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PARLIAMENT OF THE REPUBLIC OF SOUTH AFRICA

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***THEME: Advancing Our Collective Effort to Enhance Oversight and
Accountability in the Local Sphere of Government***



EXECUTIVE SUMMARY

Oversight is a constitutionally mandated function of legislative organs of state to scrutinise and oversee executive action and any organ of state. Oversight entails the informal and formal watchful, strategic and structured scrutiny exercised by legislatures in respect of the implementation of laws, the application of the budget, and the strict observance of statutes and the Constitution. South Africa has a well-established statutory and institutional framework to promote oversight and accountability, however its implementation has been sluggish, and in some cases, ineffective.

The Constitution lays the foundation for municipalities to be held accountable to its communities, as well as to ensure the provision of services to communities in a sustainable manner. Several pieces of legislation, such as the Local Government Municipal Systems Act (MSA), empower local government to fulfill its constitutional mandate. Other legislation, such as the Municipal Finance Management Act (MFMA), provide the framework for a democratic, accountable and developmental local government system.

Notwithstanding this comprehensive legal and policy framework, service delivery is deteriorating and the financial state of municipalities is concerning. Poor audit outcomes, as well as financial mismanagement, are consequences of inadequate oversight and poor governance. The Auditor General (AG) Report shows a weak accountability ecosystem, which allows mismanagement to take place with a lack of consequence management in local government. Oversight mechanisms in all spheres of government: national, provincial and local, must be strengthened in order to enhance accountability.

In addressing the negative impact of service delivery failures in local government, various initiatives, such as the District Development Model (DDM) and professionalisation of local government, have been undertaken by Government. The DDM allows for a proactive intervention by the national and provincial government to support and strengthen the capacity of municipalities to manage their affairs and to accelerate service delivery. Unlike provincial interventions when municipalities fail to deliver services, the new integrated approach seeks to be proactive and to foster co-operative government in accelerating service delivery in local government. The programme has been piloted in three municipalities and tangible progress has been realised in some of the catalyst projects.

Concern has also been raised about the significant number of public servants who are unqualified for the positions they occupy. The AG also alluded to this challenge. Professionalising the local government sector will assist local government to maintain a standard of professionalism and also to ensure that municipal officials are committed to serving their communities.

It is apparent that for local government to deliver on its mandate, oversight and accountability must be strengthened. All role players, including Committees of the National Council of Provinces (NCOP), provincial legislatures and municipal council oversight committees, such as Municipal Public Accounts Committees (MPACs), must work together to fulfil the objectives of local government outlined in the Constitution. Several recommendations are made in this regard.





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1. INTRODUCTION

Section 151 of the Constitution¹ vests the authority to govern the local government affairs of communities in municipalities. As such, it outlines the following objectives for local government:

- (a) To provide democratic and accountable government for local communities;
- (b) To ensure the provision of services to communities in a sustainable manner;
- (c) To promote social and economic development;
- (d) To promote a safe and healthy environment; and
- (e) To encourage the involvement of communities and community organisations in the matters of local government.²

The Constitution further obliges municipalities to adopt a developmental approach by structuring and managing its administration, budgeting and planning processes in a manner that gives priority to the basic needs of the community, and by promoting the social and economic development of the community.³ In addition, the White Paper on Local Government (1998) acknowledges that it is in the interest of the nation that local government is capacitated and transformed to play a development role. In order to assist municipalities in this task, section 154(1) of the Constitution places an obligation on national and provincial governments to, through legislative and other measures, support and strengthen the capacity of municipalities to manage their own affairs, to execute their powers and perform their functions.

However, whilst local government, as the sphere closest to communities, is expected to deliver many of the rights to basic services enshrined in the Constitution (such as adequate housing, health care, education, food, water, social security), the White Paper on Local Government acknowledges that in reality the situation in cities, towns and rural areas are not consistent with the rights so enshrined. People continue to live in dire poverty, isolated from services and opportunities. This was confirmed by His Excellency, President Cyril Ramaphosa, during remarks made at the South African Human Rights Commission's (HSRC) National Conference on Local Government.⁴ In particular, the President noted reports from the Auditor-General (AG), National Treasury (NT) and Department of Cooperative Governance and Traditional Affairs (COGTA), which reflect that the majority of municipalities are failing, with only 41 (16%) of the 257 municipalities in the country receiving clean audits in the 2020/21 financial year. The President, in acknowledging the negative impact of service delivery failure on the quality of life of communities, ascribed the inability of municipalities to deliver services to challenges such as political contestations and in-fighting; lack of skills; failure to adhere to legislative prescripts; poor governance; lack of accountability; and corruption.

¹ Constitution of the Republic of South Africa, 1996.

² Section 152

³ Section 153

⁴ The Presidency of the Republic of South Africa (2022).



One of the basic tenets of democracy is to keep those that are responsible for the expenditure of public funds and to render services to communities, accountable. The Constitution therefore mandates legislative organs of state to scrutinise and oversee the actions of the executive and any organ of state. Accountability is important, as it inspires officials to act in the public interest. Moreover, lack of accountability will give those in power and those in charge of the public purse and institutions carte blanche to abuse state resources for their benefit.⁵ Local government in South Africa (SA) is characterised by many challenges, reflecting weak oversight.

The impact of ineffective or inadequate oversight and accountability has disastrous outcomes for societies that are recipients of government services, especially the poor who rely heavily on government services. The delivery of services is slow and money is wasted on projects which do not benefit communities. Corruption is also rampant when those entrusted with oversight do not carry out their mandate. Poor audit outcomes are also a result of inadequate oversight. The AG's report paints a concerning picture of the state of affairs in local government. It notes that the performance of local government is worse today than in 2016.

The AG has therefore called on all role players in the local government accountability ecosystem to diligently play their part to ensure accountability for government spending, and for improving service delivery and quality of life for South Africa's citizens.⁶ The AG's Report shows that municipalities that have controls and systems in place to plan, measure, monitor and account for their finances and performance, and to stay within the rules, often also have a solid foundation for service delivery that will benefit their communities.⁷ Of the local government expenditure budget of R427 billion, only 18 per cent can be accounted for completely.

Government has initiated a number of policies, legislation and strategies in an attempt to address shortages in funding and service delivery challenges of local government. This includes, for example, a new integrated district-based planning and budgeting approach introduced through the District Development Model (DDM) in 2019. The DDM consists of a process by which joint and collaborative planning is undertaken by all three spheres of government, resulting in a single strategically focused One Plan. Further, concerns have been raised about the glaring number of public servants who are unqualified for the positions they occupy in municipalities. This has a direct impact on service delivery. Government has thus undertaken a number of initiatives to, inter alia, professionalise the local government sector, make it a career of choice for talented officials, and to some extent mitigate certain root causes of poor financial management and service delivery.

This paper explores the theme of enhancing oversight and accountability of local government. In so doing, it contextualises the notion of oversight and accountability and the constitutionally mandated function of the legislative sector to conduct oversight and hold the executive and organs of state accountable for the exercise of their powers and performance of their functions. Various legislative and other mechanisms have been developed to give effect to this mandate, albeit not without any challenges. Section 2 provides an overview of these mechanisms and the challenges experienced in conducting effective oversight. Section 3 provides an overview of the type of

⁵ Pelizzo, R. et al (2006) Parliamentary Oversight for Government Accountability. Washington

⁶ AG. 2022. MFMA 2020/21. Consolidated general report on local government audit outcomes

⁷ Ibid



consequences poor or inadequate oversight and governance can result in, whilst section 4 explores the potential of the DDM and professionalising the local government service to improve service delivery. Finally, section 5 proposes a number of recommendations for enhanced oversight and accountability in local government.

2. CONTEXTUAL BACKGROUND TO OVERSIGHT AND ACCOUNTABILITY

The legislative sector (Parliament and provincial legislatures) is regarded as the guardian of democracy and the institution that must shape and give meaning to democracy. As elected representatives of the people, parliaments are the link between the electorate and the government. This unique position presents parliamentarians with an opportunity to be change agents through their representational, oversight and legislative roles.⁸ Oversight and accountability are constitutional requirements in all the spheres of government in South Africa.⁹

All spheres of government have a constitutional mandate of providing public services. The level of responsibility and public services provision also goes with the level of capacity of a particular sphere. However, most of the direct and visible services that the public receives are at the local sphere of government. As such, substantial resources are channelled towards this sphere of government to enable it to provide public services.

Oversight has a broader meaning than accountability and includes a wide range of activities and initiatives aimed at monitoring the executive. Further, while accountability and oversight may differ in respect of scope and focus, it is also clear that the two are closely linked and mutually reinforcing. In this definition it is clear, as scholars generally agree, that while oversight is a broader concept, it cannot be addressed while entirely excluding accountability. This section contextualises oversight and accountability. It also provides an overview of the legal framework regulating oversight and accountability in the South African context and mechanisms developed pursuant to this framework.

2.1 Oversight

The Oversight and Accountability Model of Parliament (hereinafter referred to as “the Model”) defines oversight in the South African context as a constitutionally mandated function of legislative organs of state to scrutinise and oversee executive action and any organ of state.¹⁰ Oversight is an important governance function and ensures that proper systems are put in place to safeguard the prescripts of the Constitution.¹¹ The concept of oversight contains many aspects, which include political, administrative, financial, ethical, legal and strategic elements. As outlined in the Model, the key functions of parliamentary oversight can be described as follows:

⁸ Gabela et al. (2015)

⁹ Munzhedzi (2016)

¹⁰ Oversight and Accountability Model of Parliament (N.d)

¹¹ Kraai, T. (2018)



- To detect and prevent abuse, arbitrary behaviour or illegal and unconstitutional conduct on the part of the government and public agencies. At the core of this function is the protection of the rights and liberties of citizens.
- To hold the government to account in respect of how the taxpayers' money is used. It detects waste within the machinery of government and public agencies. Thus it can improve the efficiency, economy and effectiveness of government operations.
- To ensure that policies announced by government and authorised by Parliament are actually delivered. This function includes monitoring the achievement of goals set by legislation and the government's own programmes.
- To improve the transparency of government operations and enhance public trust in the government, which is itself a condition of effective policy delivery.¹²

It is stated that the appropriate mechanism for Parliament to conduct oversight of these organs of state would be through parliamentary committees. In conducting oversight, the committee would either request a briefing from the organ of state or visit the organ of state for fact-finding, depending on the purpose of the oversight. The committees would have to consider the appropriate means for conducting oversight to cover all organs of state.

One of the most important aspects of the oversight function is the consideration by committees of annual reports of organs of state and the Auditor-General's reports. Therefore, it is imperative that the power conferred on the legislature by the Constitution is safeguarded without compromise. This has to be, among others, the rule of law and particularly the principle of the separation of powers. The oversight mechanism will be meaningless unless its effects are realised by the public.

At local government, Section 18 and 19 of the Local Government: Municipal Structures Act, (Act No. 117 of 1998) stipulates that all the powers and functions of a municipality are conferred on the municipal council. The primary task of the municipal council is political oversight of the municipality's aims and objectives and directing its administration. Section 79 Committees are the oversight mechanism of the municipalities and they are established in respect of Section 43 of the Local Government: Municipal Structures Act.

