



**PARLIAMENT**  
OF THE REPUBLIC OF SOUTH AFRICA



SOUTH AFRICAN LOCAL  
GOVERNMENT ASSOCIATION

**SALGA**

*Inspiring service delivery*



*Interactive Virtual*

# **LOCAL GOVERNMENT WEEK REPORT**

**8 – 11 SEPTEMBER 2020**

*Theme: Ensuring Capable and Financially Sound Municipalities*

## NCOP LOCAL GOVERNMENT WEEK: 08-11 SEPTEMBER 2020

# REPORT

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## OFFICIAL OPENING

### 1. Introduction and Background

The National Council of Provinces (NCOP), together with the South African Local Government Association (SALGA), hosted a virtual Local Government Week (LGW) as part of its annual programme to deal with issues affecting municipalities across South Africa. Given the NCOP's character and design, the House is better placed to facilitate co-operative government in a manner that allows local government to receive the necessary support in order to discharge its functions effectively. The LGW programme was aimed at providing an opportunity for national, provincial and local reflections on issues affecting local government, in order to improve the lives of South Africans through accelerated service delivery and proper management of resources including sound financial management.

This year's programme was held under the theme: "*Ensuring Capable and Financially Sound Municipalities*". Given this overarching theme, the LGW programme provided a platform to enable the three spheres of government to plan together towards ensuring capable and financially sound municipalities as well as assisting the local sphere of government in improving governance and service delivery. Leaders from the NCOP, SALGA, and National Government presented various topical policy issues covering local government, governance, political, financial and economic governance.

The 2020 Local Government Week had a unique character in that it took place in the context of the COVID-19 pandemic, which has exacerbated living conditions of the communities and further exposed the current local government system from an institutional, leadership and financing perspective. The COVID-19 pandemic also necessitated an online event, bringing opportunities for new ways of information sharing and networking. It is certain that these innovations will not only benefit this year's event but in-person Local Government Weeks in the future. This report provides detailed key issues raised from various sessions and panel discussions and specific recommendations going forward.

## SESSION ONE

This session was led by the Chairperson of the NCOP, Hon A Masondo and featured inputs from the Minister of COGTA, Hon N Dlamini Zuma, the President of SALSA, Ms N Nkadimeng, the Deputy Minister of Finance, Dr D Masondo and the Auditor-General of South Africa, Mr TK Makwetu.

### 2. Introductory remarks by Chairperson of the NCOP

In his opening remarks, Mr A Masondo reflected on the need to build a coherent oversight plan to secure capable and financially sound municipalities. Both national and provincial governments have a constitutional role to play via legislative and other measures, to support and strengthen the capacity of municipalities to manage their own affairs, to exercise their powers and to perform their functions.

Through the provisions of the Constitution, local government is at the coalface of service delivery. The constitutional mandate of the NCOP is to ensure that provincial interests are taken into account in the national sphere of government. The NCOP has further, through organized local government, created a platform that provides for the participation of representatives of local government in council proceedings.

Over the years the NCOP Local Government Week programme was utilized to explore ways to support municipalities in order to accelerate service delivery and addressing challenges through effective cooperative governance.

Against the backdrop of constitutional mandates to support local government and the Auditor-General report on local governance, the focus should not be on how to galvanize actions of national and provincial government to support and build capable and financially sound municipalities.

The NCOP stands at the centre to ensure the effective implementation of inter-governmental relations and cooperative governance. The NCOP needs to consider mechanisms on how to conduct coherent oversight in order to better conditions of municipalities. The current

legislative framework must be reviewed to identify gaps which are hampering service deliver. Capacity building at local government level must be improved.

The oversight and accountability functions of the NCOP must be strengthened to ensure the realization of governments' strategic objectives.

### 3. Key issues raised by the Minister of Cooperative Governance and Traditional Affairs

Minister N Dlamini-Zuma delivered the keynote address focusing on the challenges and opportunities of local government in advancing the fundamental tenets of a developmental state. She reflected on the following challenges besetting the local sphere of government:

- The Local Government Week takes place in the context of COVID-19 pandemic, which has exacerbated living conditions of the communities in relation to high rate of unemployed, high levels of poverty, racism and landlessness. This has influenced revenue collection of municipalities due to high rate of unemployment.
- There is toxic working relationship between the administration and politicians, and this has strained provision of services by municipalities.
- There is political fighting within some municipalities, which affects service delivery.
- Some local government members have lost moral compass and resorted to corruption.
- Crucial vacancies are not filled for example CFO and MM. Sometimes these posts are filled after a long period of time.
- In some municipalities incompetent individuals, friends or relatives fill crucial posts.
- Some municipalities are plagued by financial mismanagement as outlined by AG, e.g. wasteful expenditure, irregular expenditure, incorrect financial statement, non-compliance with important legislation, poor maintenance of infrastructure.
- All these challenges contribute to poor administration and service deliver which led to dissatisfaction of local people.
- In some municipalities, there is no proper revenue collection and thus municipalities become financially unviable.
- Sometimes these challenges are resolved by merging municipalities and this lead to poor administration and both municipalities being financially unviable.
- Some municipalities rely on equitable share without generating their own revenue. This reliance has increased drastically in number of municipalities.

- With emergence of the Covid 19 pandemic, a number of municipalities are struggling to generate revenue due to unemployment and number of people have become indigent.
- There is evidence of poor management of labour relations in municipalities.
- The lack of coordination amongst three spheres of government is a contributing factor to the challenges faced by municipalities.

Whilst there are many challenges, there are key opportunities to turn things around in the local sphere of government. These opportunities include the following:

- There is a need to address coordination amongst the three spheres in order for government to work together as one. Government has decided to address this intergovernmental relations and coordination challenges through the introduction of the District Development Model (DDM). In this regard, people are encouraged to generate their own wealth/ create economic opportunities within their own municipalities. This will limit migration of people from one province to the other.
- Through the DDM government seeks to ensure that Intergovernmental Relations Act is implemented effectively.
- The DDM is a framework for coordination and aligning developmental priorities within the 3 spheres of government.
- The DDM ensures that there is sustainable development of municipalities and working together to eradicate poverty and address the issue of landlessness.
- The DDM brings all spheres of government to the district to unlock the economic opportunities, which exists and employs long term planning which is 25 years.
- The Model requires developmental state to promote industrial upgrading, structural transformation and economic opportunities. All this require strong and ethical political leadership, adequate administration and technical capacity.
- The President has appointed Ministers and Deputy Minister to the district to be champions of the model. Provinces have appointed MECs to be the champions in the district.
- The investments at the district level will require management capacity. Owing to lack of skills in municipalities, through the DDM government has introduced shared service model which brings capabilities at district level.
- The NCOP was encouraged to visit districts and propose ideas to contribute towards the DDM through its oversight responsibilities.
- In implementing the model, spatial planning of municipalities should be considered.

#### 4. Key issues raised by the President of SALGA

Councillor T Nkadimeng, the President of SALGA, addressed the need to build a coherent approach to address the interlinked and interdependent challenges facing local government in South Africa.

In her address the President of SALGA, Cllr Ms T Nkadimeng reminded the delegates that the primary aim of the Local Government Week, when it was launched in 2013 was to create a learning platform to share innovative good practices, offer short-to long term policy and legislative solutions to address local government issues. Further, to assess the level of support provided by national and provincial government to ensure that local government realised the Constitutional obligations, and if required to review legislation and policies that act as a hindrance for local government functioning.

The presentation emphasised that the three spheres of government need to work in a systematic and coherent manner to improve planning and allocation of resources to enhance service delivery. Despite challenges faced by the local government, this sphere of government has managed to record significant strides to improve the lives of the people. Recent reports by institutions such as Stats-SA revealed that service provision by many local municipalities has been progressively expanded. Although it is recognised that a lot needs to be done to address poverty and inequality.

The input highlighted the need to observe and reflect on the functions and powers assigned to the local government. Further, the inter-governmental financing framework needs to be reviewed to address the ever changing needs of the local government. The Covid-19 pandemic has exposed the lack of resilience of local government systems including its financing (vertical allocation of finances from the fiscus). Despite interventions undertaken to address local government structural constraints such as *Municipal Support Program, Project Viability; Project Consolidate, Local Government Turn Around Strategy, Siyenza Manje and the current Back to Basics* not much has materially changed the overall performance of local government.

