

ENVIRONMENTAL HEALTH – NECESSARY CONTENT OF AN ENFORCEABLE BYLAW

*‘Strengthening Local Government legislative
authority in SA – Implementation of Bylaws’*

North-West University, Potchefstroom

28 September 2017

Mike Agenbag

Cape Peninsula University of Technology,
Cape Town Campus

Contents

- What is the purpose of a bylaw?
- What is an enforceable bylaw?
- What should an Environmental Health bylaw consider?
- Scope of [preventive] Environmental Health
- Challenges with Environmental Health regulation
- Recommendations
- Conclusion



What is the purpose of a bylaw?

- **Govern** our everyday lives - municipal level.
- Attempt to govern all **possible eventualities**,
- Deal **comprehensively** with a **particular situation**;
- Powerful corporate governance tool for municipalities - give effect to policies.
- Not to mandate **how** specific substantive business decisions are made - **define the process and procedures** by which such decisions are made.
- Summary:
 - PREVENTION / DIRECTING / REGULATION
 - Detailed?



What is an enforceable bylaw?

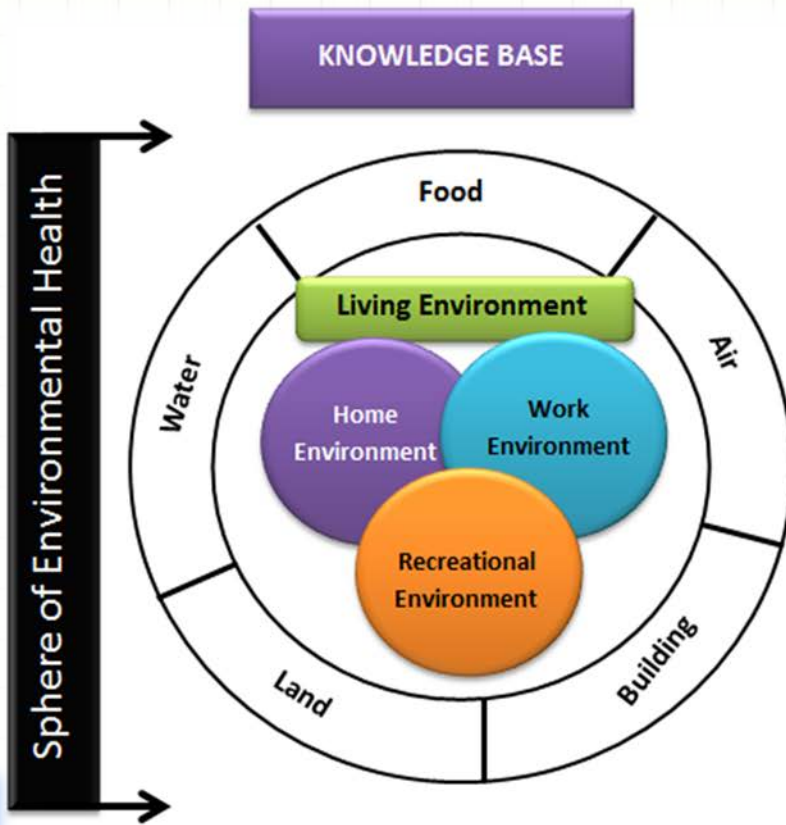
- Should not be inconsistent with an Act of Parliament
- Enforceable legal right – legislated
- Expect adherence of or obedience to.
- Capable of being enforced (Scrutiny of courts - Case law)
- Enforceable – [Implementable](#)



What should an Environmental Health bylaw consider?