2.2 Accountability

In dealing with the issue of the Government's relationship with the people, accountability lies at the core of state governance. In recent years, with growing international interest in civic engagement, the concept of so-called social accountability has emerged, in which ordinary citizens, civil society organisations (CSOs) and the media rise to improve accountability. The Oversight and Accountability Model of Parliament defines accountability as an obligation to expose, explain and justify actions¹³. Accountable government in the public sector is an essential prerequisite for a democratic dispensation. Public officials account to political executive office-bearers and political executive office-bearers account to Parliament, provincial legislatures or

¹² Oversight and Accountability Model of Parliament (N.d)

¹³ Oversight and Accountability Model of Parliament



municipal councils in the context of municipalities. Parliament, on the other hand, is composed of elected office-bearers who account to the electorate.

As outlined in the Model, the functions of accountability include the following:

- To enhance the integrity of public governance in order to safeguard government against corruption, nepotism, abuse of power and other forms of inappropriate behaviour.
- As an institutional arrangement, to effect democratic control.
- To improve performance, which will foster institutional learning and service delivery.
- In regard to transparency, responsiveness and answerability, to assure public confidence in government and bridge the gap between the governed and the government.
- To enable the public to judge the performance of the government by the government giving account in public.

As mentioned above, whilst different, oversight and accountability are intrinsically linked to each other. There are issues that are key to effective and efficient political administration. In simple terms, accountability means being accountable for actions or policies, whilst oversight refers to the role of legislatures in monitoring and reviewing actions of organs of government to ensure that they account for the performance of their functions and expenditure of public funds. Among the philosophies underlying the oversight function is the need to ensure that policies enacted and authorised by Parliament are delivered timeously as envisaged.¹⁴ The Oversight and Accountability Model serves as a guide for Parliamentary activities. However, the Model argues that the quality of oversight and accountability is only as good as the mechanisms and procedures that exist to guide them.

2.3 Legal framework and mechanisms of ensuring oversight and accountability in local government

a) Legal framework for oversight and accountability

Since the advent of democracy in 1994, South Africa has been making concerted efforts to develop a legislative framework that is in line with the values and principles enshrined in the Constitution. The country has registered considerable progress in ensuring good governance in the public sector by providing effective, transparent, accountable and coherent government aimed at serving the South African public. However, challenges in realising good governance have been raised in government and academic reports. As indicated earlier in this paper, the Constitution requires all organs of state to conduct themselves in a manner which ensures efficiency and effectiveness when serving the public, but to also be transparent, open and accountable when doing so.

Section 1(d) of the *Constitution* from the onset clearly lists accountability, responsiveness and openness as some of the values that the South African Government is premised on.¹⁵ Section

¹⁴ Makiva (N.d)

¹⁵ Constitution of the Republic of South Africa (1996)



41(1)(c) of the Constitution requires that all spheres of government and all organs of state within each sphere must provide effective, transparent and accountable and coherent government for the Republic as a whole¹⁶. Section 43 of the Constitution establishes Parliament and provincial legislatures as the legislative authorities within the national and provincial spheres of government, and the municipal councils as the legislative authority within municipalities.¹⁷ Sections 55 and 114 of the Constitution assign the legislative sector, the responsibility of ensuring that all executive organs of the state are accountable to it.¹⁸ Further, section 92(2) renders Cabinet members individually and collectively accountable to Parliament for the exercise of their powers and performance of their functions. This means that the legislative sector is compelled to maintain oversight over the executive arm and the municipal councils are responsible for ensuring oversight and accountability at municipal level.

Section 114(2)(b) of the Constitution stipulates that the legislature's role is to oversee the actions of government departments, its agencies and public entities to promote financial accountability, transparency and compliance in order to enhance the delivery of services. This, at the local level, would be applicable to the municipal councils as legislative bodies. The *Municipal Structures Act*, No. 117 of 1998, provides for the establishment of various categories of municipalities in accordance with and for the regulation of the internal systems, structures and office bearers of municipalities.¹⁹ With reference to oversight and accountability, the most relevant sections of the Act are those that relate to the establishment of the committees of the municipality. Section 33 of the Act provides that a municipality may establish a committee if the establishment of the committee is necessary, taking into account the extent of the functions and powers of the municipality; the need for the delegation of those functions and powers in order to ensure efficiency and effectiveness in their performance; and the financial and administrative resources of the municipality available to support the proposed committee.²⁰ The functions of these committees will be discussed in the sections to follow.

In addition, the *Municipal Systems Act, No. 32 of 2000* (MSA), provides for the core principles, mechanisms and processes that are necessary to enable municipalities to move progressively towards the social and economic upliftment of local communities. In Section 6, the said Act sets out the duties of municipal administrations, including the requirement that the administration of a municipality must be responsive to the needs of the local community; must facilitate a culture of public service and accountability amongst staff; must take measures to prevent corruption; must give members of the local community full and accurate information about the level and standard of municipal services they are entitled to receive; and must inform the local community how the municipality is managed, of the costs involved and the persons in charge.

It is worth noting that the Constitution does not express the role of separation of powers in the sphere of local government in chapter 7 on local government. Section 151(2) vests both the executive and the legislative authority in the municipal council. This complicates effective oversight as the bedrock of any democracy. Sections 79 and 80 of the *Municipal Structures Act*

¹⁶ Ibid

¹⁷ Ibid

¹⁸ Ibid

¹⁹ The Local Government: Municipal Structures Act No. 117 of 1998

²⁰ The Local Government: Municipal Structures Act No. 117 of 1998



are the only provisions that express separation of powers but fall short of giving the non-executive councillors necessary powers to hold the members of the executive accountable for their actions.

b) Existing mechanisms for oversight and accountability

As mentioned before, section 55 of the Constitution compels the National Assembly to establish mechanisms to uphold oversight over the national executive (administration) authority. On the other hand, Section 114 of the Constitution provides that a provincial legislature “*must*” provide mechanisms to maintain oversight of the exercise of provincial executive authority in the province, including the implementation of legislation. This is not explicit in local government - in terms of section 151(2) the executive and legislative authority of the municipality is vested in its municipal council. Section 19 of the *Municipal Structures Act* (MSA) provides that municipal councils retain responsibility for approving policy and exercising oversight of its mayor, and the administration is accountable to the council through the mayor. Section 59 of the Municipal Structures Act compels the municipal council to develop a system of delegation that maximises the administrative and operational efficiency of the municipality. The system of delegation is meant to provide for adequate checks and balances. One of the key oversight structures in a municipality is the *municipal public accounts committee (MPAC)*, established in terms of Section 79 of the Municipal Structures Act.

In terms of Section 4(2) of the MSA, 2000, the municipal council is the executive and legislative authority of the municipality and must use its resources in the best interests of the local community. The municipal council, as the highest authority in the municipality, has significant powers of approval and oversight responsibilities. As such, the speaker, as the chairperson of the municipal council, fulfils a critical oversight role to hold the political executives to account for their actions. The mayor (if the municipality has an executive committee) or executive mayor (if there is no executive committee) is the political leader who directs the fiscal and financial matters of the municipality. Section 56(3)(e) provides that the executive mayor must oversee service provision in the municipality and ensure that it is sustainable.

In terms of Section 60 of the Municipal Financial Management Act (MFMA), 2003, the municipal manager (MM) is the accounting officer of the municipality and he/she is accountable for the effective and efficient management of all municipal funds received and all payments made by the municipality. The MM, as the accounting officer of the municipality, fulfils a key accountability role to promote the sound financial management of the municipality. It is clear that while political office-bearers (mayor or executive mayor, speaker, municipal councillors) are responsible for overseeing the financial and administrative performance of the municipality, the municipal council holds the accounting officer and relevant municipal officials to account for the manner in which they manage the financial and administrative matters of the municipality.

For the purpose of this paper some of the key role-players and internal structures and mechanisms to promote oversight and accountability are outlined and discussed below:



i) Parliament

Accountability and oversight instruments adopted by the South African Parliament are classified into several categories, namely, the role played by Committees to oversee the Executive and to ensure accountability on the part of the different organs of the State; the application of plenary processes; as well as the utilisation of activities and reports from institutions of the State that support constitutional democracy to further enhance oversight functions of Parliament.

In South Africa, it is the primary and overarching role of Parliament to exercise oversight and hold the executive accountable. Oversight in this case is a combination of informal and formal, and structured scrutiny exercised by Parliament in respect of a variety of issues. These include overseeing the implementation of laws, application of the budgets, the observation of statute and the Constitution, as well as overseeing the management of government departments, state-owned enterprises and other agencies of the state in order to ensure improved service delivery. As mentioned earlier, oversight functions, therefore, include detecting and preventing abuse, arbitrary behaviour or illegal and unconstitutional conduct by government and public entities to protect the rights and liberties of citizens; holding the government to account for how it uses public funds to ensure efficiency and effectiveness of the operation of government; and ensuring that policies announced by government and authorised by Parliament are delivered. In short, the concept of oversight in the context of South Africa incorporates political, administrative, financial, legal, ethical, as well as strategic elements.

ii) Legislatures

Provincial Legislatures are also constitutionally empowered to adopt mechanisms that would ensure that all provincial executive and other organs of the state that fall within its jurisdiction are accountable to it. These mechanisms should enable the maintenance of oversight of the manner in which the executive authority and other provincial organs of the state execute their authority. Furthermore, Legislatures are mandated to facilitate the involvement of the public in legislative and other processes of these institutions and their committees. Three oversight approaches are implemented by provincial legislatures, namely; public participation, the scrutiny and analysis of departmental budgets and annual reports, and the application of oversight reports and fact-finding missions or oversight visits.

The Constitutional mandate of Provincial Legislatures is clearly spelt out in terms of Chapter 3, Section 41(1)(c); Chapter 6, Section 114(2); Section 118, and Section 133(2) and 133(3)(b) of Constitution. According to Section 114(2), “A provincial legislature must provide for mechanisms to ensure that all provincial executive organs of the state in the province are accountable to it; and to maintain oversight of the exercise of provincial executive authority in the province, including the implementation of any legislation; and any provincial organ of state. This section empowers provincial legislatures to hold provincial executive authorities and provincial organs of state accountable and oversee their actions to ensure sound governance and effectiveness.

Apart from ensuring transparent and effective governance, and holding the provincial governments accountable, provincial legislatures are constitutionally obliged to “facilitate public



involvement in the legislative and other processes of the legislature and its committees”, as per the provisions of Section 118. This constitutional provision binds legislatures to develop mechanisms to promote a participatory system to further enhance accountability to the public in a direct manner. These constitutional provisions mentioned above are in line with the principle of a constitutional democracy, as it subjects the executive to oversight and being held accountable by a distinct organ.

iii) Municipal Councils

Section 18 and 19 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) stipulates that all the powers and functions of a municipality is conferred on the municipal council. The primary task of the municipal council is political oversight of the municipality’s aims and objectives and directing its administration. Municipal councils have considerable powers. As both the legislative and executive authority within a municipality, a council is responsible for ensuring laws and policies are formulated and effectively implemented in a manner that ensures the delivery of basic services to its community. As legislative authorities, municipal councils must ensure executive functions are performed lawfully and wisely. In addition, the council is tasked with holding the administration and municipal manager – as the municipality’s accounting officer and head of administration – accountable for the financial management of the municipality and its service delivery performance. Table 1 compares section 79 oversight committees to section 80 portfolio committees.