Poor political governance, and overall financial and economic governance remains a challenge. Political interference in administration has resulted into poor governance outcomes,



an issue emphasised many previous Auditor-General Outcomes with regard to local government performance. There is a need to address the challenges faced by local government such as institutional, political and financial weaknesses in a more holistic manner.

Recent past local government elections have posed serious leadership challenges. Many long serving councillors were replaced by ill-prepared councillor's to occupy local government leadership. This has eroded strong institutional capacity. Presented huge governance risks. This pattern has caused many local councils to spend needed resources to address service delivery in building capacity and capability of local councils. This pose a need for political parties to reform their deployment mechanism.

The Auditor-General outcomes have highlighted poor oversight function at local government. In many instances Councils are not able to provide effective oversight over the executive. Whilst at the same time, the municipal executive is not providing oversight over the administration. There is a need to improve the capacity, and functional capability of the MPACs to be lifted at a level of SCOPA. This is the area where the amendment of the Municipal Structures Act, currently under consideration by Parliament, could possibly reframe the role of the MPACs. Consequence management remains a challenge. It is proposed that it should be implemented local government-wide, not just focusing on individual violations.

Emphasis was placed on inequities between local municipalities. Small, rural and poor local municipalities are unable to recruit the best talent due to the inability to meet the expectations of qualified and experience candidates. Further, small, rural and poor local municipalities experience high vacancy rates at senior management level. This hinders the municipality to deliver much needed services, particularly infrastructure spending. Political interference in recruitment processes was a further concern highlighted.

Any reforms to be implemented need to be funded. In many past instances municipal reforms were not properly funded. As a result, the intended outcomes could not be realised. There is a need to pay attention to the objectives of the White Paper on Local Government which reiterates the importance of the functional role of local government. In addition, there is a need to review the current local government system to meet the current global development policy issues.

The current economic conditions have shown a need to review the current intergovernmental financing model. Service delivery demands driven by changing demographics have put

pressure on infrastructure of local municipalities. The current equitable share formula needs to be reviewed.

Debt and revenue management remains a priority. To address the debt and revenue challenges, it was proposed to amend the Tax Administration Act to enable local municipalities to recover owed funds from the tax turns due to tax-payers owing municipalities. Further, to amend schedule 2 section 10 of the Municipal System Act to extend coverage to all state employees and elected and appointed representatives in other spheres. Also to establish a District Revenue Collection Agency, and to amend Procurement Regulations to make it a requirement for any potential service provider to furnish Municipal Services Rates compliance certificate in the procurement process. In addition, there is a need to resolve the constitutional issue relating to *Electricity Reticulation*.

Current debate both globally and domestically, has emphasised the important role of local government in meeting developmental challenges. The necessary reforms are needed to strategically place local government at the centre of development policy efforts such as the District Development Model approach. The Technical Report developed by the Financial and Fiscal Commission, has emphasised that local municipalities bear the costs of implementing unfunded mandates. This issue needs to be addressed as part of the broader reform initiative.

## 5. Key issues raised by the Deputy Minister of Finance

The Minister of Finance, Mr T Mboweni, was represented by the Deputy Minister of Finance, Dr D Masondo. In addressing key Interventions to change the current state of local government to build capable and financially sound municipalities, the following key aspects required attention.

The Deputy Minister emphasised that the COVID-19 pandemic exacerbated the deteriorating South African economy. The crisis occurred at the time that South Africa's sovereign credit rating was downgraded to junk status by Moody's. The pandemic revealed the pivotal role that the local government plays in responding to crises and that most of the municipalities lack the financial capacity and the capability to do so.

The Deputy Minister categorised the challenges at local government level as:

- Administrative,
- Structural,

- Interventions, and
- Political and People.

### **Administrative challenges**

These include poor leadership and management which lead to overspending of municipal budgets, under-collection of revenue, default on payments to suppliers, poor management of capital assets, prioritisation of non-essential spending and making decisions that are inconsistent with the Constitution, the MFMA and even common sense at times.

Some of the **interventions** to deal with administrative issues include

- A continuation of capacity building and support through an extension of the Municipal Finance Improvement Programme.
- Assisting municipalities in ensuring that their budgets are funded. Ensuring that municipalities implement credit control practices.
- Implementation of a strategy by Team Finance, to address Municipal Performance Failures from 2020/21. The strategy is centred on the clarification of institutional arrangements and the identification of strategic focus areas in the form of 6 game changers (namely; funded budgets, revenue management, Municipal Standard Chart of Accounts (*mSCOA*), asset management, audit outcomes, supply chain management).
- Beefing up capacity in the National Treasury to create a stronger Municipal Finance Recovery Service Unit, which will be responsible for the development of financial recovery plans where municipalities are in a financial crisis.

### **Structural challenges**

These include a chronically high unemployment rate; inability of the many of South Africans to pay for basic municipal services, poverty and inequality. Several changes in the economy have had an impact on municipalities and their ability to generate revenues, typically in those towns that were heavily reliant on mines or a few large businesses for their survival.

### **Interventions**

- National Treasury has committed to undertake a review of the local government fiscal system over the medium term.
- In the short term National Treasury would be assist the municipalities in better aligning the available revenues and expenditure.

### **Political and People Challenges**

These include lack of consequence management. The politicians' perceived inertia to deal with corruption in the past has created a precedent in the system. Failure to fix the problem now will have catastrophic implications for the local government sector shortly.

In many municipalities, the boundaries between political oversight and municipal administration have completely broken down. Politicians are becoming increasingly involved in the administrative affairs of the municipality – particularly around the awarding of tenders and contracts.

## Interventions

**Political challenges require political intervention:** The difficulty in addressing political interference is that it does not fall within the realm of administrative action. Also, political interference cannot be measured like overspending on a budget and usually depends on a whistle-blower to bring corruption to the fore.

## 6. Summary of key issues raised

The key issues raised in this session include the following:

- 6.1 There is a need to effectively use co-operative governance instruments to enhance political, financial and economic governance at local government level.
- 6.2 The amalgamation and restructuring of local government have not achieved its intended purpose, as shown in the audit outcomes.
- 6.3 The *District Development Model* approach highlights the need to place local government at the centre of *regional local government integrated economic development*.
- 6.4 Spatial planning should be taken into account in the development of economic development programmes.
- 6.5 Industrial development strategies should be informed by both the comparative and competitive advantages presented by a particular region-local economy.
- 6.6 All 3 spheres of government should work in a systematic and coherent manner to address capacity constraints at a local government level. Critical skills such as finance, engineering, town planning remain a challenge.
- 6.7 Inequities between small, rural and poor local municipalities with high growth municipalities should be addressed.
- 6.8 Further, development funding is needed to address economic development needs of small, rural and poor municipalities. In addition, low growth local governments compete with high growth local governments for the same skills sets in the labour market. The

former has minimal resources to recruit competent individuals. Further, small, rural and poor local municipalities are viewed to be corrupt and consultant driven, with high level of political interference.

- 6.9 There is a need to revisit the debate to form a single public services.
- 6.10 There is a need to reform intergovernmental financing to enhance the capacity and capability of local government to provided needed services.
- 6.11 Under spending of Municipal Infrastructure Grant (MIG) particular in small, rural and poor municipalities is linked to the lack of critical skills such finance and engineering. Further, in many instances municipalities use infrastructure grant to cover operation requirements.
- 6.12 Inadequate municipal infrastructure has negative consequences for the delivery of basic services, economic growth and development. MIG does not adequately cater development needs.
- 6.13 Debt and revenue management strategies should take into account local economic conditions. There is a need to deepen private sector to play an essential role in the regional-local economies. Priority is to create jobs, and gear-up growth of the economy.
- 6.14 Viability or sustainability of municipalities is intricately linked to the economic base and activities.
- 6.15 Revenue generation strategies for municipalities should be considered within the broader local government reform agenda.
- 6.16 Part of poor financial and economic governance issues that affect the performance of local municipalities is inadequate funding, and financing instruments that cause municipalities not to be able to invest in maintaining assets, and create new resilient assets to stimulate economic development, and address social development requirements. This is expressed at the level of leakage of water and electricity at municipal level. Some of the issues relating to Eskom debt owed by municipalities could be addressed if the current structural problems relating to intergovernmental financing are addressed. Further, other spheres of government and including SOEs pay their municipal bills.
- 6.17 Equitable share formula need to be reviewed to accommodate development investment programme-infrastructure financing and funding, and further to leverage local government balance sheet to crowd-in private sector investment.

