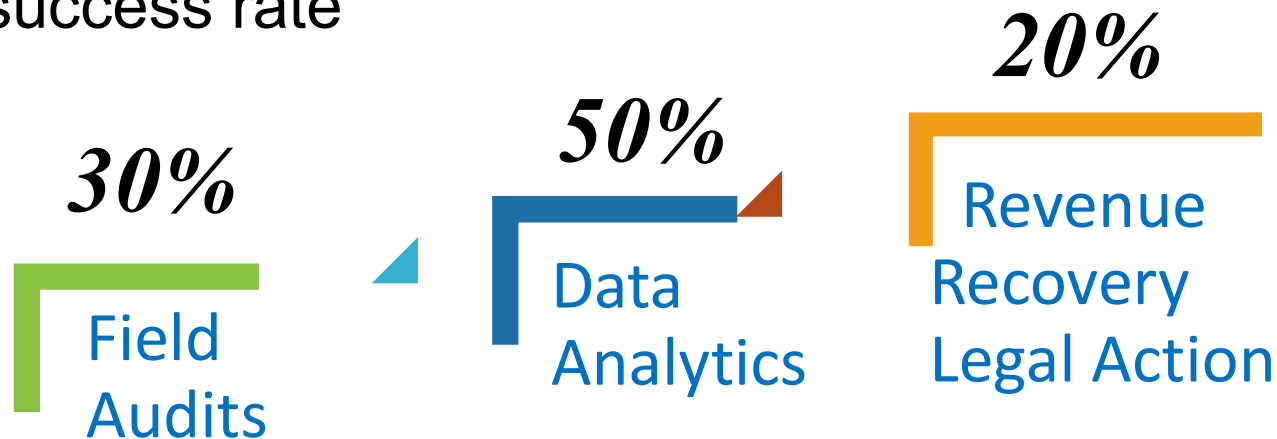
Strategy to find funding



- The fact that the **reduction of losses by far outweighs the costs** incurred to achieve revenue protection goal, points to the fact that it should be **plain common sense to** find the funds to perform effective Revenue Protection operations in all Utilities
- **Experience has shown** that Utilities who initiate dedicated Revenue Protection departments or sections , soon find that these units become **self-funding**
- Revenue Protection Sections, soon find that these units become self-funding and within a period of **1 year can** claw back lost revenue for the Utility **and triple the income in 3 - 5 years**
- Therefore, to start a dedicated team to deal with such threats is a **“no brainer”**

