



## Local government

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## Introduction

Chapter 7 of the Constitution creates a framework for local municipalities. They are a separate and autonomous sphere of government, but their work and plans are interdependent on those of provincial and national government.

### **The Constitution and municipalities**

The municipal council is the legislative authority of a municipality. It has the right to pass by-laws, budgets and policies to govern the local government affairs of its community, subject to national and provincial legislation. The council also elects the executive that oversees implementation (mayor plus committee).

The Constitution also requires that the three spheres of government engage with each other in cooperative government. Section 154 specifically requires national and provincial governments to support and strengthen the capacity of municipalities. Provincial departments of cooperative or local government monitor and support the work of local government.

There are Constitutional limitations to describe the extent to which other spheres of government can intervene when municipalities are unable to exercise their mandate. Section 139 of the Constitution limits the powers that provincial governments have to intervene in the affairs of local government. It says the provincial government can only intervene or take over when it is clear that the local government has not done what it was supposed to do under the law.

### **DEVELOPMENTAL DUTIES OF MUNICIPALITIES**

The key duties of a municipality are to:

- Structure and manage its administration, budgeting and planning processes to give priority to the basic needs of the community
- Promote the social and economic development of the community
- Participate in national and provincial development programmes

### **LAWS AND POLICIES THAT GOVERN LOCAL GOVERNMENT**

Local government is governed by the:

- *Municipal Demarcation Act No. 27 of 1998* sets out how the boundaries of municipalities and wards must be decided

- *Municipal Structures Act No. 117 of 1998* sets out categories and types of municipalities and provides for elections and other matters
- *Municipal Systems Act No. 32 of 2000* sets out systems within which municipalities should operate and procedures that they should follow in their day-to-day operations
- *Municipal Property Rates Act 2003* regulates the power of a municipality to impose rates on property; exclude certain properties from rating in the national interest; make provision for municipalities to implement a transparent and fair system of exemptions, reductions and rebates through their rating policies.
- *Municipal Finance Management Act, 2004* provides for secure, sound and sustainable management of the financial affairs of municipalities.

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## Government response to problems

To address the problems with service delivery and finances in local government, the Department of Cooperative and Traditional Affairs in 2014 adopted the 'Back to Basics' programme that focuses on the following:

1. Putting people first – listening to and communicating with communities through regular ward and consultation meetings and other means
2. Adequate service provision – making sure basic services are delivered, and problems are addressed quickly
3. Good governance and administration – proper systems for planning, implementation and accountability
4. Proper financial management – to ensure that resources are well used and waste and corruption are rooted out
5. Capable administration and institutions – employ qualified people to manage the municipality and build the capacity of councillors

## Cooperative governance and local government

'Inter-governmental relations' means the relationships between the three spheres of government. The Constitution states, "*the three spheres of government are distinctive, interdependent and inter-related*". Local government is a sphere of government in its own right, and is not an administrative implementing arm of national or provincial government. Although the three spheres of government are autonomous, they exist in a unitary South

Africa and they have to work together on decision-making and must co-ordinate budgets, policies and activities.

Although the three spheres of government are autonomous, they have to work together on decision-making and must coordinate budgets, policies and activities, particularly for those functions that cut across the spheres.

Co-operative governance means that the three spheres of government should work together (co-operate) to provide citizens with comprehensive service delivery. The Constitution states that the three spheres have to assist and support each other, share information and coordinate their efforts.

Implementation of policies and government programmes requires close cooperation between the spheres of government, especially at the executive level. Local government is represented in the National Council of the Provinces, although the representatives do not have voting rights. It is also represented in other important institutions like the Financial and Fiscal Commission. The Financial and Fiscal Commission (FFC) is an independent body set up under the Constitution to advise government on the portion of revenue that should go to provincial and local government to subsidise services for poor people (the equitable share).

The *Division of Revenue Act* (DORA) lays down how the total government income (revenue) should be divided and allocated between the spheres of government and within government. Local government is also represented on the Budget Council where the Minister of Finance discusses the proposed budget with provincial and local government.