Table 1: Section 79 and 80 committees: comparison

Section 79 Oversight Committee	Section 80 Portfolio Committee
Municipal council regulates functions and may delegate powers and duties.	Executive Mayor delegates powers and duties.
Municipal council elects the chairperson.	Chairperson appointed by Mayor.
Oversight committee may invite non-councillors.	Committee comprises of councillors only.
Oversight committee plays an oversight role of the actual performance of the municipal council.	Committee is designed to assist only the Mayor

To assist the council, oversight functions are executed through two important committees within municipal structures before reaching the council, which exercises the ultimate oversight role. On the one hand, municipal public accounts committees (“MPACs”) perform an internal oversight role while municipal audit committees, on the other hand, are structured more independently to perform a fairly external oversight role but are accountable to the MPAC. Though both institutional arrangements have existed for quite some time, reports of municipal maladministration and corruption are rife and on the rise. The Auditor-General’s latest report on local government has



highlighted its dismal performance and lack of accountability. All this begs the question: is municipal oversight flawed? Therefore, there is a need to explore whether or not the two oversight committees are sufficiently empowered to perform their functions effectively; and what should be done to enhance their functioning.

To provide an answer to the above question *whether municipal oversight is flawed?* it is argued that the conflation of executive and legislative functions in the municipal council leads to a deficiency in conception of the roles of office-bearers, as well as a lack of oversight. Current legislation does not stipulate specific committees for the executive or for the municipal council. Thus, the municipal council established section 80 portfolio committees to assist the executive mayor but lacks independent oversight. Municipal councils rely heavily on audit committees and MPACs for reliable and credible information, insight and advice. When these committees are inadequately empowered, lack of financial control filters to the council and compromises its oversight function. Failures in municipalities shows that there is considerable room left to strengthen the structure and operations within these committees to ensure municipal oversight is improved. Failure of oversight leads to different challenges.

2.4 Challenges to oversight and accountability in local government

Effective oversight of local government performance and compliance is essential to ensure that the ultimate objective of delivering quality services, especially to the poor and marginalised, is realised. It is well-documented that a number of local governments in South Africa are experiencing many challenges. It is argued that this is due to poor oversight over local government performance throughout the country. Recent reports indicate that municipalities continue to regress in terms of service delivery and financial performances. In 2021, COGTA reported that about 64 municipalities were dysfunctional. It indicated that this dysfunction is rooted in poor governance, weak institutional capacity, poor financial management, corruption and political instability.²¹

It is argued that the failure to uphold the roles stipulated in the Constitution and other local government legislation results in lack of or poor service delivery. The challenges range from poor implementation of policies and the legacy of autocratic and bureaucratic apartheid local government. Furthermore, allegations of corruption and mismanagement are rife in local government; hence the incapacity to deliver services as funds are diverted for personal use and not for development.²²

In many instances municipalities have a series of strategies, plans and policies to deal with non-compliance with laws and regulations, fraud and corruption. However, implementation and follow through has been weak. Despite several attempts by national departments to assist the local sphere of government to improve governance and accountability, the AG reports on the weaknesses in the system. This an indication that there is either no improvement or there is a

²¹ Glasser & Wright (2020)

²² Ntshishonga (2021)



deterioration on the part of the Municipal Councils to hold themselves and the administration accountable for delivery of services, as required by the Constitution.²³

When evaluating challenges to effective oversight and accountability in local government, this paper focuses on the following:

i) Municipal interventions

The South African ‘quasi-federative’²⁴ legal and constitutional system reserves a far-reaching right to national and provincial governments to intervene on various matters under the (formal) authority of local governments. The national and provincial governments are empowered to intervene in failing municipalities, subject to intergovernmental checks and balances. First, the provincial executive may ‘intervene’ when a municipality fails to fulfill its constitutional and legislative obligations (s139(1)). Secondly, it must intervene when a municipality fails to approve a budget or revenue-raising measures required to give effect to the budget (s139(4)). Lastly, the province must intervene if the municipality is in serious or persistent breach of its obligations as a result of a financial crisis (s139(5)).

In terms of the Constitutional provisions, it is clear that intervening into failing municipalities is primarily the domain of provinces, rather than of the national executive. However, the courts are increasingly compelling the national government to bypass provinces and intervene in failing municipalities. For example, after continued service delivery failures by Lekwa, Astral approached the North Gauteng High Court in Pretoria to prompt the national executive to intervene in the imploding municipality.²⁵ Subsequently, on 12 April 2021, the Court ordered the national government to intervene in Lekwa and for National Treasury to prepare a financial recovery plan to be approved within six months of the court order.²⁶ This indicates that some provinces are failing to supervise municipalities as required by the Constitution.

A research document by the Parliamentary Research Unit titled “Overview of municipalities under section 139 intervention as it relates to service delivery (2020)” states that, currently, there is no single piece of legislation that governs the implementation and monitoring of interventions in municipalities. Instead, the legal framework that regulates such interventions comprises the Constitution, the Local Government Municipal Systems Act, No. 32 of 2000 (Systems Act), the Local Government Municipal Structures Act, No. 117 of 1998 (Structures Act) and the Municipal Finance Management Act, No. 56 of 2003 (MFMA).²⁷

As mentioned above, Section 139(1) of the Constitution lays the foundation for the first mechanism of intervention. While it sets out substantive and procedural requirements, the Constitution also allows for the enactment of legislation to implement it. Parliament has not yet passed legislation, and the gap has caused significant uncertainty in practice. It is argued that intervention mechanisms are not an immediate remedy to minimise the failures of the local

²³ Parliament of South Africa (2022)

²⁴ OECD defines South Africa as a ‘quasi-federation’, having federalist characteristics while being formally a unitary state. See OECD/UCLG, *Subnational Governments around the world: Structure and Finance* (2016)

²⁵ Eskom Holdings Soc Ltd v Lekwa Ratepayers Association and Others; Eskom Holdings Soc Ltd v Vaal River Development Association (Pty) Ltd and Others (870/20) [2022] ZASCA 10 (21 January 2022)

²⁶ Ibid

²⁷ Mahlangeni (2020)



governance system of South Africa. This is evident from the document of COGTA titled “*Local Government: A chronology of the past 21 years*” published in 2021, which argues that even after an intervention, serious challenges remain in the municipalities.²⁸ Indications are that the failure of the interventions are structural and the leading cause appears to be the current intervention approach.²⁹ This document further argues that instead of sending in an inter-institutional expert team, the provincial and national institutions usually send one person to the municipality to solve complex multi-dimensional problems.³⁰

ii) **Monitoring Local Government**

The Municipal Systems Act refers to monitoring as an important part of inter-governmental oversight and accountability. This Act stipulates that the provincial institutions must have ‘mechanisms, processes and procedures’ to monitor the work of local governments and determine the type of support municipalities need. Apart from regular compliance monitoring, other spheres of government monitor the fiscal and financial situation of municipalities. The Municipal Finance Management Act, No. 56 of 2003 (MFMA), regulates the scope of this type of monitoring. This Act empowers the national and provincial treasuries to monitor local governments’ budget planning and budget implementation and launch probes into the administration of municipal finances. The monitoring system serves the national and provincial institutions to determine either the type of support offered to municipalities or the type and form of intervention.

The National Treasury is constantly improving the system to include more relevant information. In contrast, provincial institutions are not publishing any important information on the municipal issues they monitor. The type of data that is required for oversight, mainly information on non-financial performance, is not publicly available. This despite the fact that Government has developed a comprehensive framework for monitoring and evaluating its performance to ensure accountability and improve service delivery. In 2007, the Presidency released the Policy Framework on the Government Wide Monitoring and Evaluation (GWME). The system is supported by the National Treasury’s Framework for Managing Programme Performance Information (FMPPPI); Statistics South Africa’s South African Statistical Quality Assessment Framework (SASQAF) and the 2011 National Evaluation Policy Framework (NEPF).

Further, chapters 9 and 10 of the Constitution empower various State Institutions to monitor and evaluate service delivery in the country, including the South African Human Rights Commission, the Auditor-General, the Commission for Gender Equality and the Public Service Commission. In recognition of the fact that monitoring of Government’s performance is often focused upward and inward (self-assessment), to the exclusion of ordinary citizens who are the intended beneficiaries of Government services, Cabinet approved a Framework for Strengthening Citizen-Government Partnerships for Monitoring Frontline Service Delivery in August 2013. The main aim of the Framework is to facilitate citizen involvement in the monitoring and evaluation of frontline services provided by Departments through the concept of citizen-based monitoring.³¹

²⁸ Department of Cooperative Governance and Traditional Affairs (2021)

²⁹ Ibid

³⁰ Ibid

³¹ Biyela (2022)



The study by Dr. Lenhard Hamza³² argued that even though formal channels of inter-institutional cooperation exist, their approach to monitoring remains unstructured and uncoordinated. Another academic study by Phindile Cenderela Nonyane in 2019, focusing on “exploring the implementation of the monitoring and evaluation system in local government”, indicates that various monitoring systems of municipalities in place are not aligned.

Even though some of the monitoring systems employed by the South African government produce qualitative data i.e. National Treasury and Auditor-General, there is still a long way forward to form an effective monitoring system that would create the necessary atmosphere for the normal and sustainable functioning of local governments.

iii) Support provided to local governments

The Constitution states that all spheres of government must: “provide effective, transparent, accountable and coherent government” and: “co-operate with one another in mutual trust and good faith.” They must, among other things, ‘foster friendly relations’ and ‘assist and support one another.’ Most importantly, the Constitution explicitly states that higher levels of government must: “support and strengthen the capacity of municipalities to manage their own affairs, to exercise their powers and to perform their functions.

The MFMA refers to capacity building, solving financial problems, sharing information, and other types of assistance as possible forms of support that other spheres of government can provide to municipalities. In reality, there is an apparent discrepancy between what is formally enshrined in the legal system and what actually happens on the ground. It appears that other spheres of government are not able to provide the adequate support required for the regular and sustainable functioning of local governments.

3. CONSEQUENCES OF INADEQUATE OVERSIGHT AND POOR GOVERNANCE

The legal framework of accountability requires oversight mechanisms to enforce accountability by those who are entrusted with the public purse and responsibility to deliver services. If oversight mechanisms fail to perform the mandate, the local government system fails to deliver services and to account for the expenditure of public resources.

Research shows that severe dysfunctionality in some municipalities is exacerbated by poor oversight by national or provincial departments that have responsibility for local government.³³ Some of the consequences of a lack of or inadequate oversight include:

3.1 Poor service delivery and reporting

Municipalities are the sphere of government closest to the citizens. They are central to providing effective basic services to local communities. At municipal level, service delivery is the provision of basic needs which local communities are dependent upon, i.e. water, electricity, sanitation, infrastructure, healthcare and housing. Municipalities are at the front line of public service delivery

³² Hamza (2021)

³³ Ibid



and are the first point of contact between an individual and a government institution. Research shows that South Africa has some of the most advanced statutory frameworks and obligations meant to promote service delivery in Africa.³⁴ Despite such provisions, research reveals that service delivery has been deteriorating and has occasionally become unreliable enough to endanger communities.