- SA's [Quadruple Burden of Disease](#) – **Over burdened**
- [Basic \(municipal\) services](#) – ‘Back to Basics’ – Community unrest - S152 of Constitution – resources - **basic needs and sustainability**
- UN's Determinants of health – Control (economic, social, environment)
- [Sustainable Development Goals](#) (SDGs) – Beyond availability
- Listorti & Doumani (2001) – World Bank
 - Sectors causing negative health impacts – lack health criteria, and
 - Health system inward focused
- Von Schirnding – [Problem oriented approach](#) – planning
- Risk management approach - multi-sectoral
- ‘Psychological distance’ – Env. Health/Prevention not priority

Scope of [preventive] Environmental Health

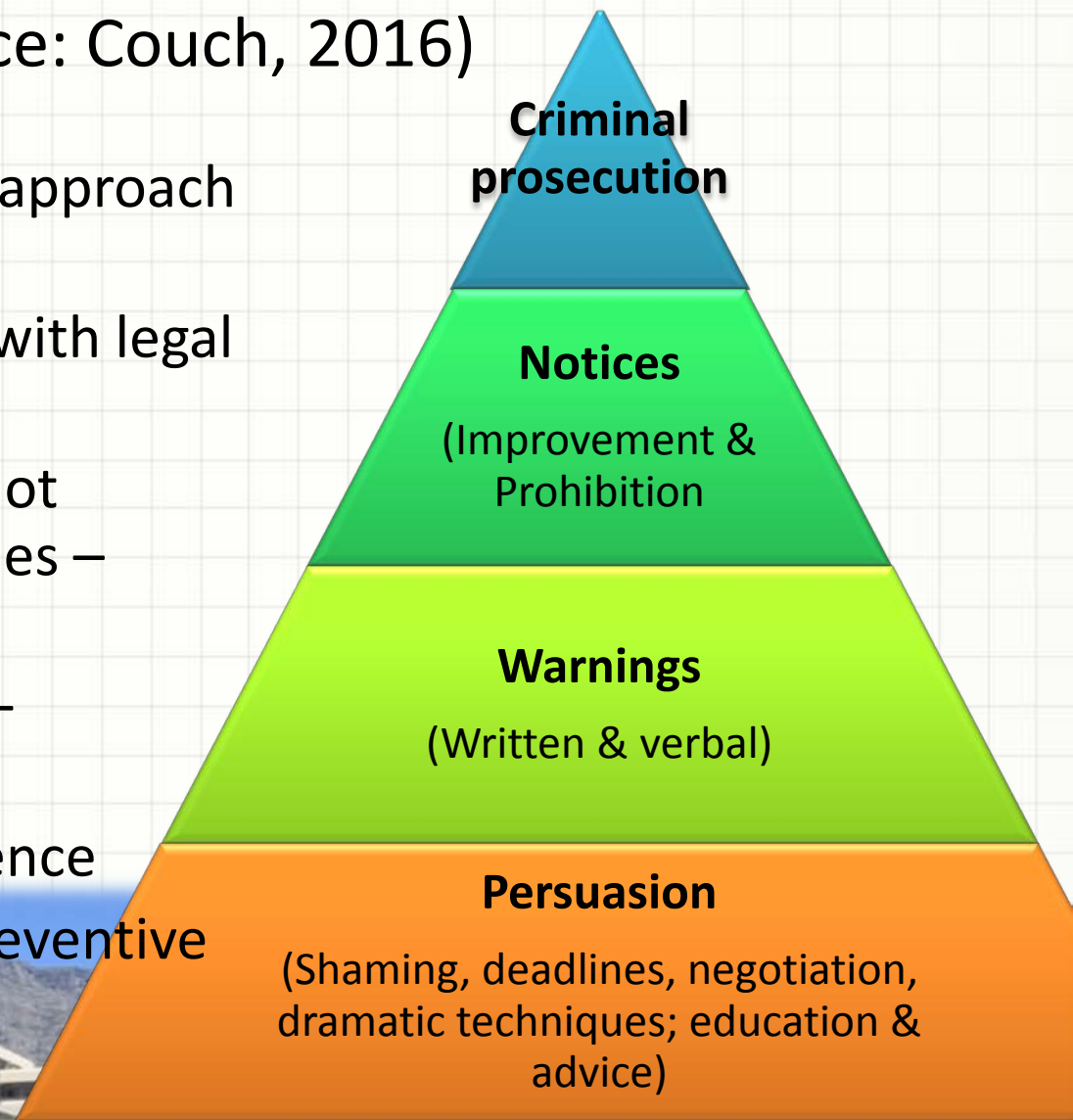


Purpose of Env. Health

- Prevent people from getting into clinics and hospitals due to preventable diseases / conditions.
- Prevent **social & environmental determinants** of health **at source**.
- **85 of 102** diseases listed on World Health /report - Environmental