Closing the loop

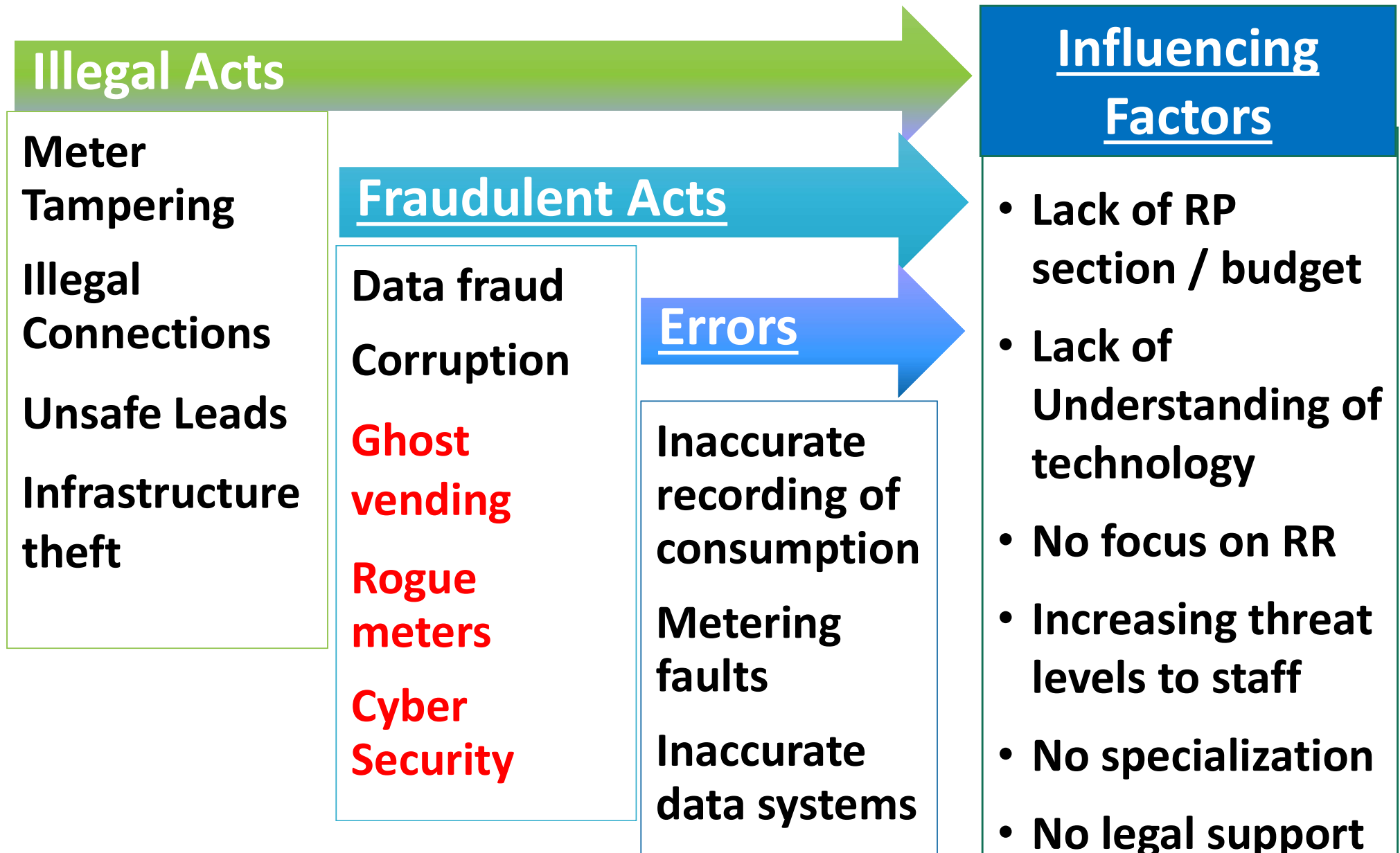
Introducing a revenue protection process together with data analytics and a revenue recovery process will improve the success rate



Benefits of “closing the loop”:

- Ensuring the effective reduction of losses
- Effective customer data system
- Activation of legal / disciplinary actions

