



Improving Oversight and Accountability within Local Government

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Constitutional Founding Provisions



CHAPTER 1 FOUNDING PROVISIONS

Republic of South Africa

1. The Republic of South Africa is one, sovereign, democratic state founded on the following values:

- (a) Human dignity, the achievement of equality and the advancement of human rights and freedoms.
- (b) Non-racialism and non-sexism.
- (c) Supremacy of the constitution and the rule of law.
- (d) Universal adult suffrage, a national common voters roll, regular elections and a multi-party system of democratic government, to ensure **accountability**, responsiveness and openness.

National, provincial and municipal budgets

215. (1) National, provincial and municipal budgets and budgetary processes must promote transparency, accountability and the effective financial management of the economy, debt and the public sector.



Objects of Local Government



Objects of local government

152. (1) The objects of local government are—

- (a) to provide democratic and **accountable** government for local communities;
- (b) to ensure the **provision of services** to communities in a sustainable manner;
- (c) to promote **social and economic development**;
- (d) to promote a **safe and healthy environment**; and
- (e) to encourage the **involvement of communities and community organisations** in the matters of local government.

(2) A municipality must strive, within its financial and administrative capacity, to achieve the objects set out in subsection (1).

Developmental duties of municipalities

153. A municipality must—

- (a) structure and manage its administration and budgeting and planning processes to **give priority to the basic needs** of the community, and to **promote the social and economic development** of the community; and
- (b) **participate** in national and provincial development programmes.



Definition of Governance...



The United Nations Educational, Scientific and Cultural Organization (UNESCO) defines governance as referring to

“structures and processes that are designed to ensure **accountability; transparency; responsiveness; the rule of law; stability; equity and inclusiveness; empowerment; and broad-based participation.** Governance also represents the norms, values and rules of the game through which public affairs are managed in a manner that is transparent, participatory, inclusive and responsive. Governance, therefore, can be subtle and may not be easily observable. In a broad sense, governance is about the culture and institutional environment in which citizens and stakeholders interact among themselves and participate in public affairs”.

(<http://www.ibe.unesco.org/>)



Governance is more than Compliance!



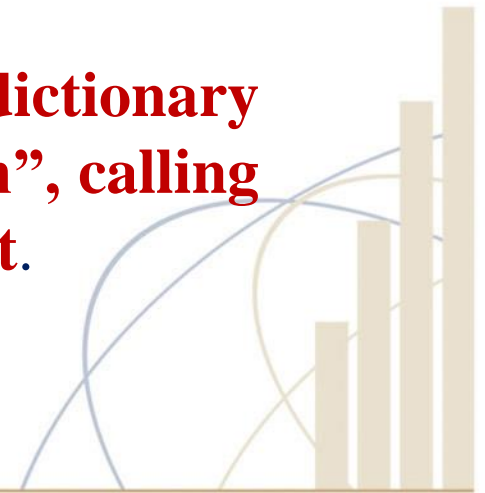
- ✓ Generally, corporate governance is seen as a **compliance burden**.
- ✓ The value, however, in building successful organisations is receiving greater attention in recent times in the public sector.
- ✓ The system of financial governance within municipalities must, therefore, break the mould of simply ensuring compliance, but rather **focus on outcomes that lead to improved service delivery** for communities.
- ✓ Oversight structures, particularly MPAC and audit committees, play a fundamental role in **ensuring value-for-money services, effective performance and compliance**.

What is Oversight and Accountability?



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- ✓ Napier (2018: 169 and 171) highlighted, within the context of oversight and a separation of powers of governing bodies in local government, that **oversight and accountability are used interchangeably**. The author herein emphasised the need to **provide clarity on roles and responsibilities by determining who does what and the necessary mechanisms for oversight**.
- ✓ It was further highlighted that the **pure dictionary meaning of oversight includes “supervision”, calling to account and answering for one’s conduct**.