The South African Local Government Association (SALGA) is the official representative of local government. SALGA has nine provincial offices. Local municipalities join SALGA at provincial level. Executive elections and decisions on policies and programmes happen at provincial or national general meetings. SALGA is also an employers' organisation for all municipal workers, and sits as the employer in the South African Local Government Bargaining Council. SALGA's main source of funding is membership fees payable by municipalities.

The different spheres of government depend on each other for support in project implementation, and regular communication is essential. For example, when a municipality proposes the development of a new housing development in its spatial development framework and integrated development plan, health and education services have to be provided by provincial government. Water services have to be provided by national government, and funding for housing development has to be transferred from national to provincial government, from where it goes to the housing developers approved by the municipality. Some spheres of government are responsible for initial funding, others for medium-term operational costs, while others have to provide capital costs.

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## Inter-governmental relations

In 2005, the *Inter-governmental Relations Framework Act* was passed to ensure that the principles in Chapter 3 of the Constitution on co-operative government are implemented. The Act seeks to set up mechanisms to coordinate the work of all spheres of government in providing services, alleviating poverty and promoting development. The Act also establishes a line of communication that goes from municipalities to the provinces and directly to the Presidency.

The legislative framework includes the *Intergovernmental Fiscal Relations Act* (1997), the *Intergovernmental Relations Framework Act* (2005), *Public Finance Management Act* (1999), the *Municipal Finance Management Act* (2003), and the *Division of Revenue Act*.

## Different categories of local government

The structure of local government is dealt with in terms of the *Municipal Structures Act* (No. 117 of 1998) which sets out the categories and types of municipalities and provides for elections and other matters. Municipalities may be established in certain categories.

South Africa has 257 metropolitan, district and local municipalities. This is made up of 8 metropolitan, 44 district and 205 local municipalities.

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### Category A municipalities

Metropolitan municipalities are set up in large cities with more than 500 000 voters and are divided into smaller wards (and in some cases, sub-councils, within which wards are located). Metro municipalities are responsible for delivering all services the Constitution provides for. South Africa has eight metropolitan municipalities, namely:

- Buffalo City (East London)
- City of Cape Town
- Ekurhuleni Metropolitan Municipality (East Rand)
- City of eThekweni (Durban)
- City of Johannesburg
- Mangaung Municipality (Bloemfontein)
- Nelson Mandela Metropolitan Municipality (Gqeberha)
- City of Tshwane (Pretoria)

For more information about Category A municipalities, please visit [www.sacities.net](http://www.sacities.net) and <http://www.gov.za/about-government/government-system/local-government>

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## **Category B municipalities**

These are areas that fall outside the eight metropolitan areas. Local municipalities also fall in a district and share powers and functions with District Municipalities.

There are 205 local (Category B) municipalities, and each municipality is divided into wards. People in each ward are represented by a ward councillor.

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## **Category C (District) municipalities**

District municipalities are made up of several local municipalities that fall in one district. Except for the 8 metros, the rest of the country is covered by the 44 district municipalities, which are divided into local municipalities and share responsibilities with them. Typically, there are between 4-6 local municipalities that fall under one district council.

The purpose of district municipalities (Category C) and local municipalities (Category B) sharing the responsibility for local government in their areas is to ensure that all communities, particularly disadvantaged communities, have equal access to resources and services. This arrangement is made to help local municipalities who do not have the capacity (finances, facilities, staff or knowledge) to provide services sustainably and adequately to their communities. It also helps to cut the costs of running a municipality by sharing resources with other councils.

*For detailed maps and population statistics of each district in South Africa, please visit [http://en.wikipedia.org/wiki/Districts\\_of\\_South\\_Africa](http://en.wikipedia.org/wiki/Districts_of_South_Africa).*

## **Elections for local government**

Elections work differently in the different categories of municipalities.

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## **Category A: Metropolitan municipality**

Half the councillors are elected according to proportional representation (PR), where voters vote for a party (not a specific person). The other half of the councillors are elected

as ward councillors by the residents in each ward. Two ballot papers are given to the voter – a ward ballot with individual names and a PR ballot with party names.