Challenges with Environmental Health regulation (Source: Couch, 2016)

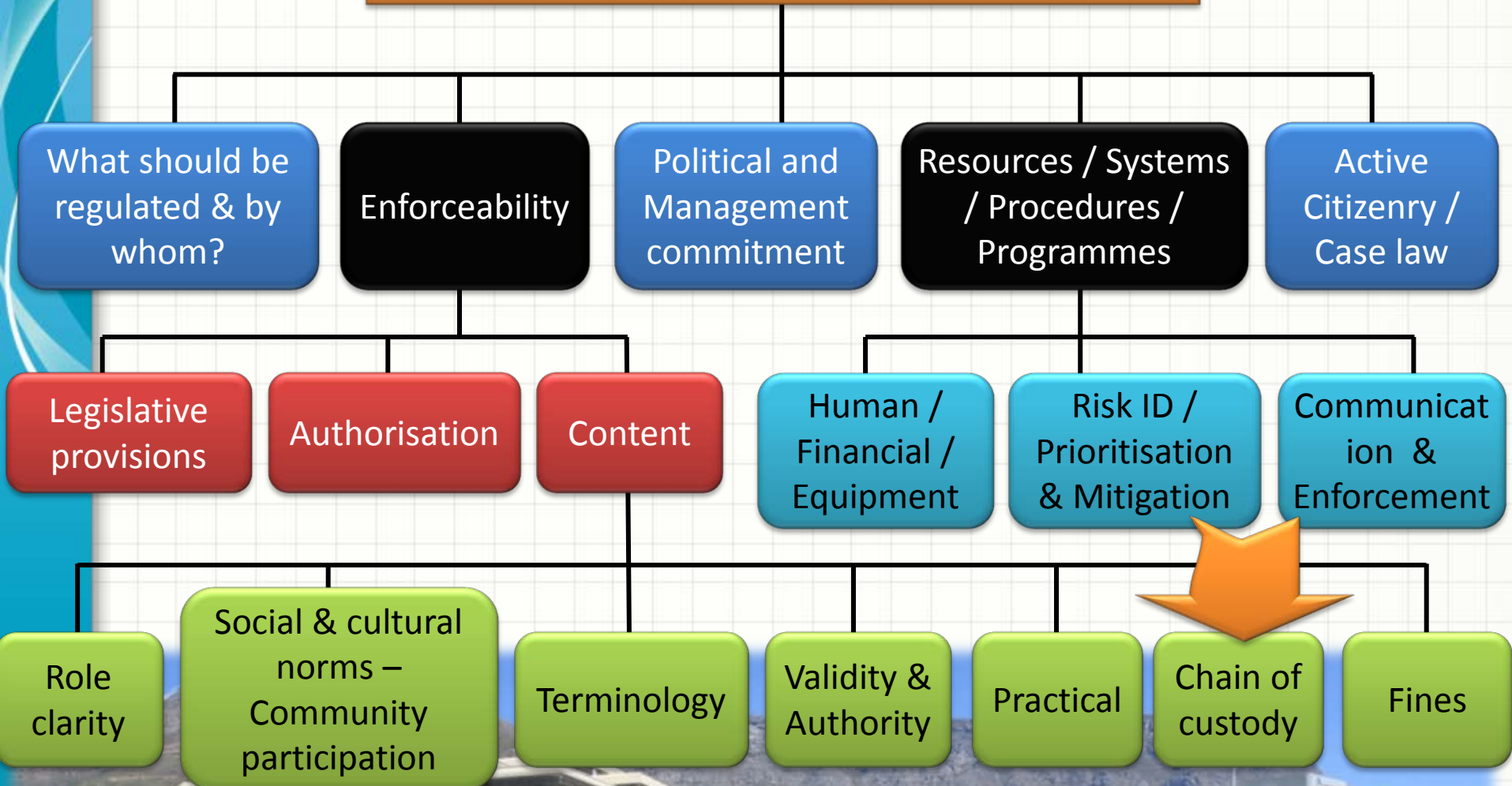
- Responsive regulation approach – Regulatory pyramid.
- EHPs not comfortable with legal proceedings.
- Legal support system not sensitive about EH issues – priority.
- Internal legal support – prolonged.
- IGR – Political interference
- Lack project focus – preventive regulation.