- 6.18 Current local government system need to be reviewed to respond to new economic and social developments.
- 6.19 Financial and economic governance at local government level need to be addressed. Reforms to take into account capacity requirements of local municipalities, and appropriate strategies should be developed in accordance with the realities of local government.
- 6.20 Oversight at a local government level need to be enhanced, governance structures to oversee public accounts, and overall governance of municipalities should be established.
- 6.21 Consequence management should focus on wide local government level beyond individual level to tackle poor institutional inefficiencies.
- 6.22 It is envisaged that the current legislation review process under consideration in Parliament in relation to the amendment of the Municipal Structures Act would strengthen governance, and oversight function at local government level. Specific reference made by comparing the functional role of SCOPA and MPACs, the former regarded a much effective compared to MPACs.
- 6.23 Emphasis was made to de-politicise the public service at municipal level, and eliminate political interference in the administration of the councils.
- 6.24 Covid-19 pandemic exposed the current local government system both from institutional, leadership and financing not being resilient.
- 6.25 State of municipalities need partnership approach amongst all spheres of government. Including regulatory bodies such as National Energy Regulator of South Africa (NERSA).

## 7. Recommendations

- 7.1 Coordination, and alignment of development plans amongst the 3 spheres of government should be promoted. Further, development planning should take into account spatial economic and social planning considerations.
- 7.2 The re-imagined districts' industrial strategy and action plans should be framed with the Districts Development Model.
- 7.3 The 3 spheres of government should work in a systematic and coherent manner to address capacity constraints at a local government level.

- 7.4 Local government should continue to build closer relationship with the private sector including financial institutions to finance and fund local economic development.
- 7.5 State Owned Enterprises should also align their investment initiatives with local government development plans.
- 7.6 Further, there is a need to resolve the Constitutional issue relating to Electricity Reticulation between Eskom and municipalities.
- 7.7 State of municipalities need partnership approach amongst all spheres of government. Including regulatory bodies such as National Energy Regulator of South Africa (NERSA) to create an enabling environment for municipalities to maximize their revenue generation to support economic social development initiatives.
- 7.8 Alignment of plans and objectives of the public and private sectors should be enhanced.
- 7.9 Government should use the government wide balance sheet to leverage private sector investments. Hence alignment of plans between government and business is essential. This would require changes in terms of regulatory regime to encourage investments to drive economic growth, and creation of jobs.
- 7.10 There should be a clear separation between the political representatives and officials in a municipality. This should be supported by a proper training of councilors and officials in relation to their roles.
- 7.11 The National Treasury, provincial and national departments specific Cogta should monitor, measure, and improve management and operational capabilities of local government in key areas such as planning, financial management and governance.
- 7.12 Debt and revenue management remains a priority. To address the debt and revenue challenges, it was proposed by SALGA that Tax Administration Act be amended to enable local municipalities to recover owed funds from the tax returns due to tax-payers owing municipalities.
- 7.13 Further, to amend schedule 2 section 10 of the Municipal System Act to extend coverage to all state employees and elected and appointed representatives in other spheres. Also to establish a District Revenue Collection Agency, and to amend Procurement Regulations to make it a requirement for any potential service provider to furnish Municipal Services Rates compliance certificate in the procurement process.
- 7.14 Emphasis was put to address the current debt owed by local municipalities to Eskom. A sustainable solution was needed to address the issue to avert social unrest. Local municipalities are committed to play their part to resolve the impulse. Current health and economic crisis has deepened the challenges of local municipalities to repay Eskom debt, while interest continue to accumulate. Many local municipalities are faced with severe socio-economic issues.



- 7.15 There is a need to build a strong independent body to oversee executive and administrative action within the municipalities, this is to ensure ability to take appropriate action against poor governance and maladministration.
- 7.16 The Technical Report developed by the Financial and Fiscal Commission, has emphasised that local municipalities bear the costs of implementing unfunded mandates.
- 7.17 Any reforms to be implemented at local government level need to be funded. In the past needed reforms well not properly funded. As a result, could not realise intended outcomes. Further, there is a need to pay attention to the objectives of the White Paper on Local Government. Reiterated the important of functional role of local government. Resource allocation should follow the function.
- 7.18 Further, there is a need to review the current local government system to meet the current global development policy issues.
- 7.19 The current economic conditions have shown a need to review the current intergovernmental financing. Service delivery demands driven by changing demographics have put pressure on infrastructure of local municipalities. The current equitable share formula need to be reviewed.
- 7.20** The NCOP needs to enhance the existing Resolution Tracking Mechanism to monitor the implementation of the decisions taken at the LGW.

## **SESSION TWO: Key Interventions to improve Local Government Audit Outcomes**

### **8. Key issues raised**

- The current challenges with the implementation of section 139 of the Constitution are noted. A serious paradigm shifts and dedication is required with regards to the implementation of section 154 of the Constitution. The Department of Cooperative Governance and Traditional Affairs (COGTA) and National Treasury should opt for an integrated planning and the monitoring in providing support to municipalities. This would ensure that project plans are correct and in compliance with the required legislative requirements.
- The retention of skills within municipalities is needed. A concern that permanent staff are employed in some municipalities and consultants are still used was raised.
- Further, a call for a disciplined project planning at all project planning stages is required.

- A request for the strengthening of communication between the offices of the Executive Mayors and the offices with the Auditor-General was made.

## **SESSION TWO CONTINUED: Application of section 139 of the Constitution and the implementation of the District Development Model**

- A concern on how the national Department of CoGTA is going to aid municipalities that don't perform their legislative function in terms of section 154 of the Constitution was raised.
- The ineffectiveness of section 139 of the Constitution was highlighted. One of the serious concern highlighted was that, Administrators aren't submitting regular performance reports, in respect of their terms of reference.
- Strengthening of existing legislation in order to regulate municipal spending, good governance and ensuring that municipalities are financially viable in future was critical.
- A concern on the lessons learnt from the implementation of the Urban Rural Development Programme was raised.

### **Recommendations**

- The use of junior auditors to perform auditing functions within municipalities should be discouraged.
- Communication with the office of the Auditor-General and municipal mayors is highly welcomed and currently being implemented, and should be enhanced.
- The implementation of the Public Audit Act has been piloted and the application of which has been expanded upon during this financial year. Proposed amendments to the Act will allow for further in-depth scrutiny of financial documents of municipalities. This in turn will allow for the binding remedial action to be taken by the Auditing Officer. Further, all material irregularities identified with regards to spending will be included in the audit reports.
- There is a need for a monitoring and implementation of section 139 interventions. Support and intervention mechanisms need to be proactive rather than being reactive.
- The District Development Model should take cognisance of the logical level of finances in order to integrate planning at district levels.
- The Minister may/can promulgate regulations to institutionalize intergovernmental relations, however, there is a need for legislation developed to be attentive to the challenges experienced at municipal levels.
- In respect to support municipalities in realising their developmental objectives, section 154 of the Constitution should be used as an early warning and detection mechanism.

- A call for a stronger stance to be taken against municipalities failing to generate their own revenue and failing to perform in terms of legislative requirements was made. Recovery of funds from corrupt individuals is urgently needed.
- There is a crucial need for planning and monitoring at all stages of municipal projects and programmes. Planning could unveil crucial elements e.g. skills, resources, funds, material, location etc., that would be required in order to successfully implement projects and programmes.
- There is a need to improve the funding model of local government in order to assist fiscal poor municipalities to realise their developmental objectives.

## SESSION THREE: PROVINCIAL FOCUS

This sessions focused on plans to improve service delivery, financial management and to develop capacity in the local sphere of government, especially in municipalities under Section 139 (with repetitive disclaimed audit opinions).