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### **Category B: Local municipality**

Half the councillors are elected according to proportional representation (PR), where voters vote for a party. The other half are elected as ward councillors by the residents in each ward. Voters get these two ballot papers plus a third one for the district council.

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### **Category C: District municipality**

Voting for the district municipality is done on a separate ballot paper at local and DMA levels. The district council is made up of two types of councillors:

- 40% of councillors are elected to the district council by all voters in the area according to proportional representation, where voters vote for the party (40% of the district councillors)
- 60% of councillors are drawn from elected councillors of local municipalities in the district who are sent by their councils to represent them on the district council.

Each council gets a portion of the councillors determined by the number of voters in their municipality.

The following table summarises the types of councils, the areas they cover, how voters living within the council areas can vote, the number of councillors each may have, and how the council is made up of councillors.



TYPE OF COUNCIL	AREAS	TYPE OF ELECTION	NUMBER OF COUNCILLORS	WHERE THE COUNCILLORS COME FROM
<b>A: METRO COUNCIL</b>	8 largest cities in South Africa	2 Ballots  1 Ward vote 1 PR vote for metro council	Not more than 270	50% from ward votes  50% from PR votes
<b>B: LOCAL COUNCIL</b>	All town plus surrounding rural areas	3 Ballots  1 Ward vote 1 PR vote for local council 1 PR vote for district council	3-90	50% from ward votes  50% from PR votes
<b>C: DISTRICT COUNCIL</b>	Area with a number of local municipalities	PR Ballot Voting is done at local council voting stations	3-90	40% from local council PR vote for district council  60% from local council representatives

PR = Proportional Representation

PR means proportional representation, where voters vote for a political party, not an individual candidate within a party. The ballot paper just shows the political parties. Then, the party gets the same share of the number of councillors as the share of total PR votes it got. The party decides which members fill those councillor places. The party can remove a PR councillor at any time and replace her or him with someone else.

With a ward vote, the ballot paper shows the names of candidates and the party they represent (some candidates may be independents). When a ward councillor resigns, dies, or is disqualified, a by-election is held to elect a new councillor in their place. A ward councillor who leaves the party they represented in the election must resign.

## The structures of a municipality

Each municipality has a council where decisions are made, and municipal officials and staff carry out the work of the municipality.

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## Composition of a municipality

### ELECTED COUNCILLORS

Elected members have legislative powers to pass by-laws and approve policies for their area. By-laws must not conflict with other national and provincial legislation. They have to pass a budget for the municipality each year, and they have to decide on development plans and service delivery for their municipal areas. This development plan is commonly known as the IDP (integrated development plan). Councillors meet in committees to develop proposals for council. *(See pg 154: Role of a ward councillor on the ward committee)*

### THE MAYOR

The functions of the mayor and councillors are set by the *Municipal Structures Act*. The mayor is elected by the municipal council to coordinate the work of the municipality. The mayor is the political head of the municipal executive and is assisted by the executive committee or the mayoral committee.

### THE EXECUTIVE OR MAYORAL COMMITTEE

There are two systems for the appointment of an executive:

- The executive mayor is elected by the council, and they appoint a mayoral committee
- The mayor works with an executive committee (Exco) elected by the council

So, 'the executive' refers to the executive mayor and the mayoral committee OR the mayor plus the executive.

The executive or mayoral committee is made up of councillors with specific portfolios that match the departments within the municipal administration, for example, health. The executive and the mayor oversee the work of the municipal manager and department heads. The executive proposes policy and presents budget proposals and implementation plans to the whole council. The executive is accountable to the council and has to get approval from the council.

Once policies, budgets and implementation plans are approved by council, the executive is responsible for ensuring that the municipal administration implements them.

Councillors play a monitoring and oversight role in this process.

## **THE MUNICIPAL MANAGER AND MUNICIPAL OFFICIALS**

The municipal manager is the chief executive officer and is the head of the administration of the council. They are responsible for the overall functioning of the administration, for managing the finances and for hiring and disciplining staff. Municipal officials work for the administration and report to the municipal manager.