The AG reports that municipalities that persistently performed poorly financially also failed to deliver services to communities. The audit revealed that ten municipalities that received disclaimed audit opinions for more than three years had findings on service delivery. At most of these municipalities, the AG observed leadership instability (both at political and administrative level), poor oversight by councils, significant financial health problems, protests and strikes, a lack of consequences, and interventions that were not effective. Service delivery was impacted in the following ways:-

a) Impact of infrastructure neglect on service delivery

The municipalities with disclaimed audit opinions did not account properly for infrastructure assets. These municipalities could not properly account for the existence and state of their infrastructure assets, which should be used to provide water, sanitation, electricity, refuse removal and roads to communities. None of the municipalities budgeted for, or spent close to, the 8% specified in the National Treasury norms on maintenance, with most municipalities spending less than 1% of their infrastructure asset value on maintenance. The AG audits of key water, sanitation and road infrastructure projects funded by conditional grants found that half of these municipalities struggled with project management, resulting in delays in project completion, overspending on contract amounts, and contractors being paid for sub-standard work. These municipalities already struggle financially and cannot afford to waste the limited resources available to fund basic service delivery initiatives. Poor project management was largely due to a lack of technical skills and vacancies in the technical departments.

b) Misappropriation of funds allocated to infrastructure

All municipalities receive funding from national government through the equitable share and conditional grants, but the lack of proper records makes it difficult to confirm what had been done with this money between receipt and what was left in the bank account at year-end.

Table 2: Funding sources for disclaimed municipalities

	2019/20	2020/21
Conditional Grants	R2.4 billion	R3.1 billion
Total equitable share	R4.1 billion	R5.4 billion
Grant funding received for the year	R6.5 billion	R8.5 billion
Total bank balance at year end	R0.98 billion	R1.17 billion

Source: AG 2022

³⁴ Skenjana and Afesis-corplan, P.K. (2011) Existing mechanisms for public participation at local government level.



The total funds received by disclaimed municipalities for 2019/20 and 2020/21 are in table 2. The total bank balance at the end of the year is recorded as R0.98 billion in 2019/20 and R1.17 billion in 2020/21. Certain municipalities did not use payment descriptors and could not perform bank reconciliations. Bank reconciliations are an important internal control to detect payments of which municipalities may be unaware or which have not been recorded in the general ledger. In such cases, fraudulent activities could go undetected and funds meant for service delivery could be misappropriated without being detected. The R6,03 billion spent by these municipalities was used for employee costs, bulk purchases, payments to service providers, as well as statutory and other payments, diverting funds allocated towards service delivery.

Improved monitoring by national departments to ensure strict adherence to the grant conditions and swift action (including withholding funds) in response to non-compliance is key to ensuring that grants are used for their intended purpose. The Division of Revenue Bill requires a transferring officer of a Schedule 5 and 6 Grant to submit monthly and quarterly reports to the National Treasury and the department must evaluate performance of all programmes funded through grant allocations. This must be done by national departments on all municipalities that receive schedule 5 and 6 grant allocations.

3.2 Poor state of financial affairs and reporting

The AG noted that municipalities that have the controls and systems in place to plan, measure, monitor and account for their finances and performance, and to stay within the rules, often also have a solid foundation for service delivery that benefit communities.³⁵ Thus, municipalities that do not have systems to account for their finances and performance do not have that foundation.

Audit outcomes- When a municipality receives a clean audit opinion, it means that its financial statements and performance report give a transparent and credible account of its finances and its performance against the targets that had been set. These accountability reports present a reliable picture of that municipality's performance. This enables the council and everyone with an interest in the municipality, particularly communities, community organisations, and those in national and provincial government to oversee the municipality's performance and provide the support it needs to succeed.

The AG stated that only 61 municipalities achieved better audit outcomes in 2020-21 than in 2016/17, with 56 now displaying worse audit outcomes. However, clean audit outcomes continue to represent less than a fifth of the local government budget.

The AG noted that only 10 municipalities were able to consistently maintain clean audit outcomes. Notably, the bulk of the municipalities (70%) that were able to consistently maintain clean audit outcomes between 2016/17 and 2020/21 were in the Western Cape province, while the remainder of the municipalities were from the Eastern Cape, Gauteng and KwaZulu-Natal provinces:

- Senqu (Eastern Cape, Local Municipality)
- Midvaal (Gauteng, Local Municipality)
- Okhahlamba (KwaZulu-Natal, Local Municipality)
- Cape Winelands District (Western Cape, District Municipality)
- West Coast District (Western Cape, District Municipality)

³⁵ AG. 2022. MFMA 2020/21. Consolidated general report on local government audit outcomes



- Bergriver (Western Cape, Local Municipality)
- Cape Agulhas (Western Cape, Local Municipality)
- Hessequa (Western Cape, Local Municipality)
- Overstrand (Western Cape, Local Municipality)
- Witzenberg ((Western Cape, Local Municipality)

Local municipalities have the highest concentration of disclaimed opinions are now in a worse position than at the start of the previous administration’s term. This reflects poorly on the support provided by district municipalities to their local municipalities.³⁶

Figure 1 shows municipalities that have repeatedly received **disclaimer audit opinions** across the various provinces over a 5-year period (2016/17 – 2020/21). In 2020/21, with the exception of Gauteng and the Western Cape, all provinces had municipalities that received disclaimed audit opinions. In particular, there were 25 municipalities that received disclaimed audit opinions, which translates to almost 10% of all municipalities.

Figure 1: Municipalities with repeat disclaimed audits for 5 years

<p>NC</p> <ul style="list-style-type: none"> ▪ Joe Morolong ▪ !Kheis ▪ Renosterberg ▪ Kgatelopele 	<p>NW</p> <ul style="list-style-type: none"> ▪ Madibeng ▪ Ditsobotla ▪ Mamusa ▪ Maquassi Hills ▪ Naledi ▪ Ramotshere Moiloa ▪ Kgetlengriver ▪ Ratlou ▪ Taung 	<p>EC</p> <ul style="list-style-type: none"> ▪ Chris Hanani District ▪ Makana ▪ Sundays River Valley ▪ Walter Sisulu
<p>KZN</p> <ul style="list-style-type: none"> ▪ Inkosi Langalibalele ▪ uMkhanyakude District ▪ Nquthu 	<p>MP</p> <ul style="list-style-type: none"> ▪ Dr. JS Moroka ▪ Dipaleseng ▪ Lekwa ▪ Mopani ▪ Bela-bela 	

In 2020/21, there were 20 repeat disclaimers with the North West (9) province displaying the largest number of municipalities receiving repeat disclaimer audit opinions, followed by Mpumalanga (3), Northern Cape (3), Eastern Cape (3) and KwaZulu-Natal (3).

Financial reporting consultants cost local government R5,31 billion over the term of the previous administration and 70% of municipalities used consultants for every year of the term. In 2020/21, the cost of financial reporting consultants amounted to R1.26 billion and they were mostly being used for providing skills that the finance unit did not have³⁷. Costs spent on consultants went towards the following services:

- Asset management services (34%)
- Preparation or review of financial statements (27%)
- Tax services (27%)

³⁶ AG. 2022. MFMA 2020/21. Consolidated general report on local government audit outcomes

³⁷ AGSA (2022a and 2022b)



It is clear is that the use of consultants does not always translate to the expected benefits. This is highlighted by the fact that 121 or 59 per cent of municipalities that used consultants had material misstatements in the areas in which the consultants had been appointed to do the work. Another drawback also being the fact that they do not lead to a transfer of skills.

The main reasons that consultants were not effective relate to the following:³⁸

- Inadequate/lack of records and documentation to work with;
- Poor project management;
- Work of consultants not adequately reviewed;
- Consultants appointed too late; and
- Consultants did not deliver.

3.3 Poor financial health

Local government finances remain under severe pressure due to non-payment by municipal debtors, poor budgeting practices, and ineffective financial management. The assessment of the financial health of 230 municipalities and 18 municipal entities based on financial statements showed increasing indicators of a collapse in local government finances and continued deterioration over the term of the previous administration.

Of all municipalities, only 16 per cent are in good financial health, for 57 per cent it is concerning and for 27 per cent urgent intervention is required. District municipalities perform worse than local municipalities and metros.

The financial position of 28% of South Africa's municipalities is so dire that there is significant doubt whether they will be able to continue operating as a going concern in the near future. This effectively means that such municipalities do not have enough revenue to cover their expenditure and that they owe more money than what they have. In 2020/21, the provinces with the highest number of municipalities with going concern problems are Northern Cape (11), Free State (10), North West (9) and Eastern Cape (9) followed by KwaZulu-Natal (7), Mpumalanga (7) and Gauteng (5), while the Western Cape only had one municipality with going concern problems³⁹.

3.4 Poor management of infrastructure and grants

Municipal infrastructure plays a key role in supporting service delivery. A lack of infrastructure and the inadequate maintenance of infrastructure not only negatively affect service delivery, but often also cause harm to communities and the environment.

In support of the Economic Reconstruction and Recovery Plan (ERRP), national government provides infrastructure grants to municipalities to enable infrastructure development and maintenance. Although these grants are sorely needed to finance infrastructure projects, there is often underspending, mostly because of poor project management. The metros had to return R235,82 million in unspent infrastructure funds (from the Urban Settlements Development Grant and the Public Transport Network Grant) to the NT, with funding of a further R70,72 million from

³⁸ Ibid

³⁹ AGSA (2022a)



the mentioned grants possibly having to be returned if the National Treasury does not approve the rollover of these funds.

3.5 Increase in financial irregularities

a) Unauthorised expenditure

Unauthorised expenditure⁴⁰ in local government is high. Table 3 below shows the unauthorised expenditure of 10 municipalities that incurred the largest amounts in Rand value. The ten municipalities incurred R9.3 billion in unauthorised expenditure. These municipalities account for 46.2 per cent of the total R 20,95 billion unauthorised expenditure incurred in 2020/21. With the exception of the Matjhabeng and Emfuleni municipalities, which regressed, all the other municipalities improved in terms of their unauthorised expenditure when compared to the previous financial period.

Table 3: Top ten municipalities with high unauthorised expenditure

Number	Municipality	Province	Type	Unauthorised Expenditure R'000	Percentage Share
1	Vhembe District	LP	DM	1 430,90	15,4%
2	Matjhabeng	FS	IC	1 274,10	13,7%
3	Emfuleni	GP	IC	1 152,50	12,4%
4	City of Johannesburg Metro	GP	MET	1 003,20	10,8%
5	Msunduzi	KZN	IC	920,60	9,9%
6	Nelson Mandela Bay Metro	EC	MET	847,10	9,1%
7	Govan Mbeki	MP	IC	815,60	8,8%
8	Matlosana	NW	IC	642,50	6,9%
9	Polokwane	LP	IC	614,30	6,6%
10	Mogalakwena	LP	IC	583,80	6,3%

Source: AG 2022

b) Irregular expenditure

Irregular expenditure refers to spending that is not compliant with applicable legislation and procedures. Table 4 below shows the irregular expenditure by ten municipalities that incurred the largest amounts in Rand value. It reveals that these ten municipalities account for close to half of the total irregular expenditure. They account for 43.4 per cent of the total incurred irregular expenditure of R21.9 billion in 2020/21. In 2020-21, R21,1 billion of the irregular expenditure incurred at local government level was due to non-compliance with supply chain legislation.