Recommendations



Enforceable Env. Health Bylaws are determined by...



Contents of bylaws: Mitigating negative health outcomes – **Over burdened**

- Env. Health Risk Profile – compulsory for all local authorities.
- Prioritise Env. Health risks against set criteria.
- Env. Health priority risks inclusion in IDP/SDBIP/PMS & Budget – **Problem oriented approach**
- Sector departments KPIs and programmes to focus on Env. Health risk priorities i.e. water, sanitation and waste – remedy the cause – **Problem oriented approach**
- PMS audits to ensure focus and interventions on priority risks.

Contents of bylaws (Cont.)

- Broaden scope beyond private sector and individual control!
 - **Government non-compliance** – contributing to ill health!
 - IGR - Directives to include regular occurrences of Env. Health priority risks - non-compliances – involving sectoral response and alignment.
- MOUs
 - Interdepartmental & Sector departments e.g. Education, Supply chain for food preparation.
- Align to National EH norms and standards

Conclusion

- Content of enforceable Environmental Health bylaws - no more be based on 'Standardised Env. Health Bylaws'
- Guide preventive health outcomes - ensure EH Risk Profile of entire area.
- Guide inclusion of priority EH risks in IDP/SDBIP/PMS and budget – Problem oriented approach – “End in Mind”
Over burdened – optimise resources
- Capacitate EHPs in law enforcement – confidence
- Legal support system – responsiveness
- Close '**Psychological distance**' – EH Risks – IDP – PMS - Programmes
- “We cannot solve our problems with the same thinking we used when we created them” *Albert Einstein.*

- **‘inter-sectoral efforts** are particularly important in order to address such **complex, inter-related, cross-cutting problems**, whose **determinants or solutions lie outside the direct control of the health sector’**.
- WHO Africa region argues that the **health sector must take the lead in reviewing and changing policies across sectors** to tackle the root causes of environmental threads to health.
- Existing burdens on health systems, as well as emerging challenges, dictate that **multi-sectoral action of this kind ‘is no longer a “nice to have” add-on factor to a long list of health and environment strategies, it is necessary and indeed may be the only way** in which there is a chance of successfully solving health and environment problems facing us today’.

**Von
Schirnding**
(Viewed in
May, 2015.
p492)



Enforceability

Enforceable?

- Expect adherence of or obedience to!
- **Enforceable** legal right, recognised by law, and
- **Capable of being enforced!** (Case law)
- Can be carried out by law **if necessary**.

Implementable?

- To fulfil, perform, carry out
- To put into effect according to or by means of a definite plan or procedure (objective driven)
- A means of achieving an end.

Capacity & ability of municipality!

SA quadruple burden of disease!

- Comparative Risk Factor study by MRC (2008) depicts 2 types of risk factors:
 - **Affluent lifestyles** – e.g. tobacco smoke, diabetes, High BMI & Cholesterol.
 - **Poverty and underdevelopment** - e.g. unsafe water, sanitation, hygiene and indoor air pollution from solid fuels

(Source: RSA: DoH, 2013 & 2016)



SA quadruple burden of disease (Cont.)