## **WARD COMMITTEES**

A ward committee can be set up for each ward councillor to assist and advise the councillor and improve public participation. Ward committees can be set up in category A and B municipalities where the ward committee model is being used. Ward committees are mainly advisory committees that can make recommendations on any matter affecting the ward. The municipal council makes the rules that guide the ward committees. The rules say how the members of the ward committee will be appointed, how often ward committee meetings will take place and the circumstances under which a member of a ward committee can be told to leave the committee. The purpose of a ward committee is to:

- Get better participation from the community to inform council decisions
- Make sure that there is more effective communication between the council and the community
- Assist the ward councillor with consultation and report back to the community
- Advise the ward councillor on issues and development in the community

## **STRUCTURE OF WARD COMMITTEES**

A ward committee consists of the councillor who represents the ward as elected in the local government elections, and a maximum of 10 people from the ward who are elected by the community they serve. Women should be equally represented on ward committees.

The councillor is the chairperson of the ward committee. Members of the ward committee must participate as volunteers and are not paid for this work.

## **ROLE OF A WARD COUNCILLOR ON THE WARD COMMITTEE**

A ward councillor is directly elected to represent and serve the people in a specific ward. There are usually between 3 000 and 20 000 voters in a ward. The ward councillor should make sure that the interests of the people in the ward are represented as properly as possible. The ward councillor should be in touch with the issues in the area, understand the key problems and monitor development and service delivery. In committees, caucuses and

council meetings, the ward councillor should act as a representative for the people in the ward. The ward councillor chairs the ward committee.

The ward councillor is the direct link between the council and the voters. They make sure that voters are consulted and kept informed about council decisions, development and budget plans that affect them.

People can also bring their problems to the ward councillor and they should properly deal with these, for example, by taking up matters with council officials.

### **ROLE OF THE WARD COMMITTEE**

The main role of the ward committee is to make sure that voters are involved in and informed about council decisions that affect their lives. The ward committees should be set up in a way that they can reach most sectors and areas in the ward.

The ward committee's main tasks are to communicate and consult with the community in respect of development and service plans. It has no formal powers, however to force the council to do anything. The council should provide support, for example, providing publicity for meetings, giving financial and administrative support to enable ward committees to do their work. This is a summary of their tasks:

- Prepare, implement and review the integrated development plan
- Establish, implement and review municipality performance management systems
- Monitor and review municipality performance
- Prepare municipality budgets
- Participate in decisions about the provision of municipal services
- Communicate and disseminate information on governance matters

### **MAIN TASKS OF WARD COUNCILLORS AND WARD COMMITTEES**

Ward councillors and committees must know their communities and the people they represent. They should know:

- Who the people are in the ward (spread of age groups, gender, employment status)
- What problems they experience, and their needs
- What their attitudes and opinions are towards council plans and proposals
- The environment of the ward (types of housing, services provided or not provided, for example, water, sanitation and electricity, schools,

hospitals, clinics, shops, markets, factories, places of worship, community halls, access to transport)

- What is happening in the community (what organisations or bodies exist in the community: political parties, cultural groups, civic forums, business, youth organisations, women's organisations, NGOs, traditional leaders, gangs, crime, sport, school governing bodies, etc.)

Ward councillors and committee members can find out more about their communities through general community meetings and direct consultation (going door-to-door and conducting a survey).

They should also keep up to date with developments in the council in order to pass this information on to people in their ward.

The *Local Government Laws Amendment Act of 2008*, an amendment of Section 73 of Act No. 117 of 1998 (*Municipal Structures Act*), ensures that 'out-of-pocket' expenses (of ward committee members) must be paid from the budget of the municipality in question. Metro or local councils must develop a policy and determine criteria for calculating the 'out of pocket' expenses and can allocate funds and resources to enable ward committees to perform their functions, exercise their powers and undertake development in their wards within the framework of the law.

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## **The difference between councillors (elected representatives) and administration officials (employees)**

The distinction between the roles of elected representatives (councillors) and municipal employees is very important. Councillors are elected public representatives to serve for five years. Councillors are elected by the people onto a local council and only keep their positions if they are re-elected.