⁴⁰ Unauthorised expenditure refers to spending that is over-budget or not used for the intended purpose.

Table 4: Top ten municipalities with high irregular expenditure

Number	Municipality	Province	Type	Irregular Expenditure R'000	Percentage Share
1	Vhembe District	LP	DM	2 702,80	28,4%
2	Matjhabeng	FS	IC	1 389,80	14,6%
3	Emfuleni	GP	IC	1 118,00	11,8%
4	City of Johannesburg Metro	GP	MET	770,30	8,1%
5	Msunduzi	KZN	IC	762,20	8,0%
6	Nelson Mandela Bay Metro	EC	MET	673,70	7,1%
7	Govan Mbeki	MP	IC	614,60	6,5%
8	Matlosana	NW	IC	529,00	5,6%
9	Polokwane	LP	IC	489,00	5,1%
10	Mogalakwena	LP	IC	453,60	4,8%

Source: AG 2022

Non-compliance with supply chain management legislation remained the biggest contributor to the irregular expenditure incurred.

c) Fruitless and wasteful expenditure

Fruitless and wasteful expenditure refers to pointless spending that could have been avoided, such as incurring penalty payments. Table 5 below shows the fruitless and wasteful expenditure by ten municipalities that incurred the largest amounts in Rand value. It shows that these municipalities account for more than half of the total fruitless and wasteful expenditure incurred in 2020/21. They account for about 67 per cent of the R1.8 billion of fruitless and wasteful expenditure incurred in 2020/21. With the exception of the Vhembe District, Emfuleni, Msunduzi and Govan Mbeki Municipalities, the bulk of the municipalities incurred higher fruitless and wasteful expenditure than in the previous financial year.

Table 5: Top ten municipalities with high fruitless and wasteful expenditure

Number	Municipality	Province	Fruitless and wasteful Expenditure R'000	Percentage Share
1	Vhembe District	LP	399,60	32,9%
2	Matjhabeng	FS	221,60	18,2%
3	Emfuleni	GP	122,50	10,1%
4	City of Johannesburg Metro	GP	105,50	8,7%
5	Msunduzi	KZN	101,60	8,4%
6	Nelson Mandela Bay Metro	EC	85,10	7,0%



7	Govan Mbeki	MP	59,70	4,9%
8	Matlosana	NW	46,10	3,8%
9	Polokwane	LP	43,70	3,6%
10	Mogalakwena	LP	30,70	2,5%

Source: AG 2022

3.6 Lack of consequence management

The MFMA and NT Regulations require the accounting officer to implement consequence management against financial maladministration and mismanagement. Lack of accountability allows for an environment where mismanagement and maladministration thrive.

The AG reported that municipalities also incurred irregular expenditure of R3,1 billion during 2020-21, adding to the irregular expenditure incurred in prior years of R24,1 billion that had not been investigated. This resulted in a lack of accountability and allowed the responsible individuals to continue to contravene legislation.

3.7 Increase in corruption

a) Prohibited awards

Awards to close family members of employees and councillors are not prohibited. However, legislation requires the municipality to disclose any such awards of more than R2 000 in its financial statements for the sake of transparency, as such awards could create conflicts of interest for employees or councillors. The value of awards to close family members was R201 million (68 municipalities). At 22 municipalities, the awards to close family members were not disclosed in the financial statements, as required.

Legislation further prohibits awarding contracts to, and accepting quotations from, employees, councillors or other state officials, or entities owned or managed by them, if they are in the service of the municipality or any other state institution. This is intended to prevent conflicts of interest. The value of awards to employees and councillors was R10 million (39 municipalities) in 2016-17, R14 million (34 municipalities) in 2019-20, and R27 million (28 municipalities) in 2020-21.

The awards to other state officials totalled R1,9 billion (140 municipalities) in 2016-17, R3,7 billion (116 municipalities) in 2019-20, and R254 billion (90 municipalities) in 2020-21.

b) Overpayment of suppliers

Shortcomings, such as the overpayment of suppliers; payments to incorrect suppliers or beneficiaries; contractor payments for incomplete or non-existent construction; the extension of construction contracts, resulting in higher costs; and payments for services not rendered in many cases resulted in material irregularities due to the financial losses incurred.



4 STRATEGIES TO ENHANCE SERVICE DELIVERY IN MUNICIPALITIES

In its bid to improve service delivery in the country, Government has introduced various initiatives and strategies. This section explores the potential of the District Development Model (DDM) and the professionalisation of the local government service to improve service delivery at local government level.

4.1 District Development Model (DDM)

The 2019 State of the Nation Address identified the pattern of Government operating in silos in its planning, budgeting and service delivery as a challenge that led to lack of coherence in planning and implementation and has made monitoring and oversight of Government's service delivery programme difficult. The consequence has been non-optimal delivery of services and diminished impact on addressing the triple challenge of poverty, inequality and unemployment.⁴¹ In light of this challenge, President Cyril Ramaphosa launched the District Development Model (DDM) in 2019, which was subsequently incorporated into the Medium Term Strategic Framework 2019-2024 (MTSF 2019-2024) as a service delivery framework.⁴²

The President launched three DDM pilot projects between September and November 2019 in OR Tambo District Municipality, Eastern Cape; eThekweni Metropolitan Municipality, KwaZulu-Natal Province; and Waterberg District Municipality, Limpopo Province.⁴³ These projects represented the geography of South African local government with respect to dominant land use or human activities, such as mining, agriculture and industrial.⁴⁴

The President committed the Sixth Administration to implement consequence management for non-performance and non-delivery, while focusing on integrated planning, implementation, accountability and service delivery. The focus on implementation also requires all three spheres of government to work collaboratively. The DDM is a district implementation model, led by COGTA in collaboration with the Department of Planning, Monitoring and Evaluation (DPME). It bridges the gap between the three spheres of government to ensure better coordination, coherence and integration of government planning and interventions at all levels. This is the way in which Cabinet intends to bring government closer to the people.⁴⁵

DDM is a new integrated district-based approach to addressing service delivery challenges through, among others, localised procurement and job creation that promotes and supports local businesses, and involves local communities. It calls for One District, One Plan, and One Budget⁴⁶. It aims to accelerate, align and integrate service delivery under a single development plan per district or metro that is developed jointly by national, provincial, and local government, as well as

⁴¹ Ramaphosa (2019).

⁴² Department of Planning, Monitoring and Evaluation (2019).

⁴³ The Presidency (2019).

⁴⁴ Ibid.

⁴⁵ Department of Planning, Monitoring and Evaluation (2019).

⁴⁶ DPME (2019).



business, labour, and community in each district. It further ensures that national priorities, such as economic growth and employment, improvements to living conditions, the fight against crime and corruption, and better education outcomes are attended to in the locality concerned. This development approach ensures that planning and spending across the three spheres of government are integrated and aligned and that each district or metro plan is developed with the interests and input of communities taken into account from the outset.⁴⁷

In this regard, the DDM's specific objectives are to:

- Solve the system of operating in silos at a horizontal and vertical level.
- Maximise impact and align plans and available resources through the development of One District, One Plan, and One Budget.
- Narrow the space between people and Government by strengthening the coordination role and capacities at the District and City levels.
- Ensure inclusivity by gender budgeting based on the needs and aspirations of people and communities at a local level.
- Build Government capacity to support municipalities.
- Strengthen monitoring and evaluation at district and local levels.
- Implement a balanced approach towards development between urban and rural areas.
- Ensure sustainable development whilst accelerating initiatives to promote poverty eradication, employment and equality.
- Exercise oversight over budgets and projects in an accountable and transparent manner.

4.1.1 Constitutional dimensions of the District Development model

The DDM operationalises constitutional imperatives on co-operative government, inter-governmental relations and local government. It is informed by Section 41(1)(h) (i-vi) and Section 154(1) of the Constitution of the Republic of South Africa, 1996. In summary, Section 41(1)(h) (i-vi) dictates that all spheres of government and all organs of state within each sphere must co-operate with one another in mutual trust and good faith by, among others: fostering friendly relations; assisting and supporting one another; informing one another of, and consulting one another on, matters of common interest; coordinating their actions and legislation with one another; adhering to agreed procedures; and avoiding legal proceedings against one another. Section 154(1) places an obligation on national and provincial governments to support and strengthen the capacity of municipalities to manage their own affairs, exercise their powers, and perform their functions by using legislative and other measures.

The DDM seeks to encourage cooperative governance between the local, provincial, and national spheres of government. It provides a framework for the provincial and national spheres of government to intervene amicably in the business of local government. Unlike the provisions contained in section 139 of the Constitution, which provide for provincial intervention in local government when there is already poor or no delivery of services by a municipality, the DDM is not reactive, nor is it adversarial. It is on this basis that the DDM is lauded as the framework for accelerated service delivery in local government.

⁴⁷ DPME (2019).



4.1.2 Alignment of the DDM model with other development policies

Contrary to the perception that the DDM conflicts with other service delivery oriented policies (plans, frameworks, regulations, etc.), such as the Integrated Development Plans (IDP), Integrated Urban Development Framework (IUDF), and Spatial Development Frameworks (SDFs), it is proposed that it does not. Instead, the DDM seeks to complement these development-oriented policies in addressing major social, spatial, and economic challenges, in line with the goals outlined in the National Development Plan (NDP).

The NDP seeks to eliminate poverty, unemployment, and inequality.⁴⁸ Similarly to the IDP, IUDF, SDF, and other policies, legislation, and previous similar programmes, the DDM seeks to ensure maximum coordination and cooperation among all three spheres of government. For example, the DDM will be implemented through a collaborative process to develop One Plan for all 44 districts and 8 Metropolitan Municipalities, which will be further synchronised with the IDPs of these municipalities. It is therefore clear that the DDM will neither replace nor duplicate the work of other plans within municipalities.

To illustrate the alignment and complementarity of the DDM with other plans or frameworks, the IUDF provides a clear example. The IUDF is a National Urban Policy that marks a New Deal for South African cities and towns. It seeks to steer urban growth towards a sustainable model of compact, connected, and coordinated towns and cities. It provides a roadmap to implement the NDP's vision for spatial transformation – creating liveable, inclusive, and resilient towns and cities while reversing the Apartheid spatial legacy.⁴⁹ The DDM provides a pathway towards enhancing the implementation of the IUDF. For example, one of the short-term priorities of the IUDF is to institutionalise long-term planning. The DDM, through the introduction of the One Plan, is on course to make this a reality. While the IUDF advocates for greater involvement of Premiers and Members of Executive Councils (MECs) in planning and development, the DDM also advocates for the same intervention across all three spheres of government. The recent nomination of political district champions at a national level that cascades to district level is a further example of how the IUDF and the DDM complement one another.⁵⁰

Further, whilst the IUDF assists with a focus on cities and towns, the DDM assumes a district-wide approach. The complementarity is evident in the sense that the IUDF provides a more granular focus within a district, i.e. cities and towns, while the DDM takes on a regional posture. This may also mean that IUDF interventions in cities and towns will be critical to providing a district-wide perspective, especially in areas of integrated urban planning and management, integrated sustainable human settlement, integrated urban infrastructure, efficient land governance and management, inclusive economic development, among many others.⁵¹ It would thus appear that the perception that the DDM replaces and duplicates other development-oriented policies is unfounded.

