



PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

NCOP

NATIONAL COUNCIL OF PROVINCES

PROVINCIAL WEEK PROGRAMME FRAMEWORK

Building Sustainable, Responsive and People-Centred Municipalities

16 – 20 September 2019



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1. INTRODUCTION

Section 40(1) of the Constitution of the Republic of South Africa, 1996, constitutes Government in the Republic as national, provincial and local spheres, which are distinctive, interdependent and interrelated. With regard to the local sphere of government, Section 152 of the Constitution sets its main objectives as being to:

- Provide democratic and accountable government for local communities.
- Provide services to communities in a sustainable manner.
- Promote social and economic development.
- Promote a safe and healthy environment.
- Encourage the involvement of communities in local government matters.

The Constitution vests the power to give effect to the objectives of local government in municipalities.¹ As such, it empowers a municipality to govern, on its own initiative, the local government affairs of its community, subject to national and provincial legislation. The Constitution also prohibits national and provincial government from impeding a municipality's right or ability to exercise its powers or perform its functions.² Instead, the Constitution requires national and provincial governments to support and strengthen the capacity of municipalities to exercise their powers and perform their functions, without assuming the functions of local government, unless so authorised by the Constitution.

The mandate of the National Council of Provinces (NCOP), outlined in Section 42(4) of the Constitution, is to represent the provinces to ensure that provincial interests are taken into account in the national sphere of government. This is achieved, in the main, by participating in the national legislative process and by providing a national forum for public consideration of issues affecting the provinces. Furthermore, in terms of section 67 of the Constitution, the NCOP provides a forum for the representation of local government at national level, through the representation of the South African Local Government Association (SALGA). SALGA is entitled to ten representatives who may participate in the debates and other activities of the NCOP, but may not vote. Another key mechanism initiated by the NCOP to solicit provincial interests and ensure that provincial delegates to the NCOP keep abreast of developments, as well as service delivery challenges facing their provinces, is the *Provincial Week* programme.

¹ Section 152(2)

² Section 151.



The NCOP will undertake the first Provincial Week of the 6th Democratic Parliament in the week of 16 to 20 September 2019. The Provincial Week includes joint oversight visits with the respective provincial legislatures to projects to monitor the delivery of services to communities, as well as public hearings and meetings in order to interact with communities to get “*first hand*” information on the delivery of services.

2. CONTEXTUAL BACKGROUND

Since the inception of the new democratic municipal dispensation in December 2000, local government in South Africa has contributed to the achievement of a number of significant social and economic development advances, it has spearheaded expanded access to a wide range of basic services and more opportunities have been created for participation in the economy. However, notwithstanding the valuable role that municipalities have played to date, numerous indicators point to the fact that they are not executing their assigned mandate effectively.³

On the one hand, this could be ascribed to a lack of adequate support to municipalities, as mandated by the Constitution. Provincial governments are required to facilitate hands-on municipal support to municipalities through appropriately skilled staff, and to monitor and guide municipal performance and compliance to enable them to detect early warning signs of poor performance, non-performance, compliance and mal-administration. This would enable provinces to apply appropriate corrective and remedial measures early to improve and minimise poor performance and non-compliance by focusing on all governance and accountability aspects of municipal management. However, in practise the quality of support to municipalities is viewed as dependent on the capacity of those responsible for the support function, especially in key skills areas such as municipal finance management.

On the other hand, it could be ascribed to generally weak patterns of oversight, governance and accountability of the sector as a whole, which has resulted in dysfunctional municipalities across all provinces. The lack of strong and effective oversight of local government performance has resulted in the deterioration of good governance and accountability, as well as a lack of consequences for poor or non-performance.

³ Finance and Fiscal Commission (2019), p7.



2.1 Local Government performance

According to a 2014 report of the Department of Cooperative Governance and Traditional Affairs (COGTA), the majority of municipalities (i.e. two thirds) were at risk of descending into dysfunctionality or were already dysfunctional.⁴ The audit outcomes of municipalities confirm the findings of COGTA that there are serious challenges within the Local Government sphere. The Local Government audit outcomes have been on a path of regression since 2014/15. This is evident in the declining number of municipalities receiving clean audits.⁵ Whereas 52 of the 257 municipalities received clean audits in 2014/15, this number declined to 33 in 2016/17 and only 18 in 2017/18. In addition, the number of municipalities receiving modified audit opinions increased from 108 in 2014/15 to 114 in 2017/18.⁶

The Auditor-General has ascribed the poor audit outcomes for 2017/18 to a lack of accountability in Local Government, which is a repeat of the 2016/17 findings. Whereas accountability constitutes one of the cornerstones of good governance, a number of municipalities do not implement good governance principles. This is evident in the recurring audit findings in relation to the poor quality of financial statements, non-compliance with legislation and the quality of published performance reports. The lack of accountability on the part of municipalities also has serious consequences for the financial health of the municipality, service delivery, as well as municipal infrastructure development and maintenance.