Officials or employees are appointed by municipal management to specific jobs within the municipal administration and are like any other employee in a job. Senior officials, such as the municipal manager, chief operating officers, director of finance, director of housing etc, should have employment contracts subject to annual performance. Their performance agreements must be made public on the websites. Together they make up the management of a municipality.

Councillors give political direction and leadership in the municipality, depending on the balance of power between the political parties elected to the council.

Councillors and officials determine the policies and direction of the municipality.

Officials should have the knowledge and skills in the technical and specialised aspects of municipal affairs. Councillors who don't have this knowledge have to rely on the reports of officials to help them make decisions. Councillors have to weigh up recommendations from officials with community needs and interests.

Once the council has reached a decision then officials are expected to carry these out in the most efficient and cost-effective way.

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## **Links between the council and administration/employees**

The main formal contact persons between councillors and the municipal administration are the executive mayor and the municipal manager. There should also be an informal relationship between each mayoral or executive committee member and the matching head of department within the municipal administration, for example, between the councillor responsible for health and the head of the health department.

There should be clear lines of communication, accountability, and separation of roles. A councillor should not interfere in the management or administration of a department, for example, by giving direct instructions to municipal employees or interfering with the implementation of a council decision. Officials may not try to unduly influence the council or provide it with misleading information.

## **CODE OF CONDUCT FOR MUNICIPAL COUNCILLORS**

The Code of Conduct for Councillors is outlined in *Schedule 1 of the Municipal Systems Act of 2000*, and an additional Code was inserted in 2002. The code of conduct refers to *general conduct*, such as performing their functions of office in good faith, honestly and in a transparent matter, at all times acting in the best interest of the municipality, without compromising the credibility and integrity of the municipality.

Councillors *must attend each meeting*. Leave of absence is granted within the rules and orders of the council. Councillors may be sanctioned for non-attendance. Councillors should also disclose direct or indirect public or private business interest.

*Personal gain*: A councillor may not use their position or privilege as a councillor, or use confidential information obtained as a councillor, for their benefit or gain, or to incorrectly benefit another person. They also cannot be a party to, or be a beneficiary under a contract for the provision of goods or services to the municipality, or for the performance of any work other than as a councillor for the

municipality. They cannot have a financial interest in any business of the municipality, or acquire a fee by appearing on behalf of any other person before the council or a government committee.

A councillor should, within 60 days of their appointment or election, *declare in writing their financial interests*, including shares and securities in any company, membership of a close corporation, interest in any trust, directorships, partnerships, pension, interest in property, subsidies, grants and sponsorship by any organisation, gifts above a prescribed amount must be declared. Full-time councillors may not undertake any other paid work.

A councillor *may not request, solicit or accept any gift for voting/not voting on any matter*; disclose privileged or confidential information; disclose any privileged or confidential information of the council or committee to any unauthorised person.

Other than provided by law, *may not interfere in the management or administration of any department* of the council unless mandated by council, give or purport to give any instruction to any employee of the council except when authorised to do so, encourage or participate in conduct that would cause or contribute to maladministration within the council.

A councillor *may not use, take, acquire or benefit from any property or asset owned, controlled or managed by the municipality* to which that councillor has no right.

A councillor *may not be in arrears to the Municipality for rates and service charges for a period longer than 3 months*.

Councillors are barred from doing business with the state.

## **REPORTING CORRUPTION IN MUNICIPALITIES**

Corruption is the abuse of a position in government and/or resources for personal gain. Corruption makes government weak, reduces transparency and accountability and removes trust in government and private institutions. For example, when public funds that could have been spent to meet essential basic services such as water and sanitation, education and health care or developmental needs such as poverty alleviation are either misused, misappropriated, or stolen. Corruption affects everyone negatively, but mostly the poor and vulnerable.

All government bodies are required to give employees a copy of guidelines which explain procedures for receiving and dealing with information about corrupt behaviour.

Municipalities should have a whistleblowing policy or established channels for reporting corruption. Check the municipality's official website or contact their

office. There might be dedicated phone lines, email addresses, or web portals for people wanting to report corruption.