MPAC Establishment and Duty



- ✓ Krishnan (2022: 65) highlighted that MPAC was established in terms of Section 79 of the MSA, although there was no specific reference to the formation of such a committee initially. Best practice of the National and Provincial legislatures, which had established a Standing Committee on Public Accounts, informed the establishment of MPACs in municipalities **to exercise oversight on the spending of public funds and to enhance accountability by management** as agents to the principals being the municipal council.
- ✓ The MSA was amended to include specific reference to the MPAC in 2021 by the inclusion of **section 79A giving legal authority and credence** to this governance structure.
- ✓ Enwereji and Uwizeyimana (2019: 144, 148-149 and 151) highlight the **need to enhance financial accountability in municipalities and the role of the MPAC to exercise oversight** in the best interests of the municipal council. The authors state that the **MPAC's practical duty is to ensure accountability by management in spending public funds.**

MPAC Terms of Reference



“Establishment of municipal public accounts committee

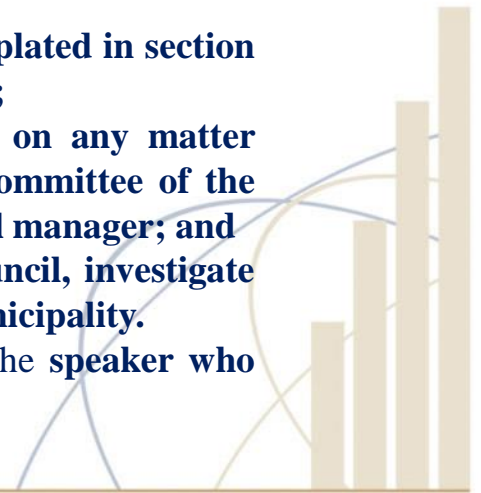
79A. (1) A municipal council must establish a committee called the municipal public accounts committee.

(2) The mayor or executive mayor, deputy mayor or executive deputy mayor, any member of the executive committee, any member of the mayoral committee, speaker, whip and municipal officials are **not allowed** to be members of the municipal public accounts committee.

(3) The **municipal council must determine the functions** of the municipal public accounts committee, **which must include** the following:

- (a) **review the Auditor-General’s reports and comments of the management committee and the audit committee and make recommendations to the municipal council;**
- (b) **review internal audit reports together with comments from the management committee and the audit committee and make recommendations to the municipal council;**
- (c) **initiate and develop the oversight report on annual reports contemplated in section 129 of the Local Government: Municipal Finance Management Act;**
- (d) **attend to and make recommendations to the municipal council on any matter referred to it by the municipal council, executive committee, a committee of the council, a member of this committee, a councillor and the municipal manager; and**
- (e) **on its own initiative, subject to the direction of the municipal council, investigate and report to the municipal council on any matter affecting the municipality.**

(4) Reports of the municipal public accounts committee must be submitted to the **speaker who must table such reports** in the next meeting of the municipal council.



Status of MPAC



In light of the role of MPAC legislated in 2021, it is clear that the **MPAC must process recommendations of the audit committee.** Both the MPAC and the Audit Committee are therefore responsible to **report to Council on matters of financial management, audit outcomes, internal control and overall management and governance.** There is a **potential for duplication of effort and conflict** in the oversight performed by the MPAC and the audit committee unless there is a **strong relationship with an open flow of information and continual engagement.** It is hoped that, with the MPAC playing a more robust role, Council would be more effective in ensuring implementation of resolutions of audit committees to improve the control environment and improve overall governance. (Krishnan: 2022: 81)



Combined Assurance



- ✓ The Auditor-General's General Report (2020) indicated that, despite some progresses, the combined assurance model is still not as effective as it should be.
- ✓ The term 'combined assurance' has emerged in recent years and, according to van der Merwe (2016), it is simply the need for a co-ordinated approach in managing risks within the organisation.
- ✓ The model highlights three lines of defence: management, who own and manage risks, are the first line of defence; secondly, internal assurance providers include the risk management function, legalities and compliance; and thirdly, the external assurance providers, which include the internal auditor, are seen as independent from management, as well as the external auditors.
- ✓ Van der Merwe (2016) further indicates that, in theory, the audit committee should determine the level of assurance required but that, in practice, risk management is outsourced by management and the audit committee is expected to fulfil a role of overseer in this regard.
- ✓ The Auditor-General (2020) goes further to encourage additional role players, namely: accounting officers, senior municipal management (including internal audit units and the audit committees), and the executive authorities (Mayors and Executive Committees) to ensure that they contribute positively towards providing assurance regarding the control environment. They highlight that improved oversight by councils and MPACs would promote accountability by municipal leaders.

