

Address of MEC Miga during the Local Government Week at Laguna Beach Hotel, Cape Town, 14 September 2022

Chairperson of the National Council of Provinces

Deputy Chairperson of the National Council of Provinces

Honourable Minister of the Department of Cooperative Governance and Traditional Affairs

Deputy Minister of the Department of Cooperative Governance and Traditional Affairs

Members of the Executive Council of the various Provinces present today,

Executive Mayors, Mayors and Councillors of the various municipalities represented here today,

President of SALGA and the various leading members of the Association from across our Provinces,

Leadership of the various Houses of Traditional Leaders present here,

Esteemed delegates,

Ladies and Gentlemen,

I bring you warm greetings from the North West Province, and hope to contribute to an important discussion which we've been having since we met on yesterday.

By its nature, the discussion is a culture shifter; and my hope is that we will continue to have it until the creation of a single and professional public service is realized.

Chairperson, I make this remark on the back of many observations that have been shared with us since we met, and central to all of them is that local government is everyone's business and all of us

must contribute to its functioning if the fruits of our democratic project are to be fully enjoyed.

A key element towards this end state is the need for “good governance” and closely intertwined with this is the requirement for effective oversight and accountability.

At a simplistic level, oversight can be defined as a legally delegated task through which an upper structure may hold a lower structure to account for their actions or decisions, whilst accountability is about actual answerability for the actions/decisions taken or not taken by a lower structure in the face of some apparent matter or problem.

In the local government context such accountability may manifest at the following different levels:

1. At the POLITICAL level – where Councillors as representatives of the community are accountable to the community, and the Mayors are accountable to the Council;
2. At an ADMINISTRATIVE level – where the administration is accountable to Council via the Municipal Manager, and the municipal administration officials are responsible to the Municipal Manager;
3. At a PUBLIC FINANCE Management level – where the Mayor must ensure that the municipality/ municipal entities performs its constitutional and statutory functions within the limits of the approved budget and policies;
4. At a PERFORMANCE Management level – where the Executive and Administration are accountable to the Council for the production of agreed outcomes as specified in the IDP and Service Delivery and Budget Implementation Plan (SDBIP), and lastly where the Annual Report is developed and presented in order to account to communities and other relevant upper structures for how a municipality has performed in a financial year .

This latter point, brings into sharp focus the role of Provincial departments and this is what I have had the pleasure of being asked to speak about today.

I wish to start off by saying that when the crafters of our Constitution drew it, they ushered in a new culture of governance which is based on the supremacy of the Constitution and the rule of law.

In the course of this, they also made provision for exercise of executive authority, which they said may be exercised at national, provincial and local spheres of government.

At Provincial level this executive authority is vested in the Premier of a Province, and he or she exercises executive authority together with other members of the Provincial Executive Council.

To ensure that nobody goes astray, the Constitution provides the following safeguards:

- (a) It provides for the separation of powers, and emphasises that that there should be division of powers between the legislature, executive and judiciary with applicable checks and balances to guarantee answerability, transparency and honesty; and
- (b) It prescribes that all spheres of government and all organs of state must abide by the following principles in their execution of their functions. These principles dictate that all executive action must:
 - (i) preserve the peace, national unity and the indivisibility of the Republic;
 - (ii) secure the well-being of the people of the Republic;

- (iii) provide effective, transparent, accountable and coherent government for the Republic as a whole;
- (iv) be loyal to the Constitution, the Republic and its people;
- (v) respect the constitutional status, institutions, powers and functions of government in the other spheres;
- (vi) not assume any power or functions of any sphere of government except those conferred on them in terms of the Constitution.

However, many a times the good intentions behind the latter principles have been frustrated by systemic failures on the part of local government to discharge their responsibilities as a consequence of poor oversight and accountability. Where applicable this has necessitated a typology of interventions to be invoked by Provincial government.