### 9. Eastern Cape

#### **Key issues raised:**

- The province experiences challenges relating to factionalisation of both the administration and the political leaderships within municipalities.
- Out of the province's 39 municipalities, only the Senqu Local Municipality received a clean audit and eight municipalities received a disclaimer.
- The province was hardest hit by a historical debt to Eskom which they are unable to pay, municipalities reported further debt in respect of areas such as Pension Funds, AGSA, Water Boards and SARS.
- Some municipalities are inherently dysfunctional as they are unable to generate sufficient own revenue and therefore there needs to be a balance between Equitable Share funding and realistic expectations of own revenue generated by municipalities.

### 10. Free State

#### **Key concerns raised by the province:**

- There was reportedly a total collapse of prudent financial control systems in Free State municipalities and both political and administrative leadership failed to implement measures to improve oversight, accountability and remedial actions to improve financial and performance management.

- Municipalities further face severe liquidity challenges as they fail to address billing and the collection of outstanding amounts related to service charges.
- Furthermore, the annual cost of employment exceeds the Equitable Share allocation. Municipalities fell into arrears with financial obligations to bulk service providers such as Eskom and Water Boards.
- Large distribution losses related to theft, illegal connections, and the inability to regulate the consumption of indigent residents.
- Collapsing service delivery and infrastructure added to the losses experienced by municipalities.
- Supply chain practices applied by municipalities resulted in year on year escalations on irregular expenditure, which is not investigated, created a fertile environment for maladministration, fraud and corruption. The absence of consequence management has been a further cause for concern.
- Amongst the municipalities placed under Section 139, the Free State Provincial Executive Council placed the Mangaung Metropolitan and Metsimaholo Local Municipalities under interventions.

It was noted that Municipal Public Accounts Committees highlighted the following challenges which impacts negatively on their effectiveness, namely:

- No adequate budget allocation, limited resources and support staff;
- Lack of training provided to the broader Council;
- The guidelines for MPAC not legislated;
- Political interference;
- Lack of commitment amongst MPAC Members; and
- Poor cooperation of officials in terms of logistics.

In respect of Mangaung, key factors which contributed towards this intervention include the inability by the Municipality to meet its operational revenue target by R381 million, irregularities relating to Supply Chain Management procurement processes amongst others; infrastructure, service delivery, housing backlog as well as water and sanitation service delivery challenges.

## 11. Gauteng

### **Key concerns raised by the province include:**

- Challenges at the Tshwane municipality had resulted in it being dissolved, with court action ongoing as a result. The Province is awaiting Constitutional court clarity on the

matter, but team of administrators is busy trying to stabilise the municipal administration. The MEC was confident that when normal administration of the municipality resume, between R1.3 billion – R1.5 billion in reserves will be available for the administration.

- Rand West municipality was also facing serious difficulty, and requested Section 135 intervention from the Province. A team is currently looking at the finances of the municipality in order to assess what assistance can be given or interventions made. The municipality is affected by many large mining houses that owe a lot of money.
- In terms of COVID 19 pandemic impact, the MEC stated that a loss of R 8.9 billion was incurred as a result so far.

## 12. KwaZulu-Natal

### **Key concerns raised by the province:**

There are currently 9 municipalities under Section 139 of the Constitution, namely UMzinyathi and UThukela District Municipality and, uMsunduzi, uMpofana, Richmond, Inkosi Langalibalele, uMtubatuba, Abaqulusi and Emadlangeni Local Municipality.

- In April 2020 the Provincial Executive Council resolved to assume further powers across 8 interventions;
- The Disciplinary Regulations for Senior Managers, 2010;
- The Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings, 2014;
- The Disciplinary Procedures contemplated in Section 67 of the Municipal Systems Act, and
- The implementation of findings from any investigations into fraud or maladministration or corruption;
- Including the implementation of findings and recommendations in respect of unauthorised and irregular expenditure.
- Fruitless and Wasteful (UIFW) expenditure as contemplated in section 32 of the Municipal Finance Management Act, 2003.

A detailed summary of findings and indicators were supplied per municipality. Information supplied indicate that three of the municipalities under intervention had unfunded budgets for the 20/21 financial year, and that a significant amount of municipalities in question had vacancies of critical senior management positions, including municipal manager and senior financial administration.

The province cited governance challenges, political instability and structures outside the Council having an influence on the appointment process as causes for delays in filling critical vacant posts.

Consequence management was being applied well in some municipalities, and was not always the reason for intervention. There were, however challenges with consequence management in a number of municipalities, and as at September 2020, there are five Senior Management Disciplinary Cases in four Municipalities.

Functionality of municipal structures at municipalities under intervention were mixed. In terms of Council structures, Executive committees and Trioka, structures at five to six of the eight municipalities in question were functional.

In terms of MPAC, however, only two municipalities under intervention had a functional structure. Four of the municipalities had significant debt with ESKOM, but two of these had resumed payment after developing a payment plan.

The Provincial Government, particularly Cooperative Governance and Traditional Affairs and the Provincial Treasury are working together to support the municipalities owing Eskom. However, the current Covid 19 situation is likely to make matters worse for municipalities as more consumers will be unable to pay for services.

In terms of investigations and interventions at the municipalities in question related to UIFW, much of the expenditure has been or is still under investigation, with reasons ranging from interest on debt, breaches of SCM and lack of consequence management cited as causes.

External consultants were frequently employed to investigate transactions, and although the provincial structures did not always agree with processes followed and reports generated, it was recommended that some of the expenditure be written off, while other cases have resulted in forensic audits or the implementation of consequence management.

The Forensic Business Unit of KZN COGTA has developed a monitoring tool whereby Section 106 Forensic Reports as well as other investigation reports are monitored on a monthly basis.

Ministerial Representatives have been tasked to ensure reports are tabled at Council meetings for firm resolutions to be taken on consequence management emanating from forensic reports. They will then ensure relevant processes are put in place to ensure compliance with the recommendations contained in forensic reports.

The Provincial Command Council and the Provincial Executive Council directed all clusters to prepare post lockdown recovery and mitigation plans, directed at ensuring that the impact of Covid 19 on service delivery, policy, oversight and implementation of government

programmes is mitigated in the short, medium and long term. All intervention municipalities have approved post lockdown recovery plans except Abaqulusi Municipality.

### 13. Limpopo

#### **Key concerns raised:**

Of the 27 municipalities in the Limpopo Province, the Province Executive Council resolved to invoke Section 139 interventions in four municipalities.

Challenges identified within these municipalities included:

- High vacancy rate of senior management positions, insufficient capacity in finance and supply chain management units contributes towards unauthorized, fruitless and wasteful expenditure. Additionally, poor value for money during procurement results in poor service;
- Poor financial management and inability to honour financial obligations;
- Poor expenditure in Municipal Infrastructure Grant and other capital grants;
- Instability of Council and poor governance; and
- Poor audit outcomes and leadership instability that badly affected the performance of the municipality amongst others.

Whilst municipalities have prioritized roads and water in their allocations over the past four financial years, solid waste has received very minimal allocation. Despite the sizeable water and road allocations the province continues to be plagued by community protests for water and roads.

There is a decline in water accessibility (from 85% in 2011 to 74.1% in 2018). Municipalities struggle with insufficient budget for repairs and maintenance leading to poor and unreliable service provision, and subsequently, community protests and loss of investments. Whilst capital is provided for new infrastructure, there is no provision for repairs and maintenance of this infrastructure.

Faced with low revenue base and plus poor collection, most municipalities have insufficient resources for repairs and maintenance resulting in the shortened lifespan of infrastructure leading to backlogs and unreliable services.

In terms of access to basic services, the General Household Survey and Census results report overall unsatisfactory performance and decline in water and electricity access with negligible increase in sanitation and refuse removal.

Whilst there has been overall improvement in access to basic services, the challenges which persist include the inability to spend total allocation for infrastructure grants, insufficient budget for maintenance and repairs and misaligned infrastructure.

Few municipalities have consistently spent 100% of their allocations since the 2016/17 administration. This results in loss of conditional grants and subsequent delays in implementing key infrastructure projects.

For the current term of local government, of the 26 municipalities within the Limpopo province receiving Municipal Infrastructure Grants only two have consistently spent 100% for four years in succession.

The collection rates for rates and services is too low to ensure a healthy cash flow to municipalities.