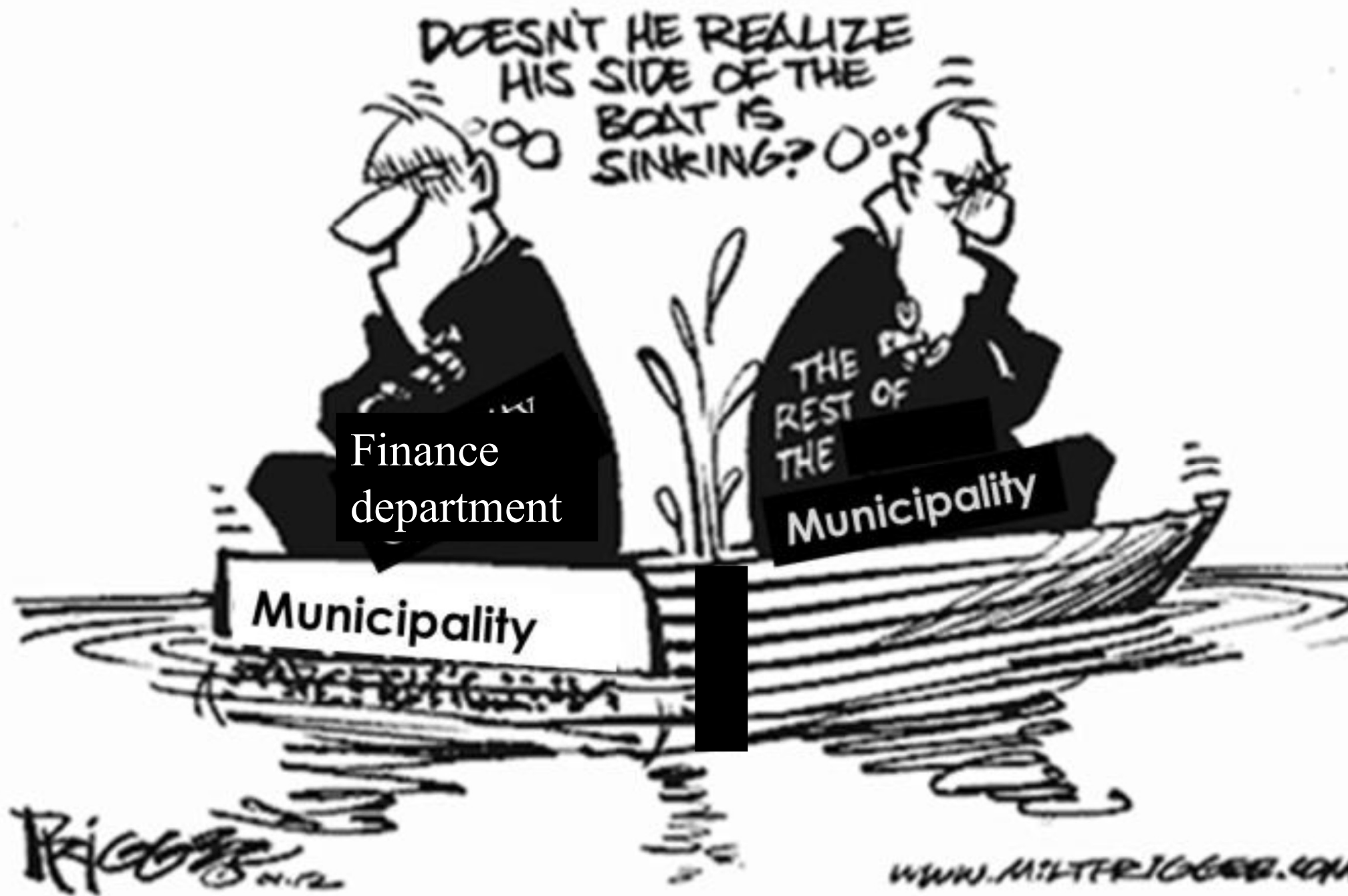
Factors that impact on revenue losses



Strategic considerations

To effectively counter risks, a strategy should cover key aspects like:-

- a) Effective customer care guidelines
- b) Information gathering processes
- c) Data Management Policy
- d) Metering Policy and guidelines
- e) Ethics Policy
- f) Effective remedial actions guideline
- g) Quality control processes
- h) Consequence Management plan
- i) Legal guidelines



Fines and Fees

Fines and bails recovered in respect of offences or alleged offences referred to in item 2 of Schedule 4 to the Public Finance Management Act, 1999 (Act No 1 of 1999), must be paid into the revenue fund of the Municipality.

Differences between “Fines” and “Fees”

- 1) Fines – an amount of money that is normally paid to the court according to the legal system of the country, that was issued by a Law Enforcement officer.
- 2) Fees – Amounts to be paid to the municipality due to the failure to make payments for example a connection and reconnection fee or a “tamper fee” in accordance with the Credit Control Bylaw and debt collection policy

Systems Act (13) – Publication of By-Laws

A by-law passed by a municipal council -

- must be published promptly in the Provincial Gazette and when feasible, also in a local newspaper or in any practical way to bring the contents of the by-law to the attention of the local community:
- takes effect when published or on a future date determined in or in terms of the by law



- (1) A municipal council must adopt by-laws to give effect to the municipality's credit control and debt collection policy, its implementation and enforcement.
- (2) By-laws in terms of subsection (1) may differentiate between different categories of ratepayers, users of services, debtors, taxes, services, service standards and other matters as long as the differentiation does not amount to unfair discrimination.

Credit Control By-Laws

Any person who:-

- a) Obstructs or hinders any Councilor or official of the Municipality in the execution of his or her duties under this By-law
- a) Unlawfully uses or interferes with Municipal equipment or consumption of services supplied;
- b) Tamper with any Municipal equipment or breaks any seal on a meter;
- c) Contravenes or fails to comply with the provisions of this Bylaw or the Credit Control Policy; or
- d) Fails to comply with a notice served in terms of this By-law or the Credit Control Policy

Is guilty of an offence and liable on conviction to a penalty.