4.1.3 Implications for local government service delivery

The implications of the DDM for service delivery at local government level are best described in the context of service delivery challenges that it seeks to eliminate. A study into the potential of

⁴⁸ The Presidency (2012).

⁴⁹ IUDF (2019).

⁵⁰ Ibid.

⁵¹ Ibid.



the DDM to resolve service delivery challenges, conducted by the Parliamentary Research Unit in 2021,⁵² identified high levels of unemployment, inequality and poverty as the ultimate service delivery challenges. These challenges result from the duplication or re-packaging of development frameworks; poor governance; lack of capacity and skills development; poor financial management; poor provision of basic services (water, sanitation, electricity and refuse removal, etc.); poor land reform and rural development; poor environmental management; lack of support for tourism and other associated local economic development initiatives across the South African Government.⁵³

The study concluded that the DDM has the potential to resolve the majority of the identified challenges, as depicted in Table 6 below. However, this potential can only be realised if the model is implemented across all districts, as even the most robust, relevant policies become meaningless if not implemented optimally.⁵⁴

Table 6: Evaluation of the DDM potential to solve service delivery challenges⁵⁵

Challenge	DDM Objectives	Evaluation
DDM duplicates existing service delivery frameworks	Maximise impact and align plans and resources through the development of One District, One Plan, and One Budget.	The alignment provided for by this objective would prevent duplication of plans and resources. The development of a One Plan by all spheres of government would provide no space for duplication, as there will be only one plan and budget from different departments for a specific district.
Poor governance	Maximise impact and align plans and resources through the development of One District, One Plan, and One Budget. Exercise oversight over budgets and projects in an accountable and transparent manner.	Effective oversight over budgets and projects would improve governance.
Lack of capacity and skills development	Build government capacity to support municipalities	This objective would improve capacity and skills development in government, including local government.
Tender irregularities and Corruption	Exercise oversight over budgets and projects in an accountable and transparent manner. Strengthen monitoring and evaluation at district and local levels.	The provision for accountability and transparency through oversight, coupled with a framework for monitoring and evaluating effective delivery on projects awarded, should curtail tender irregularities and corruption.

⁵² Manungufala et al (2021).

⁵³ Ibid.

⁵⁴ The Presidency (2011).

⁵⁵ Manungufala et al (2021).



Lack of water supply and sanitation infrastructure	Maximise impact and align plans and resources through the development of One District, One Plan, and One Budget.	This would improve infrastructure development where it is needed most and improve access to basic services while creating jobs.
Poor environmental management and lack of access to energy	Ensure sustainable development whilst accelerating initiatives to promote poverty eradication, employment and equality	This would ensure sound environmental management and protection of natural resources while promoting sustainable development.
Poor land reform and rural development	Implement a balanced approach towards development between urban and rural areas. Solve the silos at a horizontal and vertical level.	This could accelerate the release of land and rural development that can go a long way towards supporting local economic development initiatives and job creation by bringing all departments together and eliminating wasteful silos.
Lack of support for tourism led local economic development initiatives	Ensure sustainable development whilst accelerating initiatives to promote poverty eradication, employment and equality. Ensure inclusivity by gender budgeting based on the needs and aspirations of the people and communities at a local level. Solve the silos at a horizontal and vertical level.	This could accelerate the release of land and rural development that can go a long way towards supporting local economic development initiatives and job creation by bringing all departments together and eliminating wasteful silos.

Apart from lack of implementation, a further impediment to the success of the DDM as a development tool may manifest in the form of party political dynamics in adopting a single plan;⁵⁶ political immaturity and unhealthy contestation between provinces and municipal programmes; lack of buy-in from community structures; and a lack of legislated roles for some Government structures to participate in local government, such as the Presidential Co-ordinating Council at the district level.⁵⁷

4.1.4 Brief Overview of the Impact of the DDM at the Pilot municipalities

As mentioned before, the DDM is currently being piloted in two district municipalities and one metropolitan municipality, namely the OR Tambo District (Eastern Cape Province); Waterberg District (Limpopo Province) and eThekweni Metro (KwaZulu-Natal Province). A presentation to COGTA on progress with implementation of the DDM on 23 February 2021 painted a promising picture. In summary, progress was recorded as follows:

- A national hub has been launched,
- Three DDM Pilot Hubs launched and resourced;
- 52 District Profiles completed;

⁵⁶ Academy of Science of South Africa (ASSAf) and Department of Science and Innovation (DSI) (2022).

⁵⁷ Sausi and Davids (2022).



- Champions and District Forums in all districts appointed and deployed, which includes Ministers, District Mayors and Member of the Executive Committees.
- Thirty-four districts were visited by National Champions;
- Heads of Departments/ CoGTA Deputy Director-Generals designated provinces and districts; 39 District Forums convened and operational;
- Guidelines for Champions developed;
- DDM Tools & Barometer Frameworks, Guidelines and Circulars developed and issued; and related workshops undertaken.⁵⁸

Further, the Minister of COGTA, Hon. Ms. Nkosazana Dlamini-Zuma, Member of Parliament (MP), in response to a written question⁵⁹ by Freedom Front Plus, Hon. Mr. Michael Groenewald, MP, indicated that the Development Bank of South Africa (DBSA) was appointed as an implementing agent of the DDM. Its role is to, among others, establish a project management office and to roll out phase one (setting up pilot hubs) of the DDM in all three pilot municipalities. She further indicated that the Department has spent R88 million on the DDM for the 2021/22 financial year. The majority of this expenditure related to strengthening the capacity of the National Disaster Management Centre (staffing costs); Development of the “one plans” for the three pilot districts; IUDF: development of four capital expenditure frameworks and five infrastructure asset management plans for identified intermediate city municipalities; development of the national, local economic development implementation plan; conducting a feasibility study for the implementation of shared services in the OR Tambo and Waterberg pilot districts; development of the DDM integrated monitoring and evaluation framework and associated draft process and procedure manual; and development of the DDM information management system solution architecture, cloud hosting environment and one plan prototype.

Recent assessments conducted by the HSRC and the Academy of Science of South Africa (ASSA) revealed tangible progress in the Waterberg and eThekweni municipalities in the form of catalytic projects. In Waterberg, the DDM resolved the traffic congestion at Bakwena Toll Plaza, which was negatively affecting tourism activities. In eThekweni, the Metro established a joint venture with Tongaat Hullet Development to develop a mixed-use development known as Cornubia, which has since been adopted by Cabinet as a national priority project. The project includes the national and provincial Departments of Human Settlement and Education as official partners that will provide housing subsidies and align the development of schools with the housing roll-out. The development is expected to create 48 000 new sustainable job opportunities over a period of 15 years, and a further 15,000 during the construction phase.^{60,61}

It is worth noting that there are many DDM catalytic projects at various stages of development across the pilot municipalities, such as:

- **eThekweni** - the M4 and Umhlanga North Corridor Investment (R3,4b); Inner City Central Corridor Investment (R1,7b), N2 South Corridor Investment (R1,5b);

⁵⁸ Department of Cooperative Governance (2021).

⁵⁹ National Assembly (2022).

⁶⁰ Cornubia (2022).

⁶¹ Sausi and Davids (2022).



- **OR Tambo** - Mqanduli Secondary Bulk Water Supply (R6.1b), KSD PIP Water: Ngqeleni and Libode Corridors (R1.6b), Libode Secondary Bulk Water Supply (R1b), Tsolo Waste Water Treatment Works and Raw Sewerage Pump Station (R82.3m);
- **Waterberg** - Medupi (R145b), Mokolo Crocodile bulk Water distribution (R12.3b), Waterberg Rail Expansion Programme (R28,9b).⁶²

4.2 Professionalisation of Local Government

Whilst local government, as the sphere closest to communities, is expected to deliver many of the rights to basic services enshrined in the Constitution (such as adequate housing, health care, education, food, water, social security), the White Paper on Local Government acknowledges that in reality the situation in cities, towns and rural areas are not consistent with the rights so enshrined. People continue to live in dire poverty, isolated from services and opportunities. This was confirmed by His Excellency, President Cyril Ramaphosa, during remarks made at the South African Human Rights Commission's National Conference on Local Government.⁶³

The President noted that reports from the Auditor-General, National Treasury and CoGTA reflect that the majority of municipalities are failing. The President, in acknowledging the negative impact of service delivery failure on the quality of life of communities, ascribed the inability of municipalities to deliver services to challenges such as political contestations and in-fighting; lack of skills; failure to adhere to legislative prescripts; poor governance; lack of accountability; and corruption.

Concern has also been raised about the significant number of public servants who are unqualified for the positions they occupy, with reports of nearly half of South Africa's senior municipal officials not meeting Government's prescribed minimum competency levels. This results in municipalities spending significant amounts on consultants to close critical skills and capacity gaps.⁶⁴

As noted by the President in the 2021 State of the Nation Address,⁶⁵ lack of professionalism not only impacts service delivery negatively but also public confidence in Government. This is evident in the periodic incidents of civil unrest experienced in the country, such as that experienced in KwaZulu-Natal during July 2021 and the public discontent with service delivery by Eskom in 2022. As one of the custodians of socio-economic rights in the country, it is important that the local sphere of government maintains a standard of professionalism that not only includes appointing officials with the requisite technical, analytical and management skills, but also officials who display a sense of professional integrity and who are committed to serving their communities.

4.2.1 Policy/legal framework for professionalisation of local government

The professionalisation of local government, according to Mdunyelwa (2010)⁶⁶, involves a process through which local government will obtain professional status and become an occupation. The

⁶² Department of Cooperative Governance (2021).

⁶³ The Presidency of the Republic of South Africa (2022).

⁶⁴ People's Assembly (2021).

⁶⁵ Ramaphosa C. (2021).

⁶⁶ Cited in LGSETA (2018).



National Implementation Framework Towards Professionalisation of the Public Service suggests that professionalisation relates to changing individual attitudes, behaviour and performance towards serving the public, as well as having qualified people who know what they are doing and are fully equipped to perform their jobs with diligence through continuous development. This view finds support in the United Nations' definition of professionalism, namely the overall value that encompasses all other values that guide the public service, including loyalty, neutrality, transparency, diligence, punctuality, effectiveness, impartiality, and other values that may be specific to the public services of individual countries. The United Nations opines that people who join the public service need to be inculcated with shared values and trained in basic skills to professionally carry out their official duties.⁶⁷ Lewin (2014:12)⁶⁸ submits that professionalism in local government will depend on a number of factors, including the role of local government in service delivery, the capacity of municipal officials and the resources available. The author further notes that Government should place the emphasis on mechanisms that can be adopted to improve service delivery. The aim of professionalisation should be to improve local government capability.