The New Public Management Order



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- ✓ Of importance is that fact that there is a growing call from communities for government to be accountable and to deliver value-for-money services.
- ✓ The publication of the Auditor-General’s “General Report on MFMA Outcomes”, as well as the publication of the annual reports of municipalities, which include the annual financial statements, the annual performance report, the audit report and the response to the audit report, as well as the report of the audit committee, are instruments of public accountability which mean that users of financial reports, including investors and the community at large, are able to express their satisfaction and dissatisfaction on the financial as well as service delivery performance of the municipality. (Krishnan 2023: 89)



Leadership Role



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- ✓ Mantzaris (2014: 86 and 88-91), in assessing the **implementation of systems of financial management, highlighted the role of leadership in improving financial management** in South African municipalities. The author indicated that a **major focus should be on leader behaviour, in addition to improving skills and good governance, as well as oversight, performance management and compliance with the law and regulations.**
- ✓ Krishnan (2022: 98) further stated that **honesty, integrity and accountability** are the prerequisites for owning a financial management system and that even the best structured and designed systems are insufficient to ensure success, particularly in achieving an audit result without findings by the Auditor-General, colloquially referred to as a ‘clean audit’ in South Africa.
- ✓ This calls for an **alignment between the administrative and political leadership** and the need for implementation of measures introduced in law, regulations and rules to ensure honest, economic and efficient management of finances in municipalities.
- ✓ Following on from the reference to ‘setting the tone from the top’, Thomas and Purcell (2019) explored **behavioural aspects** for an audit committee to perform effectively. Drawing from twenty years of experience in audit committees within the Victorian local government, the study suggests that, beneath the audit committee, **there are numerous forces at play where tensions can emerge between council, independent members and management**, especially when the rhetoric of policy is juxtaposed with realities of performance. What is significant here, is the reference to a competency gap, apparent in the functioning of audit committees in local government. They propose a behavioural framework that highlights that audit committee effectiveness is underpinned by structural, process and behavioural factors.

Requirements not Legislated...



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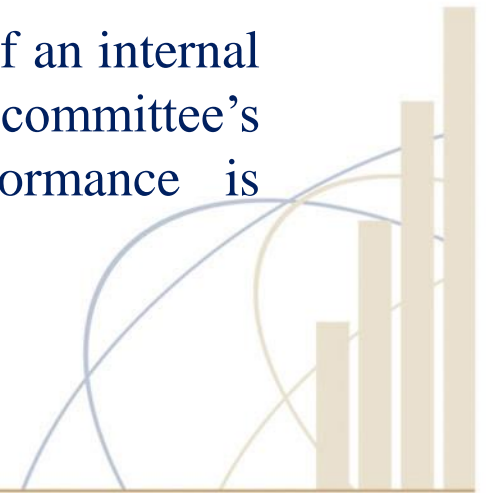
- ✓ Financial Governance committees are moderators between the influences of community expectations; regulations; legislative compliance; oversight bodies such as the municipal council and investigative agencies; and good governance, encompassing financial reporting; internal control; regulatory compliance and monitoring; and protecting interests.
- ✓ The study recognised that there are various behavioural elements that contribute to the effectiveness of financial governance committees including:
 - unspoken behavioural influences;
 - organisational culture;
 - pre-existing biases;
 - group think;
 - commitment to decisions previously made by decision makers;
 - some individuals not wanting to lose an argument; and
 - impact on reputation.
- ✓ The attributes and responsibilities of committees are affected by the integrity, accountability, impartiality and leadership from the audit committee, as well as the relationships of trust with management and the oversight relationship.
- ✓ Committee effectiveness is also affected by information sharing; participation in discussions; relevant questioning; and utilising professional and personal experiences with the audit committee context. Environmental conditions such as the values, ethics and culture which are embedded in the organisation also impact corporate governance.
- ✓ The study concludes that compliance driven by rules and processes is not sufficient for good governance and that structured and credible behavioural systems will draw people to effective governance.
- ✓ **In the context of South Africa, the need for compliance outweighs the behavioural change required for effective governance if the behavioural theory proposed here is applied.**

Audit Committee and Internal Audit



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- ✓ Erasmus and Matsimola (2019: 11) conclude that, internationally, the role of the audit committee is accepted as one of oversight, monitoring management and ensuring accountability for the benefit of the municipal council.
- ✓ Motubatse (2019: 117 and 127) in assessing audit committee expectations in relation to the work performed by the internal auditor, highlighted the fact that the audit committee is required to exercise oversight in internal audit and that the internal auditor, in turn, is answerable to the audit committee.
- ✓ The author emphasises that the effective functioning of an internal auditor is crucial in ensuring that the audit committee's expectations are met and that governance performance is improved.