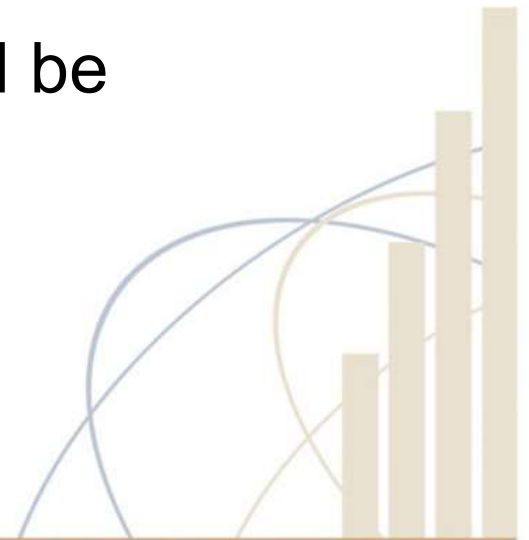
Revenue Protection Bylaw

During the development of the SARPA / SALGA MOA action plan, it was proposed to upgrade the SARPA NRS Standards to SANS Document

The reason for this has been the need to make certain aspects of Revenue Protection practices mandatory.

It was however determined that this would be troublesome due to various reasons

It was therefore proposed to develop a generic Revenue Protection Bylaw



NFMA 64 (97) – Revenue Management

The Accounting Officer of a Municipal entity must take all reasonable steps to ensure:-

- a) that the entity has and implements **effective collection systems** to give effect to its budget;
- b) that all revenue due to the entity is collected;
- c) that any funds collected by the entity on behalf of the Municipality
 - (i) recognises expenditure when it is incurred; (ii) accounts for creditors of the entity; and accounts for payments made by the entity
- (d) that the entity has and maintains a system of internal control in respect of creditors and payments
- (e) that payments by the entity are made
 - (i) indirectly to the person to whom it is due unless agreed otherwise only for reasons as may be prescribed
 - (ii) either electronically or by way of non-transferable cheques, provided that cash payments and payments by way of cash cheques may be made for exceptional reasons only, and only up to a prescribed limit;

Electricity Regulation Amendment Bill (2024)

Proposed amendments submitted by SARPA to include “tampering”, “illegal connections” and “essential infrastructure crimes” has been partially accepted as follows:-

In 35B. (1) Any person who—

1 (e) without lawful authority, damages, removes or destroys any transmission, distribution or reticulation cable, equipment or infrastructure, shall be guilty of an offence.

(2) Any person who is convicted of an offence by a court of law referred to in subsection (1) shall be liable to a **fine not exceeding R1 000 000,00** or to imprisonment for a period **not exceeding five years** or to both such fine and imprisonment.

(3) Despite anything to the contrary contained in any other law, a Magistrates Court has jurisdiction to impose any penalty provided for in this Act

NFMA 64 – Irregular or fruitless / wasteful expenditure

102

- (1) On discovery of any irregular expenditure or any fruitless and wasteful expenditure, the board of directors of a municipal entity must promptly report, in writing, to the mayor and municipal manager of the entity's parent municipality and the Auditor-General—
 - (a) particulars of the expenditure; and
 - (b) any steps that have been taken—
 - (i) to recover the expenditure; and
 - (ii) to prevent a recurrence of the expenditure.

- (2) The board of directors of a municipal entity must promptly report to the South African Police Service any—
 - (a) irregular expenditure that may constitute a criminal offence; and
 - (b) other losses suffered by the municipal entity which resulted from suspected criminal conduct

NFMA (74) Revenue Management

- (f) that the entity complies with its tax, duty, pension, medical aid, audit fees and other statutory commitments;
- (g) that the entity's available working capital is managed effectively and economically in terms of any prescribed cash management and investment framework; and
- (h) that the entity has and implements a supply chain management policy in accordance with section 111 in a way that is fair, equitable, transparent and cost-effective



Essential infrastructure crimes

The illegal trade in metals has resulted in the escalation of theft, vandalism and tampering with essential infrastructure of Service Providers networks and affects the normal supply of services of electricity, rail transport, water, telephone, cell phone networks as well as critical infrastructure (Key Points) and hospitals.