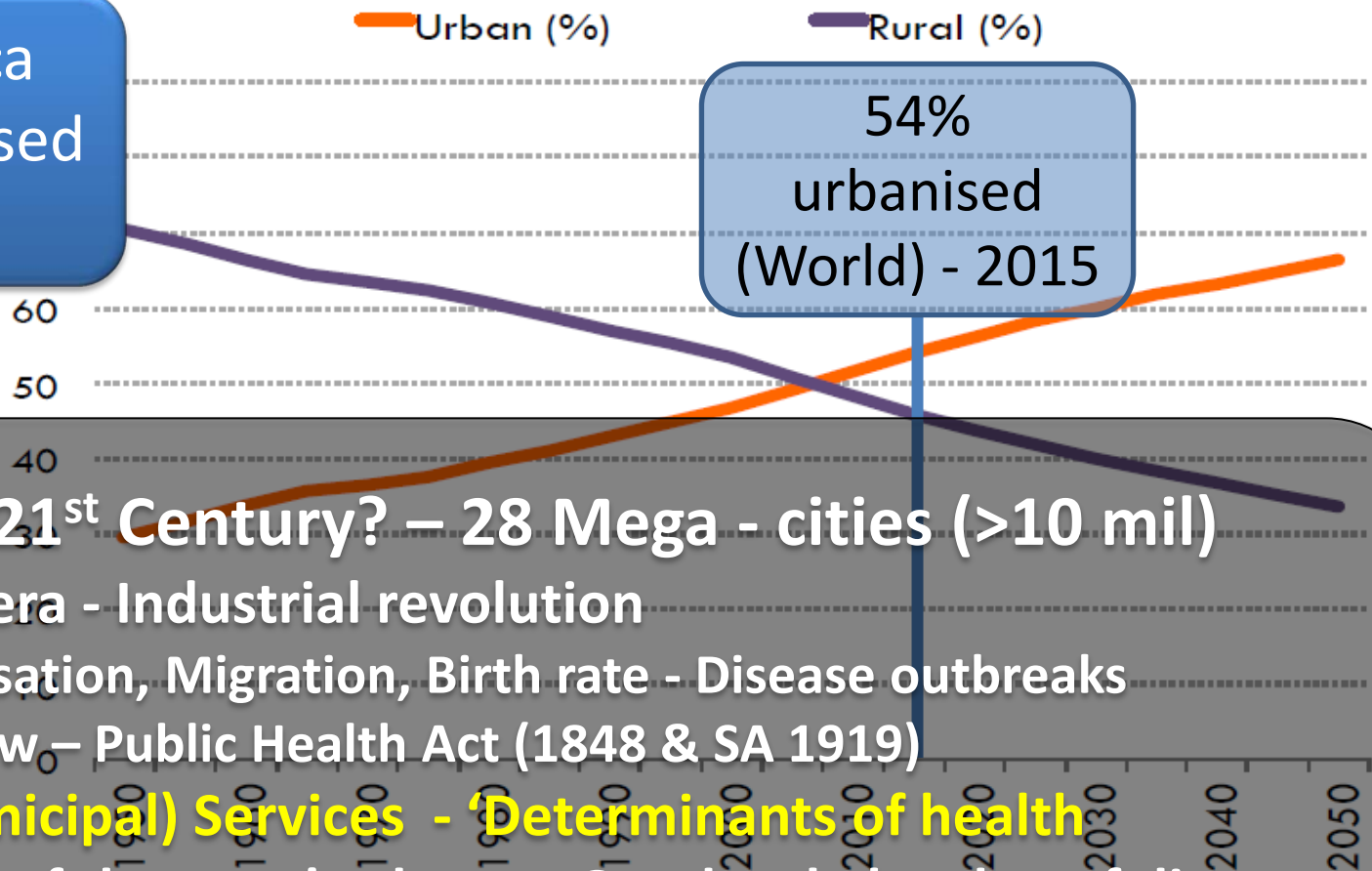
- Norman et al (2010) - Almost 24 000 deaths in 2000 were attributed to four environmental factors e.g.:
 - Unsafe water, inadequate sanitation and hygiene;
 - Indoor air pollution
 - Urban outdoor air pollution and
 - Lead exposure
- Unsafe water, sanitation, and hygiene are the main contributors to the joint burden.
- Mainly affecting <5 years of age and other vulnerable groups – e.g. immune compromised individuals.
- It is mainly the poor that bears the brunt.



World becomes more urbanised!