According to the Constitution, and the Municipal Finance Management Act (“**MFMA**”), four types of provincial interventions are provided for:

1. Where a municipality is unable to fulfil an executive obligation, the province may intervene by issuing a directive, assuming responsibility or, in exceptional cases, dissolving the municipal council.
2. Where there is a serious financial problem in a municipality which has been caused by a municipality’s failure to comply with an executive obligation in terms of legislation or the Constitution, the province may take appropriate steps to intervene in terms of the MFMA.
3. Where a municipality fails to approve a budget or any revenue-raising measure necessary to give effect to the budget, the province must intervene to ensure the budget is approved.

4. Where a municipality, as a result of a crisis in its financial affairs, is in serious or persistent material breach of its obligations to provide basic services or meet its financial commitments, the province must intervene, including taking steps to impose a recovery plan, dissolve the council or assume responsibility.

In the North West Province, all these typologies of interventions have been applied since 1999 and continue to be applied; and amongst the many interventions that have been applied, the reasons have largely stemmed from:

- Instability in councils
- Poor council oversight
- Lack of leadership
- Fraud, corruption and maladministration
- Poor delivery of services resulting in protests
- Poor financial management.

Therefore, in a bid to cure these problems it is proposed herein that much more focussed measures are required if effective oversight and accountability are to be realised.

It is proposed that a Provincial-Wide Framework which is akin to regulations must be developed and adopted by Provincial Executives to define clear standards in accordance with which the performance of each municipality under their jurisdiction shall be judged, so that when oversight and accountability is required performance may be measurable;

In the same vein, it is proposed that a Provincial-Wide Delegation Framework which is inclusive of municipalities be developed to illustrate how the separation of powers principle shall be implemented and delineated so that the interplay between oversight and accountability functions can be clearly distinguished. This work can be adapted from available delegation frameworks that have

been developed at Treasury level and the Department of Public Service and Administration for the public service;

In furtherance of transparency and greater public participation, which in turn should lead to greater accountability and oversight, it is proposed that a governance model must be adopted which allows for meaningful engagement with the communities, and compliance with stringent timeframes;

To strengthen oversight, it is proposed that investments in reporting systems must be made in order track and provide all information that will enhance accountability and oversight;

Lastly, just as Legislature Committees have huge privileges and powers to call and summon witnesses, it is proposed that in the Provincial-Wide Framework Committees of Council must be afforded the same powers to be able to enforce their oversight and accountability functions.

Chairperson, in as much as we are hopeful that all of the above proposal may lead to greater efficiency we are not oblivious of the challenges that we may confront in the course of pursuing these culture changing initiatives.

Amongst the typical ones which we have come to experience are the following:

- a) Decisions of the Provincial Executive Council are challenged in the court of law by municipal councils;
- b) MPAC Decisions are not implemented by councils, the report keeps on being referred to another meeting;
- c) Council Committees not formed to investigate misconduct or fraudulent activities;
- d) Councillors fighting or contesting for control of the Municipal Bank Account;

- e) Influence from outside/former councillors weakens cohesion of Council;
- f) Ill-discipline of Councillor's life in most councils (not attending council meetings; conduct which is unprofessional in council, spirit of looting for personal gain etc.)
- g) Interventions (invocation of sections of 139 of the constitution of RSA) not seen as additional support to the municipality but seen as a punitive measure;
- h) Political factionalism playing itself out in council, and weakens oversight of council;
- i) Administration that is politically polarized (most of officials at one time had been councillors and have allegiance to former councillors aspirations)

Therefore, whilst inductions and training of Councillors may serve as an important mediator to these challenges, for others solutions need to be found at the level of political parties that are responsible for the deployment of the Council that have deployed these public representatives.

There is no doubt that prior to the recent elections there was excitement that the parties would deploy a different kind of cadres...but up to now, we must still wait to see the required improvements.

That's how I wish to end my input today, and as said earlier, we must have the discussion until the creation of a single and professional public service is realized.

Thank you!