The non-implementation of Memorandum of Understanding between Water Service Authorities and local municipalities remains a challenge. Local Economic Development is not prioritised by some municipalities within the province.

Further challenges include weak consequence management and the non-functioning of MPAC to stem unauthorised, irregular and wasteful expenditure resulting in inadequate investigations, write offs.

Insufficient intergovernmental collaboration especially in the water value chain has resulted in investments in reticulation without the necessary bulk provision of water resources. This results in community frustrations and protests where communities have pipes but no access to water. Further poor planning and delivery chains between the Department of Human Settlements, Water and Sanitation and Water Service Authorities require immediate attention.

## 14. Mpumalanga

### **Key concerns raised by the province:**

The Mpumalanga province has 17 local and three district municipalities experiencing challenges contrary to Local Government objectives as set out in Section 152(2) of the Constitution which range from:

- Non provision of democratic and accountable Government for local communities;
- Erratic provision of basic services to communities in a sustainable manner;
- Inadequate promotion of social and economic development;
- Inadequate promotion of safe and healthy environment;



- Lack of encouragement or involvement of communities and community organisations in the matters of local government and
- Insufficient sound and sustainable financial management.

The AGSA raised 1593 audit findings during the 2017/18 audit. Of the audit findings against municipalities, a large number was related to misstatements of Annual Financial Statements which is the highest concern raised by AGSA. This challenge relates to the capacity of the CFOs and Finance Officials responsible for the preparation of financial statements within the Municipalities. The second largest number of findings were related to internal control deficiencies. All municipalities have been affected by this finding, and is directly related to a lack of insufficient consequence management within the municipalities. Non Compliance with laws and regulations was the third largest concern of the AG, especially within Supply Chain Management. This can also be attributed to a lack of consequence management within municipalities. The fourth largest category of finding was Misstatements within the Annual Report, and can be linked to deficiencies in the capacity of the Planning Units and inadequate oversight and Leadership within municipalities.

## 15. Northern Cape

### **Key concerns raised by the Province:**

- Two municipalities of the province's 31 municipalities were placed under Section 139 (1)(c) administration, namely Phokwane Local Municipality and Renosterburg Local Municipality.
- Within the Phokwane Local Municipality, the basis of the intervention was as a result of governance, administrative and financial challenges which resulted in the Municipal Council failing to fulfil its executive and financial obligations and meet its financial commitments.
- As a result of the intervention, the Provincial Executive Council assumed the functions relating to recruitment of senior manager and organisation of the administration; provision of water in the municipal area in terms of the Water Act and diligent financial accountability and compliance of financial affairs.
- Interventions to address challenges include the restructuring of the organogram and staff establishment to ensure that it is fit for purpose, designing job descriptions for task outcomes and the filling of critical posts.
- The ageing and lack of maintenance of infrastructure as well as the lack of competent staff resulted in water and sanitation infrastructure being in a state of near collapse.

- The Water and Sanitation as well as Electrification Master Plans are absent.
- The municipality requires R38 million capital funding to improve service delivery.
- Challenges relating to poor internal control, cost reflected tariffs and low revenue collection are being addressed through improvement plans such as audit action plan, risk based internal audit plan and tariff restructuring plan.

## 16. North West

### **Key concerns raised by the province:**

Of the 24 municipalities within the North West province, four have been placed under Section 139 interventions. A number of stubborn service delivery, financial management and governance problems remain consistently at the forefront of government's developmental challenges. These challenges relate to the following:

- Poor communication and accountability relationships with communities;
- Problems with the political administrative interface;
- Corruption and fraud;
- Poor financial management, e.g. negative audit opinions;
- Number of (violent) service delivery protests;
- Weak civil society formations;
- Intra - and inter-political party issues negatively affecting governance and delivery; and
- Insufficient municipal capacity due to lack of scarce skills.

The poor financial health of many municipalities across the province remains a concern as it impacts on service delivery backlogs related to housing, water and sanitation. There has been a number of violent service delivery protests as a result of the collapse of service delivery, non-sufficient and interrupted water supply and lack of maintenance of water services infrastructure.

Further, factors include governance and administrative instability resulting in a number of municipalities receiving qualified financial statements. Of the four municipalities placed under administration, the Ramotshere Moiloa Local Municipality suffered a total collapse of service delivery. There was poor management of conditional grants. In respect of leadership, the Mayor has been removed and the Municipal Manager suspended. It was found that key positions such as that of Acting Municipal Manager and Acting Chief Financial Officer were filled by junior officials without the requisite skills. As a result of the instability in political leadership there was poor political oversight. These factors resulted in the North West

Provincial Treasury withholding the Equitable Share funding from the municipality. The advent of COVID-19 placed the municipality under further strain resulting in a decrease in the collection rate from 78% to 34% after the month of April 2020.

## 17. Western Cape

### **Key issues raised by the province:**

- 17.1 The MEC highlighted findings of the Auditor General, which included: Financial Statement qualification areas, findings on pre-determined objectives, findings on non-compliance, findings on specific risk areas, and unauthorized, irregular expenditure.
- 17.2 Following the issuing of the final audit report by the AG, every municipality prepares an Audit Action Plan, which has to be adopted by the Audit Committee. Copies are provided to the DLG and the provincial Treasury.
- 17.3 Each Plan is tailor made to address the findings of the AG in a given year, detailing the exact finding, root cause for each finding unpacked, recommendations by the AG, where applicable, a responsible official is assigned to address the finding.
- 17.4 Controls are identified to be put in place by management, and a target date is assigned for remedial action.
- 17.5 The DLG and provincial treasury, in turn, identifies specific matters highlighted in these plans where hands on or other support can be rendered. Provincial support packages are then developed according to this.
- 17.6 The Province uses an automated system to track progress made by the municipalities to address these issues.
- 17.7 Slow progress made by municipalities to address these matters is monitored by the Province and addressed directly with slow performing municipalities.
- 17.8 Quarterly reports are submitted to the Provincial Executive to reflect progress per municipality.
- 17.9 The overall health of the Western Cape municipalities was discussed, with the AG flagging 2 Central Karoo municipalities where intervention is required.
- 17.10 The financial health of municipalities was discussed, with debt profiles highlighted.
- 17.11 In the Province, the breakdown of categories indicated that household debt, at R9.055 billion, or 70% of all debt, was by far the largest category of debt the Province had to contend with.
- 17.12 Most municipalities in the province were considered to be in a reasonably good financial position, and although municipalities continue to have sufficient cash flow to fund their

operations, smaller, more rural municipalities continue to experience challenges in this regard.

17.13 The under-spending of capital budgets (including Grants for Capital projects) continue to be a challenge over a number of years, as is total outstanding consumer debtors and the collection thereof.

17.14 Only a limited number of municipalities is not paying creditors within the 30-day period, while credibility of financial information MSCOA continues to present challenges relating to the quality and credibility.

17.15 During COVID 19 lockdown, all municipal operations with the exception of basic services slowed down, negatively impacting on the region's economy. Municipal revenue decreased as a result of a 40 – 60% reduction in debtor payment by consumers. The construction Industry came to a complete halt, impacting on capital projects that already commenced.

## SESSION FOUR – DELIBERATIONS

The following are key provincial specific issues raised per province:

### 18. Eastern Cape

- A question was asked whether there were mechanisms to ensure that the MEC reports back to the Committee once he has met with all municipalities other than reporting back to the Council only.
- Amongst the issues raised was the impact of municipal amalgamation which leads to a highly bloated staff complement and increase the municipal wage exponentially was raised as a concern and whether there were plans in place to address this issue.

### 19 Free State

- Questions were raised about the picture of the AG's report in the Free State province for the past five year (5) and whether certain steps were taken to address these issues.
- There was a need to evaluate whether there was value for money with regards to the section 139 interventions, given the fact that once the intervention has been withdrawn the situation goes back to worse.
- Whether Free State government had put mechanisms in place to monitor its own interventions.
- The fact that some Free State municipalities cannot even print the statement of accounts after the intervention was raised as an issue.

