

NCOP 2022 LOCAL GOVERNMENT WEEK:

**STRENGTHENING OVERSIGHT AND
ACCOUNTABILITY IN THE LOCAL SPHERE OF
GOVERNMENT:**

**LOOKING AT THE ROLE OF THE EXECUTIVE IN
THE PROVINCIAL SPHERE OF GOVERNMENT**



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- The current Constitutional provisions in section 139(5) and section 154 supported by various pieces of legislation such as the Local Government Systems Act, the Municipal Finance Management Act and the Municipal Structures Act adequately enables the Provincial Government/ MEC for Local Government to exercise Oversight and enforce Accountability over Municipalities.



- While section 139(5) specifically provides that "..if a Municipality is in a serious or persistent breach material, breach of its obligations to provide basic services or meet its obligations or financial obligations, the Provincial Executive **must** impose a financial recovery plan aimed at securing the Municipality's ability to meet its obligations to provide basic services or financial obligations".
- The Provincial Executive does not have to always dissolve the Municipality but can assume the responsibility to implement the financial recovery plan if the Municipality is unable or unwilling to do so.



- Section 154(1) obliges both the Provincial and National spheres of Government to support and strengthen the capacity of Municipalities to manage their affairs. It is this area of support that needs further attention and refinement.
- In instances where the MEC for Local Government has reason to believe that a Municipality in the Province cannot or does not fulfill a statutory obligation binding that Municipality, or that **maladministration, fraud, corruption or any other serious malpractice** has occurred or is occurring in a Municipality,
- the MEC **must** - by written notice to the Municipality request the Municipal Council or the Municipal Manager to provide the MEC with information required in the notice or if the MEC considers it necessary, designate a person or persons to investigate the matter in terms of section 106 of the Systems Act 32 of 2000. These are sweeping powers not to be exercised lightly but nonetheless critical in enforcing accountability.



- Section 55 of the MFMA also allows or empowers the Provincial Government to intervene whenever a Municipality fails to adopt a budget as prescribed.
- The AG has also lamented the fact that interventions by Provincial Executives have not been effective in some, if not most instances. The reality is that section 131 of the MFMA empowers the MEC to attend to issues raised by the AGSA in audit reports of Municipalities.
- A proper and full implementation of this section is likely to lead to greater accountability by Municipal Councils. The MEC must assess the Annual Financial Statements of Municipalities in the Province and determine if Municipalities have adequately responded to issues raised by the AG and report to the Provincial Legislature on any omissions by Municipalities. This report will in turn enable Provincial Legislatures through appropriate Committees, to hold Municipalities to account.



- A further area that needs strengthening, would be the mechanisms/structures created in line with section 41 of the Constitution on Principles of Co-operative Government.
- The IGR Act has created structures intended to foster cooperation and mutual assistance.
- There is however a need to enforce resolutions and recommendations made in these structures with a view to enhance monitoring, support and enforcing compliance.

- In the event the MEC has entered into Service Delivery Agreements with Mayors and Executive Mayors, what happens in the case of non-compliance?
- The cardinal principle is that the three spheres are distinct, interdependent and interrelated. This therefore means each sphere is autonomous.
- There is a need to refine the relationship to foster cooperation at an institutional and operational level. The introduction of the DDM should be strengthened and geared towards not only coordination but enhancing commitment to common objectives.



Thank you!



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