NOTE:- The Criminal Matters Amendment Act (CMA) and Second-Hand Goods Act was developed to deal with the threats)



Criminal Matters Amendment Act

The **Criminal Matters Amendment Act No. 18 of 2015 (“CMA Act”)** came into operation on 1 June 2016. The CMA Act creates a new dispensation for essential infrastructure-related offences. The CMA Act—Proclamation No. 33 of 2016, *Gazette* No. 40010 of 24 May 2016

- 1) **Creates a new offence** relating to essential infrastructure
- 2) **Regulates bail** in respect of essential infrastructure-related offences
- 3) **Regulates minimum and maximum sentences** in the case of essential infrastructure related offences that interferes with basic services
- 4) Creates a new crime of **tampering** with infrastructure

Tampering clause

The CMA Act creates a new offence in section 3.

3. (1) Any person who unlawfully and intentionally
(a) tampers with, damages or destroys essential
infrastructure; or



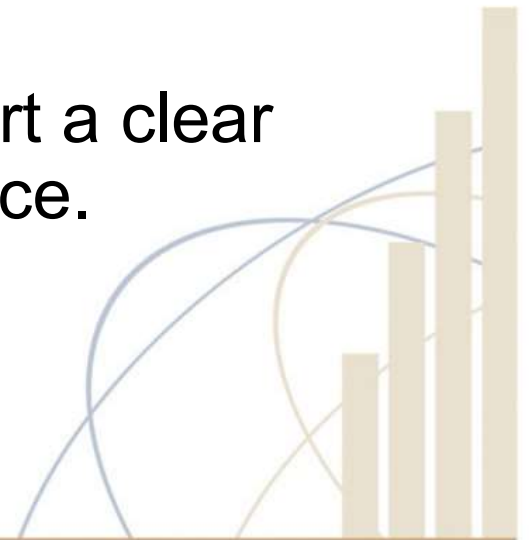
“tamper” includes to alter, cut, disturb, interfere with, interrupt, manipulate, obstruct, remove or uproot by any means, method or device, and “tampering”

*(b) **colludes with or assists another person** in the commission, performance or carrying out of an activity referred to in paragraph (a), and **who knows or ought reasonably to have known** or suspected that it is essential infrastructure, is guilty of an offence..*

Section 3 also provides that an offender may be sentenced to:-

- imprisonment for a period of up to **30 years** or,
- In the case of a company, a fine not exceeding **R100 million**.

This section therefore also gives the court a clear indication of the seriousness of the offence.



Second-Hand Goods Act 6 of 2009

Government Gazette

**REPUBLIC OF SOUTH AFRICA Vol. 526 Cape Town 1 April
2009 No. 32087**

**It is hereby notified that the President has assented to the
following Act, which is hereby published for general
information**

No. 6 of 2009: Second-Hand Goods Act, 2009.

Revisions of Acts

- **Revision to the Electricity Regulation Act** – awaiting publication in the Government gazette. Proposed amendments to address infrastructure theft and illegal connections included but the “**tamper clause**” was once again excluded.
- **Revisions to Criminal Matter Amendment Act**

Revisions to CMA

The following proposals were submitted:-

Section 1 - Definitions – (“essential infrastructure”)

“essential infrastructure” means any installation, structure, facility or system, whether publicly or privately owned, the loss or damage of, or the tampering with, which may interfere with the provision or distribution of a basic service to the public which will end at the point of consumption; and infrastructure that has the potential to deliver a basic service or has been temporarily disconnected, disrupted, decommissioned, on standby or under construction.