- Whether the internal controls still existed in the Free State municipalities and whether there were reasons for big municipalities like Mangaung to perform poorly and concerns were raised whether the MEC had any plans to address the state of affairs in the Free State municipalities.
- Some of the questions raised included, the need for the National Council of Provinces (NCOP) to enhance its oversight role and ask necessary questions, whether government was getting value for money in the section 139 municipalities or there was regress, a point was made that in some areas municipalities were characterized by unnecessary salary increases and bloated structures or organogram and the need to curb corruption was strongly emphasised.

## 20. Gauteng

- There has been a failure to coordinate local government and its governance structures.
- There is a need for the AG to extend his assurance audit test to the provincial department of cooperative governance and provincial treasuries based on their critical role they are supposed to play in improving municipal performance.
- Whether there was a means test to check the appropriateness of qualifications of official appointed for the section 139 intervention and what was the benchmark.
- A point was made that rural municipalities rely on consultants precisely because of capacity challenges and the fact that they can't attract a highly skilled and experienced workforce.
- Concerns were raised around the issue non-compliance by Mfuleni Municipality, which has not yet published its annual report for the last financial year and the lack of clear responses from the provincial Department of Cooperative Governance.

## 21. KwaZulu-Natal

- Whether there were mechanisms for the provincial Department of Cooperative Governance to follow up on the AG's recommendations.
- Whether the issue of capacity is still a problem after 26 years of democracy or there is a big elephant in the room being political interference and governance challenges, which requires decisive action to deal with it.
- Concerns whether all provinces had presented adequate turnaround strategic plans to improve poor performing municipalities was raised as an issue.
- The lack of peer review mechanisms at a municipal level was also raised as a challenge where municipalities could learn from each other.

- Whether there were mechanisms to define the need for section 139 intervention and adequate support for struggling municipalities.
- Concerns were raised around municipalities who aren't spending 8 per cent of their capital budget on maintenance.

## 22. Mpumalanga

- The question of how many of the 17 municipalities have passed the unfunded budgets was raised across Mpumalanga province.
- Whether there were steps taken with regards to addressing the situation in the Govan Mbeki Municipality.
- Whether there were plans by the province to address the issues around monies owed to Eskom, given the impact of the current load shedding, particularly in Steve Tshwete District Municipality and whether there were plans to assist areas that were situated around the boundary of province that do not receive any services from any municipality.
- The issue of certain communities which are still without basic services in Mpumalanga was also raised as a concerned and the fact that such communities had written to the Premier without getting any responses.
- Amongst the issues raised, Members enquired whether there were plans to realign the appointment of certain section 57 managers which does not correlate with the advertisement and whether there was a specific reason why many municipalities were using consultants when the section 57 managers can do the same job.
- Members also raised concerns with regards the underperforming municipalities and governance issues affecting Mpumalanga municipalities and there were plan in place to address these.

## 23. Northern Cape

- Whether there were plans to improve and manage the poor sewerage system in some parts of the province and the point was made that a number of municipalities were in trouble but seemingly the focus was on the two municipalities.
- When will the investigation reports 106 in some municipalities be dealt with including some employees who are implicated and being suspended with full pay in the Sol – Plaatjie Municipality.
- The highest electricity tariffs at Sol - Plaatjie Municipality was also raised as a concerned and whether the section 72 reports are being properly utilized to enhance municipal performance and finances.

- Amongst the issues raised - whether there were mechanisms in place to test the appropriateness of qualifications of administrators during the intervention, the fact that rural municipalities were unable to attract necessary skills and expertise due to their geographic location, which leads to the utilization of consultants to provide services they do not have,
- There were questions around the section 139, whether this was used as a political tool rather than a pure intervention in the Northern Cape.
- Members made a point that there is a common problem in the Northern Cape, where most municipalities owe Eskom and some of these municipalities deserve to be placed under section 139 and a consistent approach was needed.

#### 24. North West

- What was the exact number of financial investigations conducted in the North West municipalities and whether there has been any arrest thus far?
- Whether there were municipalities which were complying with the consequence management legislations and what were the implications for those which were not complying?
- Whether municipal officials who were being recycled from one municipality to another were vetted accordingly.

#### 25. Western Cape

Amongst the issues raised with regards to the Western Cape municipalities were the following:

- Whether there was a valid reason why the 106 investigation was not initiated in certain municipalities while others were subjected to such investigation and whether there was equal treatment of all municipalities in the Western Cape when it comes to the section 139 intervention including Karoo municipalities and what kind of municipalities deserved to be placed under section 139.
- Whether plans were in place to address the issues around water crisis and Covid – 19 in the Western Cape province.
- Whether there were plans put in place by the National Department of Cooperative Governance to ensure that municipal infrastructure is restored such as water and many other basic services. Some concerns were also raised around the high crime levels in the City of Cape Town being one of the highest on the recent crime statistics.
- Members enquired whether adequate internal audit and audit committees existed in the Western Cape municipalities, given some concerns in the MEC's presentation and whether steps were taken to strengthen these across the province.

## 26. Recommendations

- That the internal audit units should be kept independent from the municipal executive and administration to safeguard their mandate from political and executive interference and this should strengthen the role and impact of such structures.
- That the Department of Cooperative Governance, SALGA and provincial cooperative governance should ensure that there are adequate and proper functional monitoring and evaluation programmes in place in all municipalities to track and enhance municipal performance.
- That the Auditor General should extend his assurance audit test to the provincial department of cooperative governance and provincial treasuries with regards to their mandate to assist and support municipalities.
- That both National Treasury and the Department of Cooperative Governance and Traditional Affairs, provincial treasuries, provincial Cooperative governance including SALGA should intensify efforts to support local government interventions to improve revenue collection and enforce credit control policies.
- There are views suggesting that the 9 percent of the local government equitable share of the nationally raised revenue is not cost reflective and therefore, it is not adequate to fund local government, therefore SALGA together with the National Treasury, the Department of Cooperative Governance and the Financial and Fiscal Commission (FFC) should work together to consider scientific evidence which will help to address this issue for future budgets.
- That the provincial departments of cooperative governance should put mechanisms in place to ensure that municipalities are able to spend 8 per cent of their capital budget on maintenance.
- That Department of Cooperative Governance, provincial departments cooperative governance and National Treasury and provincial treasuries should establish a clear consistent or standardised approach to place municipalities under section 139 and ensure that the process is not used as a political tool.

## **SESSION FIVE: PANEL DISCUSSION - Section 139 Interventions: A Critical Reflection on its Application, Successes and Challenges**

### 27. Key issues raised

- The intervention often comes too late when a municipality is collapsing or has collapsed, whereas in actual fact the intervention should be taken before the municipality reaches a crisis point as a prevention measure.



- The office of the MEC, National Treasury and the NCOP should read municipal reports with the objective of identifying weaknesses and threats to the municipal administration and using such information as early warning signs to make timeous interventions.
- Section 139 of the Constitution need to be read with Section 154 of the same Constitution which stipulate that national and provincial governments, by legislation and other measures, must support and strengthen the capacity of municipalities to manage their own affairs, to exercise their powers and to perform their duties.
- At times, the failure of a municipality to fulfill its executive obligation is triggered by the financial challenges of the municipality which must be taken into account when a Section 139 intervention is undertaken.
- Section 139 interventions have left most municipalities worse than they were before the intervention, a clear indication that something is not right with its implementation.
- The monitoring of the implementation process of Section 139 intervention by the MEC's office, the Department (COGTA) is poor and ineffective resulting to undesired outcomes.
- There's a need to assess whether it is adequate for the Minister (COGTA) to take 28 days to approve or disapprove of the intervention whereas the NCOP is given 128 days?
- Tough decisions need to be taken when intervening in municipalities since at time these interventions are politically motivated.

## 28. Recommendations

- The MEC's office must improve its monitoring systems by the use of quarterly reports submitted by municipalities and use such information as early warning signs for troubled municipalities
- There must be clear terms of reference for the implementation of Section 139 of the Constitution with time frames and deliverables.
- The Department of Cooperative Governance and Traditional Affairs (COGTA) must fast-track the draft Bill designed to provide guidelines for the implementation of Section 139 so as to give clarity on its implementation.
- Proper diagnosis would require that Section 139 is sometimes read together with Section 154 of the Constitution so as to implement the correct remedial action as failure to fulfil an executive obligation sometimes may be triggered by poor financial management in the municipality, a kind of support that should have been given earlier by the national or provincial government.
- The Department (COGTA) and the MEC's office need to work together with the South African Local Government Association (SALGA) regarding the implementation of Section 139 of the Constitution to assist municipalities in crisis.