Thus, the performance of local government can only improve if the leadership and management of the municipality sets the tone, specifically by being accountable and adhering to the laws that govern municipalities.

2.2 Municipalities in distress

According to National Treasury, 128 (49.8%) of the 257 municipalities are in financial distress⁷. These are predominantly small and rural municipalities in provinces such as the Eastern Cape, Limpopo, Free State and the North West. As per *The State of Local Government Finances and Financial Management Report*⁸, the financial distress of these 128 municipalities relate to the following indicators:

⁴ Ibid. (2019), p7.

⁵ An unqualified audit opinion with findings.

⁶ That is an audit that is a qualified, adverse or disclaimer opinion with findings.

⁷ National Treasury (2018)

⁸ Ibid



- **Poor cash flow management** - This relates to municipalities' cash on hand to meet its monthly financial commitments when they become due. As a norm, a prudent level of cash coverage is one month of average operational expenditure for metros and three months for local and district municipalities. The affected municipalities, mainly in the Eastern Cape, Northern Cape and Limpopo Provinces, experience persistent negative cash balances and cash coverages.
- **Overspending of operational expenditure budgets** - Relates to overspending of operational budgets. Contributing factors include the lack of or a weak long or medium term financial strategy; incorrect budgeting; lack of proper forecasting expenditure patterns; failure to adhere to spending plans, which often results from failure to table and adopt funded budgets; failure to provide adequately for debt impairment and depreciation.
- **Underspending on capital expenditure budgets** - According to National Treasury, almost a quarter of municipalities underspent on conditional grants, the majority of them located in the Limpopo Province. The contributing factors range from weak institutional capacity; shortage of skills; weak multi-year budgeting; limited planning, project preparation and project management; supply chain management inefficiencies; to weak asset and contract management.
- **Level of growth in consumer debtors** - This relates to municipalities whose debtors constitute more than 30% of their own revenue and debt impairment as a percentage of billable revenue. By the end of the 2016/17 financial year, 152 municipalities had debtor levels higher than 30% of own revenue. The main underlying reasons are persistent non-payment of municipal services such as water, electricity and property rates by households, business and government departments. In certain instances, municipalities fail to implement revenue collection policies and strategies.
- **Outstanding creditors** - The affected municipalities act inconsistent with section 65(2)(e) of the Municipal Finance Management Act (MFMA). which provides that a municipality's accounting officer must take all reasonable steps to ensure "that all money owing by the municipality be paid within 30 days of receiving the relevant invoice or statement, unless prescribed otherwise for certain categories of expenditure. Affected municipalities are mostly located in the Free State, North West, Limpopo and Mpumalanga provinces.



- **Reliance on national and provincial conditional grants** - Municipalities in financial distress often have limited own revenue, hence they tend to show over-reliance on national and provincial transfers. Statistics South Africa cites the example of the Engcobo Local Municipality in the Eastern Cape, which sources 95% of its income from national and provincial transfers. Similarly, the Kagisano-Molopo Local Municipality in the North West sources 86% of its revenue from national and provincial transfers.
- **Audit outcomes** - This relates to instances of irregular, unauthorised, fruitless and wasteful expenditure. Some of the key contributing factors to unfavourable audit outcomes include ineffective political and administrative leadership; slow response in improving internal controls and addressing key risk areas; instability or vacancies in key positions or key officials lacking appropriate competencies; inadequate consequences for poor performance and transgression.
- **High water and electricity losses** - Municipalities in financial distress often lose much-needed revenue sources due to water and electricity loss caused by factors including illegal connections; insufficient repairs and maintenance; technical losses due to normal transmission and distribution. The Gauteng Province i.e. City of Johannesburg, Ekurhuleni and City of Tshwane) is worst affected by losses of water and electricity.

3. KEY CHALLENGES FACING LOCAL GOVERNMENT

Some of the key challenges facing the local sphere of government can be summarised as follows:

- **A lack of accountability and good governance:** The Auditor-General stated that the poor audit outcomes for 2017/18 is due to a lack of accountability in Local Government. This lack of accountability is evident in regressing audit outcomes and increased irregular expenditure; a lack of consequences for transgressions and irregularities; and an increasingly difficult environment for auditing. The Auditor-General has attributed this lack of accountability and lack of good governance to the failure of the leadership and managers to fulfil their oversight role. This could also be ascribed to weak provincial oversight and monitoring of local government performance and compliance and lack of consequence management.



