

NATIONAL COUNCIL OF PROVINCES



CONCEPT DOCUMENT ON LOCAL GOVERNMENT WEEK 2020

**6th DEMOCRATIC
PARLIAMENT**



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1. THE CONSTITUTIONAL BASIS

Section 41(1)(f) of the Constitution compels the spheres not to assume any power or function except those conferred on them by the Constitution. Section 41(1)(h) requires the spheres to co-operate with one another in mutual trust and good faith by, amongst others, assisting and supporting one another.

Section 139(1) of the Constitution authorises a provincial executive to intervene in the affairs of the local sphere of government when the municipality cannot or does not fulfil executive obligations in terms of the Constitution or legislation. If it does, a provincial executive is required to submit a notice of intervention to the National Council of Provinces and the Cabinet member responsible for local government. Where the Constitution authorises it to do so, the National Council of Provinces must either approve or disapprove the intervention and must while the intervention continues, regularly review it. The National Council of Provinces may also make recommendations to the provincial executive. Even on termination of an intervention, the National Council of Provinces may continue to conduct oversight over the implementation of its resolutions on the municipality.

The Constitution enjoins local government to ensure provision of services to communities in a sustainable manner and strive to do so within its financial and administrative capacity (see section 152(1) and (2) of the Constitution).

Section 154(1) compels both the national and provincial spheres of governments to support and strengthen the capacity of municipalities to manage their own affairs and perform their functions.

While failure by the municipalities to manage their affairs in terms of financially acceptable practices may be viewed as a purely financial consideration, there is an underlying constitutional injunction that municipalities must render services in a sustainable manner. It is through the audit process that it may be determined whether the financial basis on which the municipalities deliver services is sustainable. The Constitution does not only require municipalities to



provide services in a sustainable manner, but they must do so within their administrative capacity. Failure to develop capacity therefore may amount to a breach of this constitutional injunction.

The Auditor-General's Municipal Audit Results for the financial year 2018/19 reveals that many municipalities heavily rely on consultants for the preparation of, in particular, financial statements for auditing purposes. It further reveals that there appears to be no transfer of skills from the consultants to the municipalities. Further, that, despite the high costs of these consultants, the municipalities derive no return on investments since the services rendered by the consultants do not meet the required standard. Some of these municipalities have returned disclaimed audit opinions. Others did not complete the audit during the legally prescribed period.

It is within the above that it is proposed that the Local Government Week 2020 should focus on the implementation of the audit outcomes mainly on those municipalities which have received disclaimers and have been the subject of section 139 intervention. It is however clear from the Audit Results that most municipalities in the province of North-West require more attention.

The following is an attempt to glean from the Municipal Audit Results those municipalities which have consistently returned disclaimers and have been the subject of section 139 interventions. There may be other municipalities which have returned qualified audit opinions which may be considered for this exercise.

2. OBJECTIVE OF THE LOCAL GOVERNMENT WEEK 2020

The main objective of the Local Government Week should be to ensure that municipalities, with the assistance of national and provincial government, implement the Municipal Audit Results. While the municipalities must ensure that they design plans to implement these Results, the national and provincial spheres must demonstrate how they will assist the municipalities in doing so. For this purpose, a presentation on the District Delivery Model will be necessary.



3. SUMMARY OF MUNICIPAL AUDIT RESULTS 2018/19

On 1 July 2020 the Auditor-General released the Municipal Audits Results for the 2018/19 financial year under the theme “Not much to go around, Yet not the right hands at the till”. He found that funds in the local spheres of government are managed “in ways that are contrary to the prescripts and recognised accounting disciplines.” Further, that, failure to manage funds properly “make for very weak accountability and the consequent exposure to abuse of the public purse”. According to the Auditor-General the course of action should be “how firm steps are going to be taken to restore the integrity of these institutions and place them in a position to manage their finances towards the achievement of citizens’ needs”. He decries the fact that most municipalities are “crippled by debt and being unable to pay for water and electricity; inaccurate and lacklustre revenue collection; expenditure that is unauthorised, irregular, fruitless and wasteful; and a high dependence on grants and assistance from national government”.

The Auditor-General notes that “The financial statements of a municipality tell the story of how well a municipality is managed. As is the case with these few municipalities, it can be a good story of disciplined spending that achieves value for money; meticulous billing and collecting practices; assets that are maintained and safeguarded; careful investments and savings for emergencies and future projects; and commitments to creditors and the community being honoured.

The following is the Auditor-General’s analysis of the outcomes for municipalities in each province.