- There should be regular reports on the progress made in the implementation of Section 139 intervention.

## **SESSION SIX: The State of Financial Management and Governance in Municipalities with Coalition Governments**

### 29 Key themes

- The financial management and governance under the model of Government of Local Unity is essential for a coalition-led government.
- There is a high possibility of underspending infrastructure grants. This is due to endless consultation processes amongst coalition partners. Ultimately, this may lead to returning of conditional grant funds back to National Treasury.
- Prudent financial management is the cornerstone of governance in a coalition-led government. This includes elevating the interest of the electorate above those of the coalition partners.
- There is pressure on Supply Chain Management. There may be an increase in contraventions of Regulation 32 as a preferred procurement method. There is always a temptation of preferring certain service providers above others.
- Like in other councils, in a coalition government there is no need to change the flow of reporting lines.
- Public participation during processing of the Integrated Development Plan (IDP) posed a huge challenge during the COVID-19 pandemic. It was essential to ensure consultation among partners and local stakeholders or communities, to help in passing the budget. Over and above that, there is a need to establish common strategy amongst the coalition partners.
- Compliance with the Constitution, the White Paper on Local Government, other relevant legislative and policy frameworks; separation of powers; governance structures/model and quarterly assessments; are essential in a coalition government. They assist to mitigate the disjuncture between common positions and coalition agreements and/or other informal coalition agreements.
- The Cluster system is essential in a Government of Local Unity. It helps to ensure that responsibilities are not blurred and service delivery is realised.
- Coalition governments present an opportunity to accelerate the work of ring-fencing core set outcomes that municipalities and cities should deliver regardless of which coalition government comes into power.

- There is a need to strengthen the capacity-building and support provided to coalition governments to enable them to execute their responsibilities, especially in areas where there are completely new partners. This will improve financial management and governance in municipalities.
- There is also an opportunity to develop a framework to guide coalition governments to be better aligned to local government mandates. Coalition agreements ideally should not be in contravention of the mandate of local government and must always enhance the attainment thereof.

### 30. Recommendations

- Coalition agreements and priorities should be clear from the onset. Any plan needs room and scope for addressing the requirements of a broader constituency.
- Common policy positions should be defined upfront in a coalition government. For service delivery to be realised, there should be clear non-negotiables when it comes to service delivery programmes; building cohesive communities and a safer city; financial viability and good governance; and fighting corruption.
- The national Department of Cooperative Governance and Traditional Affairs and National Treasury should continue the work of supporting strategic certainty in municipalities; and challenging them to ensure that, whatever type of government is in power, national government outcomes are complied with.
- In a coalition government, there is a need to have an effective Political Management Committee (PMC). The PMC should act as a political management tool of the Government of Local Unity and it should provide guidance and accountability for the political parties.
- Governments of Local Unity should always adopt the cluster approach. For example, the City of Johannesburg has clusters for Economic Growth; Sustainable Service, Human and Social Development; and Good Governance.
- It is recommended that coalition governments should have Group Oversight Committees. These may include committees for Group Performance Audit; Group Audit; Group Risk Governance; and Municipal-owned Entities Oversight.
- It is also recommended that coalition governments should be based on the principle that is uniting coalition partners with shared values to improve the quality of service delivery to the people on the ground.
- Coalition governments should always strive to ensure that reports to the council are processed.
- There should be consultation across and outside the coalition in order to gain consensus on matters that require a majority vote as stipulated in section 160 of the Constitution.

- Coalition governments should strive to be accountable and transparent to the electorate.
- Coalition government councils should guard against adopting decisions made in the interest of coalitions, but with far-reaching financial implications for the future.

## **SESSION SEVEN: PANEL DISCUSSIONS - The Impact of Municipal Boundary Re-determinations on Municipal Governance, service delivery, financial sustainability and effective performance of local government**

### **31. Key issues raised**

- The general discourse is that regular and continuous redeterminations and merging of municipal boundaries lead to substantial instability in municipal governance, administrations and service delivery; that detracts from efficient municipal governance and service delivery.
- The Auditor-General's reports indicate that, after mergers, fruitless, irregular and unauthorised expenditure as a percentage of total expenditure increased in most municipalities.
- Many of these adverse findings can be attributed to the fact that many senior managers in municipalities lack the requisite capacity and skills. Merely amalgamating municipalities without addressing such basic issues of capacity, training and skills base in municipalities will not have significant impact on the improvement of governance after mergers.
- The Board has made substantive legislative amendments and proposals to limit the cycles of continuous redetermination.
- Lack of planning, change management, costing and provision of resources for the transitional processes during mergers have had significant impact on the overall governance and service delivery in municipalities beyond the demarcation process.
- Service delivery is not only a demarcation issue, and there are several factors that impact on it, but it should be acknowledged that the issue does have profound spatial dimensions and is an integral part of a municipal demarcation agenda.
- There are instances where discontent with service delivery in a specific community or area is advanced as a motivation for requests of redeterminations. This is based on the perception that a particular community or area will better be served if they could administratively form part of another municipal area.
- The Board does not deliver services but only demarcates boundaries for specific purposes outlined in its mandate. Poor service delivery, or the lack of services, cannot be addressed by demarcation processes, but by municipal councils and administrations, and interventions by provincial government and other key role players in local government.

- Redetermination of boundaries can influence communities to access local government services. Experience since 2000, has demonstrated that incorporation with richer jurisdictions can lead to a better standard of services while inclusion in poorer jurisdictions often leads to a lower quality of services.
- Demarcation is not the only determinant and intervention to achieve municipal viability and sustainability, but demarcation often becomes a means through which the limited economic bases of merging municipalities can be combined with the intention that there will be overall improvement in the living conditions of people and improvements in the financial sustainability of municipalities in such areas.
- Recent amalgamations revealed that transitional grant funding given to municipalities during these processes are very little and do not cover the long term costs associated with establishment of new municipalities. Key role players should advocate for efforts to raise the revenue levels and particularly the transfers to the municipalities that have lower levels of economic opportunity.
- Internationally, well-implemented and well-managed transitional arrangements are a testimony to improvements in the possibility of post-merger financial sustainability.
- There have been calls for formal due diligence studies to be commissioned before boundary redeterminations are finalised to identify and project the financial situation of the affected municipalities and advise on what steps should be taken to minimise the negative impacts on the financial viability and sustainability. The Board will consider this when future demarcation decisions are made.
- Other factors affecting the financial viability and sustainability of municipalities include the low rate of collection of revenue; the absence of appropriately skilled personnel and their correct placement; widespread instances of rent seeking and corruption amongst public representatives and business, reflecting a broader breakdown in the values and good governance principles; poor institutional capacity including poor budgeting and poor planning; and limited and insufficient financial resources available to deliver on their mandated functions and responsibilities.
- An increasing number of municipalities which are financially distressed, underperforming and struggling to meet their constitutional obligations. This situation has always been attributed to structural factors and hence the temptation to have these municipalities re-demarcated.
- Structural impediments and constraints like size, poor endowments and limited tax base do have an impact on the capabilities of municipalities, and municipal challenges are deep and nuanced.

- There is not sufficient evidence supporting the notion that municipalities are able to improve in performance as a result of mergers, amalgamations or de-establishment and there is no conclusive evidence to suggest that the size of a municipality has been a major problem impeding the performance of local government. Clarity was sought on the terminology used during the presentation. Cross-subsidization was characterized as not being effective, and it was suggested that redistribution of resources should be considered. It was clarified that there is not any real difference in the approach of the two methods, and that the terminology is used to signify slight difference in approach only. The point that need to be stressed that, as was the case with Tshwane municipality, where economically viable municipalities are amalgamated with other non-viable ones, financial shortfalls develop. Tshwane need R1 billion to fund the amalgamation, but received a once-off payment of R20 million. There will be long term financial and operational impact from such underfunding. Key local government role-players are advocating a review of revenue streams of municipalities with lower levels of economic activity. Parliament really need to revisit revenue streams of local government.