(Source: World Urbanisation Prospects 2014 [Revised] – UN)

South Africa
more urbanised
(64%)



54%
urbanised
(World) - 2015

19th - 21st Century? – 28 Mega - cities (>10 mil)

- Victorian era - Industrial revolution
 - Urbanisation, Migration, Birth rate - Disease outbreaks
 - Poor law – Public Health Act (1848 & SA 1919)
- **Basic (Municipal) Services - 'Determinants of health'**
- 'Rebellion of the poor' - slums – Quadruple burden of disease
- **SAME DYNAMICS? – 19th Century**

Basic (municipal) services

“The Delmas & Ukhahlamba Case” (Determinants of Health)

- ... the typhoid outbreak on 22 August 2005 in the resource-poor town of Delmas resulted in:
 - 594 cases of typhoid were confirmed with five mortalities.
 - Over 3000 people were treated for diarrhoeal disease.
- Ukhahlamba District Municipality: 140 babies died during 1st 3 months of 2008, mainly associated with gastroenteritis, among others, poor water quality.

(Barnes, 2007; National Saving Children Committee, 2008).

Back to Basics – Basic [Municipal] Services / Determinants of Health

IGR?



Sustainable Development Goals (SDGs)

- WHO Director- General Dr. Margaret Chan cautioned the world leaders:
*“Providing sustainable **access** to improved drinking water sources is one of the most important things we can do to reduce disease,” but **countries must ensure that “this access, which is just a beginning, should remain safe, otherwise our gains will be in vain”.***
- Booyson (2007) - government more focused on the **macro-statistics of overall achievements**, such as access to water, sanitation, housing, electricity and so forth.

Consumer units receiving basic services from municipalities: 2008-2012



THE SOUTH AFRICA I KNOW, THE HOME I UNDERSTAND



Macro statistics vs functionality – SDGs Sustainability (S152 - Constitution)

Environmental Health Risk Profile – Problem oriented approach - IDP/SDBIP/PMS - IGR