- **Capacity of finance/budget units in local government:** A lack of skills and vacancies in key finance posts results in over-reliance on consultants. Despite the use of consultants, the financial statements still contained material misstatements identified during the most recent municipal audit. The quality of published financial statements regressed in 2017/18, with only 119 municipalities publishing quality financial statements, compared to the 143 in 2016/17.
- **Lack of effective support to local government to enable municipalities to deliver quality, customer value and satisfaction, as required in terms of Section 154 of the Constitution:** This is due to inappropriately skilled staff responsible for the support function at the provincial levels.
- **Inappropriate intervention:** Inappropriate intervention in municipalities giving rise to political disagreements and differences in the various municipal councils.
- **Weaknesses in supply chain management, tendering and adjudication processes due to lack of oversight, weak internal controls, etc.**
- **Absence of or weak co-operative governance as required by Chapter 3 of the Constitution** to achieve synergy, integration, collaboration and functional co-ordination in the management and administration of municipal affairs by the three spheres of government, which are distinctive but inter-related and inter-dependent.
- **Lack of community participation** in the oversight and monitoring of local government performance.
- **Inability to use Municipal Infrastructure Grants (MIGs),** as well as using these grants for purposes that they were not intended.
- **Over-employment with resultant staff in excess of the establishments of municipalities** or staff outside municipal operational requirements, which results in a high, unaffordable salary and wage bill. Hence most municipalities use grants to fund their monthly salaries and wages.



4. AIM OF THE PROVINCIAL WEEK: 16 – 20 SEPTEMBER 2019

The main aim of the Provincial Week, which is scheduled on 16 – 20 September 2019 is to:

- Ensure that provincial delegates to the NCOP keep in touch with developments and challenges facing their provinces;
- Accord Delegates to the NCOP an opportunity to interact with their respective provinces and report on their activities in the NCOP with the aim of obtaining new mandates on issues to be placed on the national agenda;
- Provide a forum for the exchange and sharing of ideas around service delivery issues and challenges facing the provinces in fulfilling their roles; and
- Create an opportunity for the NCOP and provinces to work together in seeking solutions and developing new ways to address the challenges facing local government and ensuring that the local government sphere responds adequately to the mandate of delivering services to communities.

5. PROPOSED THEME FOR THE PROVINCIAL WEEK

The proposed overarching theme for Provincial Week is:

“Building Sustainable, Responsive and People-Centred Municipalities”

6. THEMATIC AREAS

The aim of Provincial Week is to examine the current state of local government in respect of its developmental mandate, service delivery and institutional capacity, by visiting municipalities under distress. To this end, it is proposed that the following thematic areas, all of which relate to accountability and good governance, are explored:

- (a) Delivery of basic services to communities (water and sanitation, electricity, etc.);
- (b) Financial viability (quality of financial statements, credit rating, revenue base, revenue collection rate and systems such as billing systems and debt to state entities, including owed to the municipality by other state entities);



- (c) Local economic development (targeted economic sectors and initiatives);
- (d) Governance (compliance with legislation, political stability, interventions, administrative deficiencies and malpractices such as maladministration, corruption, etc.);
- (e) Impediments created by existing legislation to the functioning of municipalities and their mandate to delivery services to communities; and
- (f) Spending on the Municipal Infrastructure Grant.



7. PROPOSED PROGRAMME

| DATE | TIME | ENGAGEMENT | STAKEHOLDERS | VENUE |
|--------------------------------------|---------------|--|--|-------|
| MONDAY: 16 SEPTEMBER 2019 | 14h00 – 17h00 | Travelling from constituencies to places of convergence i.e. provincial legislatures | | |
| TUESDAY: 17 SEPTEMBER 2019 | 09h00 – 13h00 | <p>BRIEFING ON THE STATE OF MUNICIPALITIES:</p> <ol style="list-style-type: none"> 1. Opening and welcome 2. Briefing on the state of local government in the province: <ol style="list-style-type: none"> 2.1 Overview of the state of local government in the province 2.2 Delivery of basic services to communities (water and sanitation, electricity, etc.); 2.3 Financial viability (quality of financial statements, credit rating, revenue base, revenue collection rate and systems such as billing systems and debt to state entities, including owed to the municipality by other state entities); 2.4 Local economic development (targeted economic sectors and initiatives); 2.5 Governance (compliance with legislation, political stability, interventions, administrative deficiencies and malpractices such as | <ul style="list-style-type: none"> • Premier • Permanent delegates • MPLs • MEC for Cogta • HOD of COGTA • Chief Directors • Office of the Auditor-General • Demarcation Board | |