### 32. Recommendations Dr Beyers Naude Experience

Drawing from the Dr Beyers Naude municipal experience the following key recommendations were made:

- Municipal Sustainability: investigate options to raise the revenue levels and particularly the transfers to the municipalities which have lower levels of economic opportunity;
- Transitional Funding: 3 year budgets should be provided for mergers which would allow transitional costs to be accommodated;
- Impact Assessment: Due diligence study should be commissioned to assess the financial and governance situation of demarcated municipalities; and
- Demarcation Legacy: Municipal demarcation should not be seen as a solution for viability and sustainability.
- Collins Chabane Local Municipality Presentation: The Impact Municipal Boundary Re determinations of on Service Delivery:

#### Positive Impacts

- Before re determination of municipal boundaries Malamulele experienced high level of service delivery protests.
- Since the establishment of Collins Chabane Local Municipality in 2016, service Delivery protests are limited.

- Villages in Collins Chabane Local Municipality benefited and still benefiting the fruits of Municipal Boundary Re determination due to the reason that the work load has being reduced from the Municipalities like Makhado and Thulamela Local Municipalities.
- Malamulele Township is developed and still continuing to be a developing small town. Projects like widening of Hospital Road, Construction of Malamulele Community Hall, Establishment of Satellite Offices like Saselamani Hlanganani, Construction of most of the Internal Streets around Collins Chabane Local Municipality.

### Negative Impacts

- High expectations by community members leads to communities finding themselves impatient to wait much longer even if the budget can't cover the whole areas at once.
- In Vuwani areas it is difficult for the Municipality to implement some projects due to resistance by communities,
- Vyeboom community rejected a road in 2016/2017 financial year and a result, the project was taken to other areas.

## 33. The Impact on Municipal Governance:

### Positive Impacts

- Since Establishment of Collins Chabane Local Municipality the governance burden on Makhado and Thulamela Local Municipalities was alleviated.
- Re determination of municipal boundary brought confidence in communities since no more community protests around Malamulele Town and the entire Collins Chabane Local Municipality.

### Negative Impacts

- Resistance was experience in some villages and structures around Vuwani area which is having a negative impact on the following items:
- Council operations: Councilors that are elected from Wards in Vuwani found it difficult to operate as they must report back to communities and do oversight as per regulations and it is difficult to do so.
- Establishment of Ward Committees: It took the Municipality lot of time to establish Ward Committees in some areas of Vuwani which also had a negative impact on issues of governance. The Ward Committees were established after three years of the establishment of other Ward Committees which negatively impacted service delivery issues.

- Traditional Leaders and their participation in Council: It is mandated that gazetted traditional leaders must participate in Council sittings but due to Municipal Boundary re determination, it is difficult for traditional leaders around Vuwani to participate in Council activities.
- IDP Public Participation: Municipal Systems Act mandates the Municipality to consult with Communities in terms of their needs but in the case of some Vuwani areas public participation programmes such as imbizo do not take place.
- Inter-Governmental Relations (IGR): In the case of some Vuwani areas the Inter-Governmental Relations is compromised because communities directly interact with sector departments and some projects are run without the participation of the Municipality.
- Some projects are run by sector departments on behalf of the municipality e.g. MISA project on Vyeboom, Licensing programme which run by Provincial dept.
- Management Operations: Management can't effectively operate in Vuwani and employees in Vuwani Satellite Offices are under-utilized because they just go to the office and do nothing.

#### 34. Financial Sustainability and Effective Performance of Local Government: Positive Impacts

- The Municipality is performing very well in the implementation of its IDP Projects in areas that accepted the municipality.
- Projects are completed on time and the municipality continues to get additional MIG grants because of good performance.
- The Municipality is collecting revenue around Malamulele township, however, the revenue collection is not enough.

#### Negative Impacts

- The Municipality is unable to collect revenue in Vuwani area and it is having a negative impact on financial muscles of the municipality especially on salary bill.
- Culture on Non Payment of Services by communities which started since during the time of Makhado and Thulamemela is still a challenge.
- Traffic and Licencing adding to collection of revenue around Malamulele.
- Vuwani licensing is done by Provincial dept.



## SESSION SEVEN CONTINUES: PANEL DISCUSSION - Political Leadership, Professional Administration and Good Governance for Building Capable Local Government

### 35 Key issues raised

- It should be about ensuring that local government staff have the right mix of skills and expertise to enable them to deliver effective services to citizens.
- It should also be about ensuring that staff and leaders have the right attitude and behaviours for serving their citizens and communities better.
- It is about injecting dignity into local government administration by moving away from the concepts of "generalist" and "specialist", and to create a Local Government sector where all staff is specialists of one form or another and leadership is distributed.
- Adequate reporting performance standard should be in place.
- Raising professional standards is a core strand of public sector reforms.
- Ensuring that you have systems and processes in place, financials are reliable and compliant.
- Taxpayers money is spending on delivering services efficiently to our communities.
- Leadership demonstrating and promoting 'normatively appropriate conduct through personal actions and interpersonal relations.
- Create a positive influence on organizational commitment and willingness to serve.
- An ethical leader forsakes personal success so that they can drive and inspire others to achieve a shared vision, dream and goal.
- Enforces accountability on both the political and administrative level.
- Leadership is answerable to the public and responsible for the decisions, actions and policies.
- Any form of misappropriation is acted upon with the necessary rigor in all instances This helps restore confidence in the institution.
- Maintains an oversight of the knowledge, skills, conduct and practice of the profession or occupation.
- Only a member in good standing can be eligible for the executive responsibilities in the institution (i.e. Municipal Managers).
- To enforce code of conduct and to guide professional behavior.
- This will ensure that public interests are protected.
- Achieving success in professionalizing local government, our efforts depends on a key strategic element which is, the mobilization of political will.

- Political will is the atrium where action begins. It is the engine of change and the most powerful tool in the transformation of local government; and it is needed to reach agreements on what needs to be done and to start taking immediate action.
- To move forward with the professionalisation agenda, political leaders will have to take decisions that involve risks and political costs.
- Ability to be decisive and take unpopular decisions in order to achieve desired results.
- Not being afraid to stand alone in what you believe will take the institution forward.

### 36. Recommendations

- When we start to professionalise local government, the impact will be clean audit which will translate into a better quality living for our communities.
- We need to consciously and willingly embark on a journey of professionalising our Local Government; this will help accelerate progressive institutions that achieve desired result: This agenda cannot be postponed any longer.
- The rationale for professionalisation is based on the conviction that a strong and vibrant Local Government is essential to the attainment of a society and region in which all citizens have access to basic services; equal opportunities; and have real opportunities to participate in and shape their local communities.
- Municipalities need to take ownership and responsibility of their jurisdictions.
- Municipalities should learn from mistakes and start implementing recommendations from national, provincial and the district.
- Municipalities should improve reconciliation controls and ensure it is done monthly.
- Institutionalise MSCOA and ensure full compliance.
- Institutionalise audit action plans and ensure that all assurance providers are in place and functional (Internal Audit, Audit and Risk Committees, Management, Council, MPAC and Disciplinary Boards).
- Where interventions done by national, provincial and the district were done and improvements realised, the local municipality should ensure that it is maintained.
- Municipalities should ensure that good systems are in place to ensure continuity upon resignations of key staff.

## CLOSING

The Chairperson of the NCOP, Mr A Masondo reflected on the engagements during Local Government week and the role of the NCOP to strengthen its oversight in this area. This oversight would require deeper insights, deeper scrutiny and more effective involvement in

local government. He confirmed that a steering committee to finalise the setting up of a “processing team” as recommended by the President of SALGA, will be prioritized.

He was confident that the District Development Model will serve as a functional network of support and a facilitation system for intergovernmental planning. This would allow municipalities to have access to critical and scarce skills needed to improve service delivery.

From a NCOP perspective, the following would be key in assisting a turnaround strategy for local government:

1. The establishment of a local government early warning system;
2. Proper root cause analyses of challenges faced by municipalities to ensure that the correct issues are addressed.
3. Strengthening the monitoring and supporting functions of provinces.
4. Strong focus on the participation of local communities
5. Speedy facilitation of the Intergovernmental Monitoring and Support Intervention Bill.

He applauded all the municipalities that continue to set a good example as sites for the advancement of the country’s agenda for socio-economic transformation.

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