In the Eastern Cape where eight municipalities recorded a disclaimer, the Auditor-General noted that “improvements were rare and the general trend over the past three years remained negative, there were dysfunctional control environments and extensive disorder in accounting records.” Further, that, the report indicates irregular expenditure of R2,5 billion incurred during the year under review and a further R4,2 billion was flagged for audits finalised subsequent to the cut-off date for this report. Among the municipalities that



recorded disclaimers is the Makana Local Municipality which has been the subject of section 139 intervention.

In the **Free State** ten municipalities did not submit financial statements on time and three municipalities received disclaimed opinions. The irregular expenditure totalled R1,4 billion and a further R341,6 million in irregular expenditure was identified in audits finalised subsequent to the cut-off date for this report. Among the municipalities whose audit was not finalised is **Maluti-A-Phofung Local Municipality** which has been a subject of repetitive section 139 interventions.

Although in **Gauteng** all municipalities recorded unqualified audits, they incurred irregular expenditure amounting to R1,7 billion with a further R3,3 billion for audits finalised subsequent to the cut-off date for this report. The City of Tshwane Metro accounted for R2,9 billion and **Emfuleni Local Municipality** R358 million. The latter is still under an intervention which has been recently extended. Its audit outcomes are also outstanding. According to the MEC for Co-operative Governance, the intervention did not achieve the intended objective.

In KwaZulu-Natal the failure of key controls continued. Both **Umzinyathi District Municipality and Mpofana Local Municipality** received disclaimers. They have both been subjected to intervention in terms of section 139. Irregular expenditure amounted to R6,5 billion for the period under review, with eThekweni Metro incurring R2,34 billion of this amount. A further R17,2 million in irregular expenditure can be attributed to audits finalised after the cut-off date for this report.

In Limpopo, although six municipalities improved their audit outcomes and three regressed, many municipalities received qualified opinions. **Modimolle-Mookgophong Local Municipality** however received a disclaimer. This municipality has previously been under section 139 intervention. The audit outcomes of **Polokwane, Mogalakwena and Thabazimbi Local Municipalities** remain outstanding. Irregular expenditure totalled R1,5 billion



and another R594 million was reported for audits finalised after the cut-off date for this report.

In Mpumalanga, accountability and financial management deteriorated. Six municipalities regressed and only two improved. **Victor Khanye, Dipaleseng, Dr Pixley Ka Isaka Seme and Lekwa Local Municipalities** all received disclaimers. The latter has been subjected to section 139 intervention. Irregular expenditure totalled R1,09 billion and a further R358 million was flagged for audits finalised subsequent to the cut-off date for this report.

In Northern Cape, the municipalities six municipalities regressed and only three improved. **!Kheis, Kai !Garib, Kgatelopele, Joe Morolong, Kamiesberg and Dikgatlong Local Municipalities** all received disclaimers. The outcomes of **Phokwane Local Municipality**, which is under section 139 intervention remain outstanding. The breakdown in the control environment continued. Irregular expenditure amounted to R390 million.

In North West, nine municipalities received disclaimed opinions and eight received qualified opinions. **Ditsobotla, Mahikeng, Ramotshere Moiloa, Ratlou, Kgetleng River, Madibeng, Lekwa Teemane and Maquassi Hills Local Municipalities and Dr Ruth Segomotsi Mompati District Municipality** all received disclaimers. The audit outcomes of **Ngaka Modiri Molema, Bojanala District Municipalities and Greater Taung, Mamusa and Naledi Local Municipalities** are all outstanding. For the year under review, the municipalities in the province incurred irregular expenditure totalling R3,7 billion, with a further R1,8 billion relating to audits finalised after the cut-off date for this report.

In the Western Cape, 45% and 93% of the municipalities received clean audit unqualified opinions respectively. Only the audit outcome of **Kannaland Local Municipality** remained outstanding. This municipality has been a subject of section 139 intervention. Irregular expenditure however amounted to R2,7 billion.



4. DATE OF THE LOCAL GOVERNMENT WEEK 2020

Local Government Week is scheduled for 8 – 9 September 2020 with a Sitting on 10 September 2020 at 14h00.

5. VENUE

The Local Government Week 2020 and the Sitting are scheduled to take place virtually, with the National Council of Provinces as the venue.

6. THEME

The proposed theme is ***“Khawuleza: Changing the financial state of Local Government in South Africa”***

7. PARTICIPANTS

It is proposed that only affected municipalities be invited. Mayors and Municipal Manager therefore refers to Mayors and Municipal Manager of those municipalities.

The following are the proposed participants

- Minister/Deputy Ministers of Co-operative Governance and Traditional Affairs
- MECs responsible for local government affairs
- Permanent Delegates
- Chairpersons of committees responsible for local government affairs in the provincial legislatures
- Chairperson of the Portfolio Committee in the National Assembly
- South African Local Government Association
- Mayors
- The Auditor-General
- Municipal Managers