| | | | |
|----------------------|--|---|--|
| | maladministration, corruption, etc.); and Spending on the Municipal Infrastructure Grant; 3. Way forward | | |
| 13h00 – 14h00 | LUNCH | | |
| 14h00 – 16h30 | BRIEFING ON THE FINANCIAL STATE OF MUNICIPALITIES | | |
| | <ol style="list-style-type: none"> 1. The financial state of municipalities in the province: progress and challenges in ensuring clean audits <ol style="list-style-type: none"> 1.1 Non-compliance with key local government legislation 1.2 Irregular expenditure 1.3 The state of integrated development plans in the province 1.4 The state of internal financial control 1.5 Causes and drivers for accountability failures in municipalities 2. Quality of financial statements and performance reports submitted for auditing 3. Compliance with legislation, supply chain management and irregular expenditure 4. Impediments created by existing legislation to the functioning of municipalities and their mandate to delivery services to communities | <ul style="list-style-type: none"> • Permanent delegates • MPLs • MEC for Cogta • HOD of COGTA • Chief Directors • Office of the Auditor-General • Demarcation Board | |



**WEDNESDAY:
18 SEPTEMBER 2019**

| | | | |
|----------------------|--|---|--|
| | <p>5. Causes and drivers of Vacancies and instability in municipalities</p> <p>6. Consequences management</p> <p>7. Municipal spending on:</p> <p>7.1 Delivery of basic services</p> <p>7.2 municipal infrastructure grant</p> <p>7.3 road infrastructure</p> <p>7.4 Water infrastructure development project</p> <p>7.5 maintenance of water infrastructure</p> | | |
| 09h00 – 13h00 | <p>GROUP ONE:</p> <p>Oversight visit to _____ district municipality / metropolitan</p> <p>GROUP TWO:</p> <p>Oversight visit to _____ district municipality / metropolitan</p> | <ul style="list-style-type: none"> • Permanent delegates • MPLs • MEC for Cogta • HOD of COGTA • Chief Directors • Office of the Auditor-General • Demarcation Board | |
| 13h00 – 14h00 | LUNCH | | |
| 14h00 – 16h30 | <p>GROUP ONE:</p> <p>Oversight visit to _____ district municipality / metropolitan</p> | <ul style="list-style-type: none"> • Permanent delegates • MPLs • MEC for Cogta • HOD of COGTA • Chief Directors | |

**THURSDAY:
19 SEPTEMBER 2019**

| | | | |
|---------------|---|---|--|
| | <p>GROUP TWO:</p> <p>Oversight visit to</p> <hr/> <p>district municipality / metropolitan</p> | <ul style="list-style-type: none"> • Office of the Auditor-General • Demarcation Board | |
| 09h00 – 13h00 | <p>GROUP ONE:</p> <p>Oversight visit to</p> <hr/> <p>district municipality / metropolitan</p> <p>GROUP TWO:</p> <p>Oversight visit to</p> <hr/> <p>district municipality / metropolitan</p> | <ul style="list-style-type: none"> • Permanent delegates • MPLs • MEC for Cogta • HOD of COGTA • Chief Directors • Office of the Auditor-General • Demarcation Board | |
| 13h00 – 14h00 | LUNCH | | |
| 14h00 – 16h30 | <p>GROUP ONE:</p> <p>Oversight visit to</p> <hr/> <p>district municipality / metropolitan</p> <p>GROUP TWO:</p> | <ul style="list-style-type: none"> • Permanent delegates • MPLs • MEC for Cogta • HOD of COGTA • Chief Directors • Office of the Auditor-General • Demarcation Board | |



**FRIDAY
20 SEPTEMBER 2019**

| | | | |
|----------------------|---|---|--|
| | Oversight visit to <hr/> district municipality / metropolitan | | |
| 09h00 – 13h00 | DEBATE ON THE PROVINCIAL LEADERSHIP: 1. Debate on issues emanating from the Provincial Week: 16 – 20 September 2019; and 2. Tabling of the Provisional Provincial Week: 16 – 20 September 2019 | <ul style="list-style-type: none"> • Permanent delegates • MPLs • MEC for Cogta • HOD of COGTA • Chief Directors • Office of the Auditor-General • Demarcation Board | |
| 13h00 – 14h00 | LUNCH AND DEPARTURE | | |





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