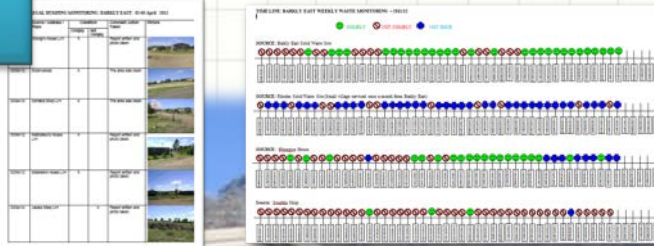
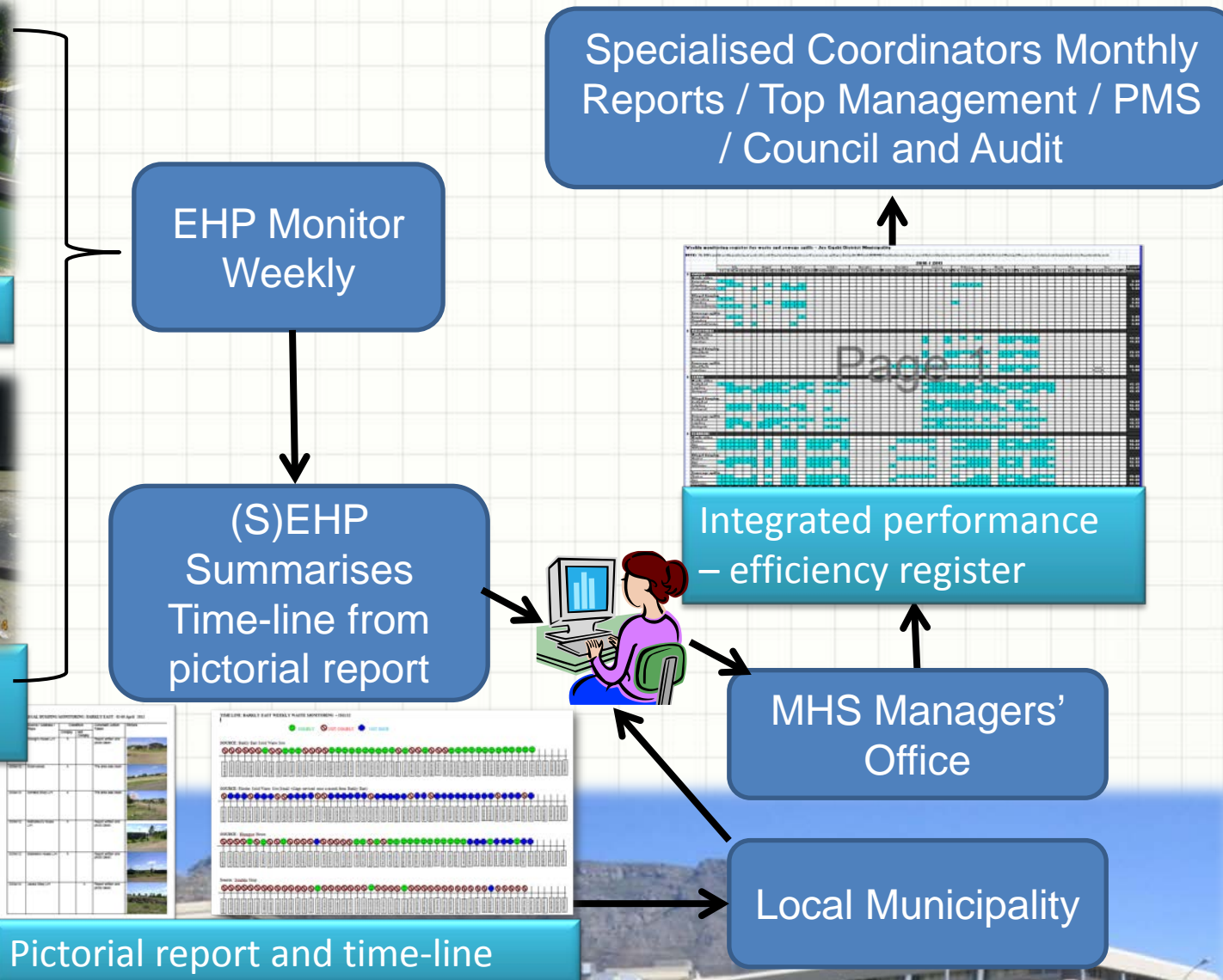
MHS Monitoring system and approach



WWTWs



Sewage spills –
reticulation system



Pictorial report and time-line

Page 1

Integrated performance – efficiency register



19th Century vs 21st Century? - ‘Psychological distance’

People per communal toilet		
	HH / Toilet	People/Toilet
Glasgow 1845	50 (4-5 families)	± 800
Cape Town 2017	10 (3 people/HH)	699
50 Hholds per privy 4-5 families in 2 roomed houses		

Province orders City of Cape Town to clean up Masiphumelele

2017-08-24 05:20

Thembela Ntongana, GroundUp



Cape Town - The City of Cape Town has “failed to adequately address the appalling unhygienic conditions in Masiphumelele township, which is affecting the health and wellbeing of the residents and causing significant pollution and/or degradation of the environment,” wrote the Western Cape Government in a scathing directive issued in July.

This is the second directive this year from the provincial government to the City of Cape Town to clean up Masiphumelele wetlands informal settlement, [GroundUp](#) reports.

The Constitution (section 139) empowers a provincial government to issue a directive to a municipality if it has not met its obligations.

The first directive was issued in January and the second one in July, by the provincial director of Environmental Law Enforcement, Dr Eshaam Palmer, to the city’s Executive Director of Informal Settlements, Water and Waste Management, Dr Gisela Kaiser.



One of the four canals in Masiphumelele where human waste is being thrown. (Masixole Fani, [GroundUp](#))

Masiphumelele Township (Cape Town) ± 2 422 Hholds – 233 communal toilets

Average 3 people per HH = 699 people per toilet

News 24 – 24 August 2017

Basic Municipal Services / Determinants of Health - Multilevel & Multi-sectoral environment