Section: 1 - Definitions – (“basic services”) In this Act, unless the context indicates otherwise—“basic service” means a service, provided by the public or private sector, relating to energy, transport, water, sanitation and communication, the interference with which may prejudice the livelihood, well-being, daily operations or economic activity of the public and the private sector”

Revisions to Electricity Regulation Act

Section:- 3 (1) add at end of section “or receives into his possession from any other person essential infrastructure without having reasonable cause for believing, at the time of such acquisition or receipt, that such essential infrastructure is the property of the person from whom he acquires or receives it or that such person has been duly authorized by the owner thereof to deal with it or dispose of it, shall be guilty of an offence”. (as added in the Electricity Regulation

Section:- 3 (1) (b) colludes with or assists another person in the commission, performance or carrying out of an activity referred to in paragraph (a), or directly benefits from an activity referred to in paragraph (a)

Section:- 51 (2) of the “General Law Amendment Act add at end of section (d) The Court must impose the prescribed minimum sentences for the offences listed in the parts of Schedule 2 and which should also be included in Plea Agreements

Revisions to Electricity Regulation Act

In 35B. (1) Any person who—

1 (e) without lawful authority, damages, removes or destroys any transmission, distribution or reticulation cable, equipment or infrastructure, shall be guilty of an offence.

(2) Any person who is convicted of an offence by a court of law referred to in subsection (1) shall be liable to a **fine not exceeding R1 000 000,00** or to imprisonment for a period **not exceeding five years** or to both such fine and imprisonment.

(3) Despite anything to the contrary contained in any other law, a Magistrates Court has jurisdiction to impose any penalty provided for in this Act

Revisions to Electricity Regulation Act

(4) Any person who, in any manner, without lawful authority, acquires or receives into his possession from any other person transmission, distribution or reticulation cable, equipment or infrastructure without having reasonable cause for believing, at the time of such acquisition or receipt, that such transmission, distribution or reticulation cable, equipment or infrastructure is the property of the person from whom he acquires or receives it or that such person has been duly authorized by the owner thereof to deal with it or dispose of it, shall be guilty of an offence.

(5) Any person who is convicted of an offence referred to in subsection (4) shall be liable to a fine **not exceeding R5 000 000,00** or to **imprisonment for a period not exceeding ten years** or to both such fine and imprisonment.”

Electricity Regulation Act Revision

NOTE:

Revision to the Electricity Regulation Act – Proposed amendments to address infrastructure theft and illegal connections by including the “**tamper clause**” was once again excluded. South Africa is one of the few countries in the world that the term “tampering with meters” are not included in the Electricity Act



Concept of consequence management



**DESIGN GOALS
AND ACTION
PLANS**



**SET PERFORMANCE
OBJECTIVES FOR
EVERYONE**



**SET TIMELINES
FOR EACH TASK**



**ENSURE
SUSTAINABILITY
OF PROCESS**



**CONSEQUENCE OF DOING
NOTHING NEEDS TO BE
UNDERSTOOD**



Consequence Management Processes

Goal

Minimizing the losses and the consequences due to such losses and guide the recovery effort in the most effective way

Actions

Evaluate operational responses and remedial actions and post remediation activities

Response Procedures

Procedures – Revenue Management plan, Consequence Management Plan and a Revenue Protection Plan.



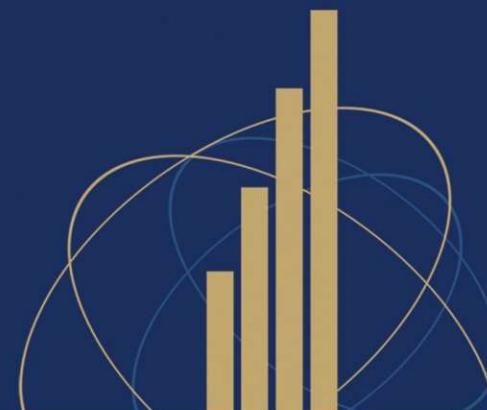
Conclusion – Roadmap to Utilizing Legal aspects in your Utility



- An integrated Revenue Loss Management Forum to discuss all revenue loss issues
- Legal aspects should be the leading factor in determining which strategies should be implemented
- Focus should be on introducing data technology and new management systems to provide evidence in legal actions
- Top level Management support and involvement for this process is very important
- Consequent management processes should be implemented.



Thank You!



CIGFARO
Chartered Institute of
Government Finance, Audit & Risk Officers

www.cigfaro.co.za

SAQA Recognised Professional Body