Empirical Findings: Financial Governance



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- ✓ Municipal council: This question assessed respondents' **understanding of the relationship between the audit committee and the municipal council**. The results based on the assessment by municipality are reflected in the Table.
- ✓ At least 66.7% of the municipalities reported that the municipality's council considers the charter of the audit committee annually; 78.6% reported that the council considers the audit committee report quarterly; and 66.7% reported that the council formally adopts/amends audit committee recommendations; while 73.8% reported that the audit committee/chairperson of the audit committee attends council meetings to present and discusses reports of the audit committee.
- ✓ At least 35.7% of municipalities reported that the council did not assess the implementation of progressive recommendations given to management by the audit committee, whilst 40.4% were unsure of this. In addition, 33.3% reported that the council chairperson (Mayor/Speaker) discusses relevant matters with the audit committee, whilst 47.6% were unclear in this regard.

Item	Frequency (%)			
	Yes	No	Unsure	Unclear
Does council consider the audit committee charter annually?	28 (66,7)	3 (7,1)		11 (26,2)
Does council consider the audit committee report quarterly?	33 (78,6)	3 (7,1)		6 (14,3)
Does council formally adopt/amend the audit committee's recommendations?	28 (66,7)	3 (7,1)		11 (26,2)
Does council monitor the implementation of recommendations given to management by the audit committee?	10 (23,8)	15 (35,7)		17 (40,5)
Does the council chairperson (Mayor/Speaker) discuss relevant matters with the audit committee?	14 (33,3)	5 (11,9)	3 (7,1)	20 (47,6)
Does the audit committee/chairperson of the audit committee attend council meetings to present and discuss the reports of the audit committee?	31 (73,8)	2 (4,8)	0 (0)	9 (21,4)

Empirical Findings: Financial Governance



- ✓ A poor relationship exists between the audit committees and municipal councils, including with structures such as MPAC and the EXCO, led by the mayor, within the executive mayoral system of local government in KwaZulu-Natal Province.
- ✓ There is a lack of council oversight and performance monitoring and evaluation of the audit committee, with no interrogation of reports and information provided, and no formal evaluation of its performance. This includes the fact that there is no monitoring mechanism to track implementation of recommendations made by the audit committee, despite adoption thereof by councils.
- ✓ There is a lack of councillor capacity to understand technical issues pertaining to financial governance and consequent commitment to engage meaningfully on reports of the audit committee.
- ✓ The inappropriate or deficient composition of the audit committee, based on suitability of members and their appointment process not being sufficiently rigorous, cannot ensure good financial governance.
- ✓ There is room for improvement through more intensive monitoring by the provincial and national departments on matters of governance.

A Model for Enhanced Local Financial Governance



Three of the four features identified by Kamal and Batool (2020:104) in understanding good governance are significant in determining a model for financial governance within this study. These are:

- ✓ the fact that governance is a process and not merely a set of rules or activities;
- ✓ co-ordination rather than control is the basis of the process of good governance; and
- ✓ good governance is a “continuous interaction of the actors”.