A number of existing laws and policies allude to the requirement for professionalisation of the local sphere of government in South Africa. These include, but are not limited to, the Constitution, the Local Government Municipal Systems Act, the Public Service Act, the Public Administration Management Act and the Local Government Municipal Finance Management Act. These pieces of legislation are supported by policy frameworks such as the National Development Plan, the National Implementation Framework Towards Professionalisation of the Public Service and Municipal Regulations on Minimum Competency Levels, 2007. Furthermore, legislative review is underway to improve local government performance and ensure accountability.

a) Existing legislation and policies

i) The Constitution of the Republic of South Africa, 1996

Section 195(1) of the Constitution sets out the basic values and principles governing public administration at all levels of government. These include, amongst others, a high standard of professional ethics; efficient, economic and effective use of resources; transparency and accountability.

ii) Local Government Municipal Systems Act, No. 32 of 2000

Outlines principles for municipal administration, entrenching the fact that local public administration is governed by the democratic values and principles embodied in the Constitution. The Act places an obligation on municipalities to establish and organise their administration in a manner that enables them to, amongst others: be responsive to the needs of the local community; facilitate a culture of public service amongst staff; be performance orientated and focused on the objects and developmental duties of local government, as set out in the Constitution of South Africa (1996)⁶⁹.

⁶⁷ United Nations (2000).

⁶⁸ Cited in Croukamp and Cloete (2018).

⁶⁹ Section 51



iii) Local Government Municipal Finance Management Act (Act No 56 of 2003)

Obliges senior managers and financial officers in municipalities to take all reasonable steps within their respective areas of responsibility to ensure that the system of financial management and internal control established for the municipality is carried out diligently; that the financial and other resources of the municipality are utilised effectively, efficiently, economically and transparently; that any unauthorised, irregular or fruitless and wasteful expenditure and any other losses are prevented; that all revenue due to the municipality is collected; that the assets and liabilities of the municipality are managed effectively and that assets are safeguarded and maintained to the extent necessary.⁷⁰

iv) Public Service Act, No. 103 of 1994

Envisages a meritocratic Public Service based on competence and meeting the requirements of posts when appointments are being considered. In particular, section 11 prescribes that only persons who apply and qualify should be considered for appointment based on, amongst others, training, skills, competence and knowledge.

v) Public Administration Management Act, No. 11 of 2014

Outlines the basic values and principles governing public administration; provides for minimum norms and standards for, amongst others, capacity development and training and to perform effectively and efficiently. The Act also provides for the establishment of the office of standards and compliance.⁷¹ Furthermore, sections 11, 12 and 13 of the Act deal with capacity development and the ways in which professionalisation in the Public Service can be implemented. The Act further prohibits public servants from conducting business with the state or being a director of a company doing business with the state.⁷²

vi) The National Development Plan 2030 (NDP)

The NDP⁷³ envisions a capable and developmental state that is capable, professional and responsive to the needs of its citizens. This requires well-run and effectively coordinated state institutions with committed public servants that are skilled and capable of delivering consistently high quality services, while prioritising the country's developmental objectives. This will inspire societal confidence in the State, which will reinforce its effectiveness. The Plan identifies a number of areas in which action is required, including:

- Stabilising the political-administrative interface by building a professional public service that serves the Constitution, whilst being autonomous enough to be insulated from political patronage.
- Making the public service and local government administration careers of choice by building a skilled and professional public service.

⁷⁰ Section 78

⁷¹ Section 17

⁷² Section 8

⁷³ Chapter 13



- Developing technical and specialist professional skills by strengthening the role of the State in producing specialist technical skills and enabling career pathing for technical specialists.
- Strengthening delegation, accountability and oversight by promoting greater and more consistent delegation that is supported by systems of support and oversight to make it easier for citizens to hold public servants and politicians accountable and to ensure effective parliamentary oversight of government.
- Improving inter-departmental coordination by following a less hierarchical approach to interdepartmental coordination and strengthening the role of the cluster system and the Presidency in resolving strategic issues.
- Taking a proactive approach to improving relations between national, provincial and local government by adopting a more pragmatic approach in aligning roles with capacity and intervening in disputes where required.
- Strengthening local government by developing an enabling framework for local government, supported and overseen by national and provincial government; adopting a longer term approach to skills development; and mainstreaming public participation.

The Plan notes that the country needs a two-pronged approach to building a more professional and skilled public service from the top and the bottom. Firstly, it needs to increase the pool of skilled people by ensuring that the public service and local government become careers of choice for graduates who wish to contribute to the development of the country. Secondly, it must ensure that high-level staff are recruited based on their suitability for the job.

vii) The National Implementation Framework Towards Professionalisation of the Public Service

In line with the Sixth Administration's commitment to creating an ethical, capable and developmental public service, Cabinet approved the publication of the draft Framework Towards Professionalisation of the Public Service. The main purpose of the Framework is to serve as a national implementation tool towards professionalisation of the public service. As such, the objectives of the Framework are to:

- Entrench a dynamic system of professionalisation in the Public Service.
- Strengthen and enable the legal and policy instruments to professionalise categories of occupations in the Public Service.
- Enhance and build partnerships and relationships with professional bodies.
- Ensure meritocracy in the recruitment and career management of public servants, which are in line with the National Development Plan and the Medium Term Strategic Framework.
- Initiate consequence management for material irregularities through the transgression mechanisms available to professional bodies and the Public Audit Amendment Act (Act 5 of 2018).

The Framework proposes a systems approach to professionalisation of the public service that is based on five pillars, namely pre-entry, recruitment and selection; induction and on-boarding; planning and performance management; continuous learning and professional development; and



career progression and incidents. The National School of Government, in partnership with the Department of Public Service and Administration and other educational institutions, will be responsible for the implementation of the Framework.

viii) Municipal Regulations on Minimum Competency Levels, 2007

The Municipal Regulations on Minimum Competency Levels, passed in terms of the Local Government Municipal Finance Act, No. 56 of 2003, are used to determine whether a municipal official has the necessary competency to fulfill his or her duties. In particular, it sets out minimum competency levels for accounting officers, financial officers, senior managers, supply chain managers and other financial officials. Failure by the mentioned officials to carry out their duties in terms of the Act may constitute financial misconduct. The Regulations prohibit a municipality or municipal entity from hiring financial staff without the minimum prescribed competencies after 1 January 2013. Where an official was appointed without the minimum prescribed competencies before 1 January 2013, they were required to upskill through higher education before this date.

ix) The Public Service Charter

Is an agreement between the State and public servants in the form of a written and signed commitment. It sets out the respective roles and responsibilities to improve performance, enhance and fast track the delivery of services to improve the lives of the people. The Charter includes values that govern public administration as set out in chapter 10 of the Constitution, such as professional ethics; transparency; accountability and good human resources management.

x) Codes of Conduct

Professionalism is a multifaceted concept that does not only relate to skills, qualifications and experience in a particular field, but also to an individual's personal value system, the ethos and values espoused by an organisation and the broader societal value system of a nation. The manner in which public officials conduct themselves when delivering services to the people is thus as important as possessing the relevant qualifications and skills. This is given the fact that members of the public invariably form their opinion of public institutions through their interaction with public officials. Ethics thus forms an important component of professionalism. The South African Code of Conduct for Public Servants guides public officials with regard to the type of ethical behaviour required of them. It aims to promote ethics and accountability in public officials.

b) Legislative reform

A number of legislative amendments are underway to promote professionalisation of the public service. This forms part of the bigger Government project of creating a capable, developmental state. Whilst the President has recently assented to the Local Government Municipal Systems Act, No. 3 of 2022, the Department of Public Service and Administration has undertaken to table the Public Administration Management Amendment Bill and the Public Service Amendment Bill in Parliament by the end of the 4th term.



- i) **The Public Administration Management Amendment Bill [2021]** proposes amendments to the Public Administration Management Act, No. 11 of 2014, by providing, amongst others, for the transfer and secondment of employees between municipalities and the public service and within municipalities; clarifying the prohibition against employees doing business with the state; and the removal of employment disparities across the public administration.
- ii) **The Public Service Amendment Bill, [2021]** proposes amendments to the Public Service Act, No. 103 of 1994, by providing, amongst others, for the establishment of norms and standards for the public service relating to matters such as functions of the public service, labour relations, conditions of service, transformation, reform and innovation, as well as any other matter to improve the effectiveness and efficiency of the public service and the manner in which it delivers services to the public.
- iii) **The Local Government Municipal Systems Amendment Act, No. 3 of 2022** introduces a number of amendments to the Local Government Municipal Systems Act, No. 32 of 2000, to improve the manner in which municipalities function and to ensure accountability. Amongst others, it provides for the definition of minimum skills, expertise, competencies and qualifications for the appointment of municipal managers and managers reporting directly to municipal managers; consequences if senior management is appointed without meeting the prescribed criteria; prohibits municipal officials from holding political office; and strengthens the framework for performance monitoring.

4.2.2 Advantages of professionalising local government

The Local Government Sector Education and Training Authority (LGSETA)⁷⁴ highlights a number of perceived advantages of professionalising local government institutions. These include:

- Through professionalization, the status of working within the local government sector as a profession will be improved, and local government will therefore be better enabled to attract the talents of necessary work professionals.
- Through certification and accreditation, qualified professionals can be identified, and employed in strategic positions within local government, which will lead to municipalities being perceived by the public as upholding certain professional standards and also encourage staff to develop themselves on an ongoing basis.
- The enforcement of codes of conduct and ethics within the sphere of local government will be of benefit to both the public in receiving municipal services, and employees of local government in discharging their duties.
- The professional sanctioning of non-compliance by any staff member with stipulated codes of ethics and conduct can assist in ensuring that checks against unprofessional behaviour by staff within this profession are properly instituted and observed.

4.2.3 Challenges inhibiting professionalisation of local government

As can be seen in the section above, Government has developed a solid enabling legal and policy framework for professionalisation of the local government service. However, a number of

⁷⁴ LGSETA (2018)



challenges continue to inhibit professionalisation of this sphere of government. Some of the key challenges include:

- **Poor or inadequate financial management by Municipalities** - As mentioned above, AG, NT and CoGTA reports reflect that the majority of municipalities are failing. As a result, a significant proportion of municipalities in South Africa experience some form of financial distress, which negatively affects their ability to deliver services to communities. These challenges have mainly been ascribed to maladministration and misuse of municipal funds.⁷⁵ Further, the 2020/21 Municipal Audit Outcomes confirms that municipalities' finances remain under severe pressure. This the AG ascribes to non-payment by municipal debtors, poor budgeting practices, and ineffective financial management.
- **Supply chain management** - Supply Chain Management (SCM) is a critical risk area in every municipality, as it involves procurement of goods and services. However, Public Service Commission reports indicate that there are still flaws in good governance processes, especially in SCM. This also applies to compliance with legislation and regulations regarding prohibition of officials conducting business with the state. A number of SCM challenges persist, despite monitoring and evaluation systems. These include invitations to tender occurring without an approved business case; the business case not including a budget for the required goods and services; evaluating bid responses received after the approved bid closing date; and ignoring the list of preferred suppliers requesting quotations from un-listed suppliers.
- **Fragmented Public Service** - Professionalisation in local government cannot be realised without establishing a seamless (single) public service whereby laws, policies and regulations are similar and applicable across the national, provincial and local spheres of government. As mentioned above, legislative review currently underway seeks to create a seamless public administration in order to institutionalise constitutional values and principles of public administration across the spheres of government.
- **Management of the political-administrative interface** - Technocrats are mostly trained in management, project and financial management. However, many of the challenges experienced at local government level emanate from the blurring of lines between politics and the administration, thereby compromising skill and competency where they exist. Dlamini and Migiro⁷⁶ argue that in order to ensure that partisan concerns do not compromise service delivery processes, and in order to deepen and enhance local democracy, politics should be separated from administrative processes and political and administrative tensions resolved. The NDP also argues that stability in leadership in government institutions gets undermined if it is not clear how the roles and responsibilities are divided between political principals and administrative heads. It therefore proposes that the political-administrative interface be stabilized by building a professional public service that serves Government whilst being autonomous enough to be insulated from political patronage.