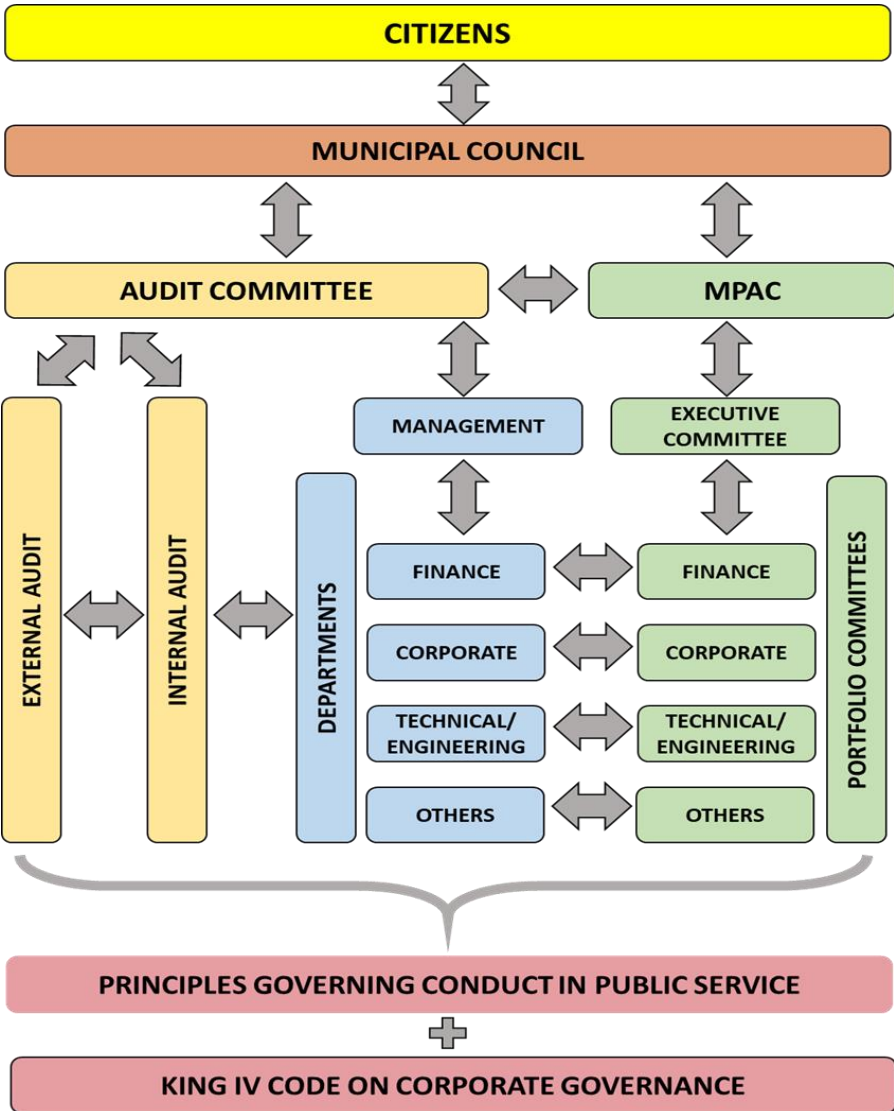
The model developed for local financial governance in and through the research study by Krishnan:

- ✓ Sets out the interrelationship between governance stakeholders, and highlights information flows across different structures.
- ✓ This model is recommended for implementation by municipalities to improve accountability through appropriate engagement and information flows within the financial governance structures.



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A Model for Enhanced Local Financial Governance



- ✓ Interrelationship between governance stakeholders, and highlights information flows, reporting and accountability across different structures.
- ✓ Citizens as the primary stakeholders and shareholders in municipalities. They are entitled to service delivery through good and effective financial governance.
- ✓ Departments and portfolio committees provide functions that exist in municipalities and depend on established organisational structures and governance structures.
- ✓ At the centre of democratic local government and service delivery to citizens, remains the municipal council comprising duly elected representatives. It is ultimately accountable for the governance of a municipality across both the administrative and political structures.
- ✓ Audit committee is a committee of council, as is the MPAC, both of which exercise financial and governance oversight on behalf of, receive guidance from, and report to, council, based on their respective legal mandates. The MPAC exercises oversight over the executive, chaired by the mayor and portfolio committees of council. Management consists of managers responsible for different departments within a municipality.

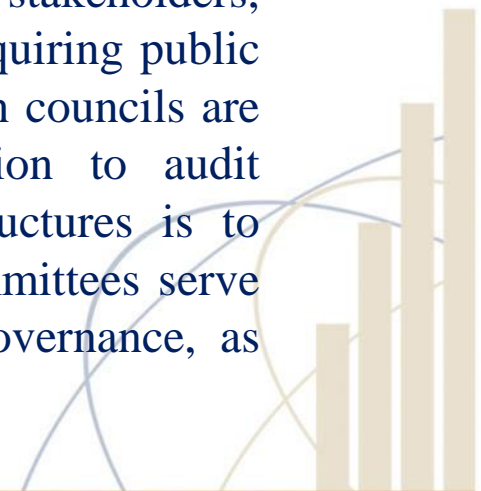
(Krishnan 2022: 231)

Conclusion



- ✓ The study confirms that good governance is a “continuous interaction of the actors” by highlighting the interrelationships and inter-dependencies of different “actors”.
- ✓ The “actors” are the municipal councils; MPACs; portfolio committees of council; the council’s executive committee; management, audit committee, internal auditors and external auditors.
- ✓ These come together to form the institutions responsible for local financial governance through their continual interaction on matters of public interest.
- ✓ Different financial governance structures are regarded as stakeholders, with communities being the most important stakeholder requiring public accountability. Elected municipal representatives serving on councils are the governing board and a key stakeholder in relation to audit committees. The goal of local financial governance structures is to promote public trust through accountability, and audit committees serve as an independent guardian of key principles of good governance, as espoused in the King IV report.

Krishnan 2022: 241





Thank You!

Q&A



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