⁷⁵ People's Assembly (2021)

⁷⁶ Cited in LGSETA (2018)



- **Excessive and ineffective use of consultants** - Despite a slight increase in the number of municipalities that were able to receive a clean audit, the 2020/21 municipal audit outcomes still note substantial use of consultants by municipalities.
- **Lack of skills and capacity** - The NDP points to a shortage of professional skills in government, particularly at the local level. It argues that efforts to extend basic services have not been matched with a comparable focus on ensuring the skilled professionals are created. In order to address this situation, the NDP proposes a number of steps to be taken, including using apprenticeships and bursaries to reproduce technical skills; develop technical career paths to enable technical specialists to focus on projects and training of less experienced staff; ensuring that managers have sufficient technical knowledge and experience for the work they oversee; and having trainees mentored by experienced professionals drawn from professional associations, State Owned Enterprises and the private sector.
- **Corruption** - By Government's own admission, corruption is one of the main factors that contributes to instability in municipalities. Kroukamp and Cloete (2018) argue that political deployment has exacerbated corruption through, for example, fraud, nepotism and tenderpreneurship, money-laundering, etc. At local government level, so the authors argue, corruption have manifested in the form of, amongst others, favouritism in procurement processes, payment of bribes to secure services and irregular performance bonuses. This has resulted in diminished trust of citizens in local government, whilst public trust constitutes an important element of professionalising the sphere. Pursuant to its vision for South Africa as a country with zero tolerance for corruption by 2030, the NDP highlights the need to build a resilient anti-corruption state by creating a well-resourced and capable anti-corruption system, operating free from political interference that enjoys both official and public support. The Plan also advocates for the improvement of procurement systems to ensure value for money and minimise the scope of corruption.

4.2.4 Recommendations for professionalisation of local government service

Based on the aforementioned discussion, Government's commitment to improving service delivery by building a capable and developmental state that is capable, professional and responsive to the needs of its citizens, is evident. It becomes clear though that creating an enabling policy and legal framework for the professionalisation of the local government service in itself is not sufficient. What is required is for all relevant role-players to action these initiatives in a structured and coordinated manner, to ensure that their intended benefits are optimised. Monitoring and oversight of such implementation is equally critical to identify best practice and provide an opportunity for corrective measures to be taken where challenges are identified.

Kariuki (2021) outlines four steps in the process of initiating professionalisation of the local government service. These are: mustering the political will to influence meaningful change among public servants towards delivering efficient, effective and sustainable basic services to the public; creating a working environment in municipalities that supports and promotes professional practice and institutional capacity; improving local government capability in terms of professional expertise and citizen-centred service; and addressing the issue of corruption decisively.



Other recommendations for professionalising the local government service, put forth by academics and scholars alike,⁷⁷ can be summarised as follows:

- **Leadership and strategic HR** - Municipalities should recruit, retain and develop the best available talent and skills, especially the best possible leadership. If there is no continuity in leadership, municipalities become vulnerable to non-compliance and falling into a state of dysfunction. The legislative sector should oversee how the appointment of staff in senior management positions complies with Sections 82(1)(a) of the Municipal Structures Act and 56 of the Municipal Systems Act. This includes oversight of the application of the Code of Conduct applicable to Councillors and municipal officials.
- **Performance management** - Every Municipal Council should initiate and implement a system of performance management. This creates an environment of responsiveness, high performance and clear accountability. It should involve rewards and remuneration that is linked to performance and competent people should be appointed.
- **Service delivery culture** - Municipalities should embrace the Batho Pele principles by establishing a people-centred culture of service delivery and customer care that puts people first. They should inculcate a culture among municipal officials of serving citizens and encourage and reward them for innovative initiatives that improve service delivery.
- **Planning and governance** - Municipalities must ensure that their planning, governance structures, people, processes, systems, infrastructure and oversight mechanisms are optimal and aligned to their mandate, as defined by a realistic Integrated Development Plan (IDP) and applicable legislation. They should also ensure community participation in the implementation of their IDPs, in line with the requirements of co-operative government.
- **Financial management** - Municipal Councils should ensure economic and financial viability of municipalities through sound financial management and budgeting. This includes sound SCM processes. Local governments are, by law, required to account openly and transparently for their financial activities. Annual Financial Statements are crucial in showing whether current year revenue is sufficient to cover associated costs of service provision.
- **Conducive work environment** - Municipal Councils are required to establish and maintain a conducive environment where the administrative and political arms of the municipality complement one another in the execution of its service delivery and developmental mandate. This is achievable through the creation and establishment of appropriate systems, processes and procedures to regulate the execution of Council programmes, projects and activities.

5. RECOMMENDATIONS FOR ENHANCED OVERSIGHT AND ACCOUNTABILITY

A draft concept document prepared for the local government week 2022 states that the Auditor-General called on mayors, municipal councils, municipal public accounts committees, audit committees, provincial leadership, premiers, members of the executive council (MECs) of COGTA and Finance, coordinating national ministries of COGTA and Finance, provincial legislatures, Parliament, citizens and community organisations (the local government accountability

⁷⁷ Information used in this section is mainly drawn from Croukamp and Cloete (2018).



ecosystem) to shift the culture in local government towards performance, integrity, transparency and accountability⁷⁸.

To this end, it is recommended that consideration is given to the following:

- Effective oversight of local government performance and compliance is essential to ensure that the ultimate objective of delivering quality services, especially to the poor and marginalised, is realised. All organs of state that conduct oversight are independent, and interdependent in their exercise of their oversight responsibility. The two Houses of Parliament, Provincial Legislatures and the South African Local Government Association (SALGA) have established their own mechanisms of oversight. In order to develop or enhance mechanisms that would foster complementary roles and responsibilities, consultation should be sought with all entities involved on a model that would be proposed for the organs of state in South Africa that conduct oversight over executive action. Consideration should be given to establishing a mechanism that will allow for communication of committee report findings between the respective Houses, Provincial Legislatures and SALGA. This could include the development of a central database to upload reports to be available to all bodies that conduct oversight over the executive, if communication between the respective Houses proves difficult due to programming challenges.
- Parliamentary Committees' oversight programme should not be event driven, but rather be guided by the planning, budgeting and reporting cycle of local government to include ongoing oversight, monitoring and evaluation throughout the financial year. Members of Parliament (MPs) should be properly equipped to exercise their oversight function through targeted sector oversight training regarding applicable policies, legislation and regulations relating to their respective sectors, located within the context of the mandate of the House of Parliament in which the committee serves. A joint sector-specific session for the Portfolio and Select Committees responsible for the oversight of local government performance and compliance across all provinces is required. As such, MPs can also gain understanding of the areas of difference and convergence in the oversight role of the committees of the two Houses of Parliament.
- The development of a Local Government Oversight Toolkit needs to be considered by Parliament. This Toolkit could be useful to serve as a baseline of requisite municipal performance standards and an oversight implementation guide to assist Members in the execution of their oversight role and mandate. Municipalities are required in their functioning to separate the executive and legislative powers. Therefore, it is essential that NCOP Committees monitor, evaluate and oversee how the separation of executive and legislative powers is handled and managed by every municipality.
- The Municipal Councils should report on the promotion and appointment of Senior Managers within legislated timeframes. The Council must also report on recommendations submitted to it on a regular basis to ensure compliance with legislation, timeframes and for corrective action. Every municipality must introduce, manage, update and monitor a system of risk management. The National Treasury issued a Public Sector Risk Management Framework for use by all public institutions across national, provincial and

⁷⁸ Parliament of South Africa (2022)



local spheres of government. Equally, section 62(1)(c)(i) of the MFMA places a responsibility on municipalities to develop systems that will identify and take appropriate steps to mitigate key risks within every institution. Municipalities must provide a status quo progress report of their attempts to address audit findings and ensure inclusion in the audit action plan. The Internal Audit and Audit Committees of municipalities must regularly assess progress and ensure that corrective action is taken.

- In addition to the provincial Status Quo Report of Local Government Performance, NCOP Committees must also prioritise identified under-performing and non-compliant municipalities. This is to enable visibility of local government oversight and also to ensure early detection of risk, fraud and corruption. The parliamentary committees responsible for local government, working jointly with the relevant provincial oversight structures, should improve their oversight function and visibility in municipalities. NCOP Committees are seen as working in silos and efforts should be made to liaise with provincial legislative counterparts when addressing local government challenges.
- There is a need to strengthen, clarify and co-ordinate the oversight of Committees in general, especially to avoid select, portfolio and provincial committees repeating the same type of oversight in the same areas. The roles and responsibilities of the Select Committees must be clearly defined.
- Parliament should use its oversight and capacity-building initiatives to empower MPs to detect challenging aspects of legislation and to resolve tensions, conflicts or lack of coherence between different laws.
- Resolutions adopted by Committees often fall through the cracks and are not followed up on. Mechanisms should be put in place to monitor and ensure responses by the Executive of Local Government to resolutions adopted by Legislatures. It is recommended that a system for tracking responses to Legislature resolutions be established, with records being kept of when matters were responded to by the relevant executive authority.
- The Constitution requires provinces to play an oversight and developmental role in relation to municipalities. To this end, Section 155(6) of the Constitution places an obligation on provinces to monitor and support municipalities through legislation and other measures and to promote the development of municipalities' capacity to enable them to perform their functions and manage their own affairs. The NCOP should consider examining measures developed by all provinces to give effect to this mandate, with a view to identifying and emulating best practice models. The NCOP can also conduct oversight on cross-cutting issues affecting all spheres, such as municipalities owing Eskom and Water Boards.
- A number of municipalities have undergone multiple interventions. This could be an indication that interventions are not effective in yielding the expected outcomes. Consideration should be given to identifying some of the root causes for interventions failing and mechanisms to respond to such failures. This should include a focus on mechanisms in place to set clear objectives for interventions and to monitor and manage the implementation of these interventions. The Constitution envisages a very specific



oversight role for the NCOP in the interventions process. Consideration should be given to how the NCOP can fulfil the role of overseeing local government performance proactively, instead of conducting oversight in response to notices of intervention received.

6. CONCLUSION

The importance of local government cannot be downplayed due to its proximity to the recipients of government services. Despite a strong legal framework to promote oversight and accountability, oversight has not been effective, resulting in deteriorating service delivery and poor financial health. The existing systems of oversight and accountability must be strengthened in order to improve service delivery. All role players, including audit committees and MPACs, must serve as the first level of assurance that oversight has been conducted. The national government and provincial governments must support and strengthen the capacity of municipalities to manage their own affairs, to exercise their powers and to perform their functions.

The executive, in its attempt to enhance service delivery initiatives and to promote oversight and accountability, implemented the DDM, as well as a range of instruments to professionalise local government. These initiatives can only be successful if all role players play an active role in promoting accountability.

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