The *Protected Disclosures Act (No. 26 of 2000) (Whistleblowers Act) Regulations* provide that a whistleblower can make a protected disclosure to:

- The Public Protector which investigates complaints from the public against government bodies or officials
- The South African Human Rights Commission
- The Commission for Gender Equality
- The Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities
- The Public Service Commission
- The Auditor General

A protected disclosure can be made to a Chairperson of a Municipal Council, Minister or Member of the Executive Council (MEC) of a province.

These are other options for reporting corruption:

**Contact the authorities:**

- *South African Local Government Association (SALGA)*: As an association representing the interests of municipalities, SALGA can be approached for advice or to report corruption.
- *South African Police Service (SAPS)*: If you believe a crime has been committed, you can report it to your nearest police station. You can also report any crime anonymously to the SAPS toll-free hotline, Crime Stop: 0860010111

**Hotlines and platforms:**

- *National Anti-Corruption Hotline (NACH)*: Managed by the Public Service Commission. You can report corruption to:
  - The toll-free number: 0800 701 701, or
  - Email them at: [publicservicecorruptionhotline.org.za](mailto:publicservicecorruptionhotline.org.za); [integrity@publicservicecorruptionhotline.org.za](mailto:integrity@publicservicecorruptionhotline.org.za); or,
  - SMS: 39772
- *Corruption Watch*: This is an NGO that gathers and reports on corruption complaints from the public. You can use their online platform to submit a report on corruption. Go to [www.corruptionwatch.org.za](http://www.corruptionwatch.org.za) and click on 'Report'.



## PROTECTING WHISTLEBLOWERS

A whistleblower is a person who discloses information about wrongdoing in the workplace and reasonably believes that there is evidence of gross mismanagement or activity that is illegal, criminal, unethical, corrupt, or it violates the law.

South Africa has laws to protect whistleblowers under the *Labour Relations Act*, the *Company's Act*, the *Protection Against Harassment Act* (No. 17 of 2008) and the *Protected Disclosures Act* (PDA) (No. 26 of 2000) (*Whistleblowers Act*).

The *Whistleblowers Act* is the main law used to protect whistleblowers. It protects people who blow the whistle on corrupt activities at work. The Act says that every employer and employee has a responsibility to disclose criminal and any other irregular conduct in the workplace. Employers have a responsibility to make sure that an employee who discloses information is protected from any negative consequences to their work, such as:

- Disciplinary action
- Dismissal, suspension, demotion, harassment, or intimidation
- Transfer against an employee's will
- Refusal of transfer or promotion
- Changing a term or condition of employment or retirement which impacts negatively on the employee

The PDA provides that an employee may not suffer any negative consequences from their employer if they report conduct so long as it is made:

- In good faith, which means the whistleblower believes it is true
- According to a correct procedure
- Not for personal gain
- Without committing a criminal offence
- To the right authority

Contact a lawyer or Legal Aid if you think you need legal advice or protection as a whistleblower.

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## Summary of key principles

The mayor and executive or mayoral committee are responsible for making policy and monitoring outcomes, while the municipal manager is responsible for managing the administration to implement policy and achieve the specified outcomes.

- Councillors approve policy or amend budgets and priorities proposed by the executive or committees.
- Councillors pass by-laws that reflect their policies and objectives.
- The executive or mayoral committee sets the vision, mission, outcomes and outputs required of the administration.
- The municipal manager must carry out the instructions given by the executive on behalf of the council.
- The municipal manager and administration must give the executive regular reports on its activities.
- The executive checks that the municipal manager is carrying out their duties under the employment contract.
- The council monitors the performance of the mayor and executive.
- A councillor cannot give an official direct instruction to do something - this goes against the lines of accountability.
- Officials may not try to unduly influence the council or provide it with misleading information.
- To avoid corruption, councillors and officials may not be in a business venture together.

The *Municipal Structures Act* sets out codes of conduct for councillors (these codes apply equally to traditional leaders).

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## **How decisions are made in council**

Most councils follow the same pattern of decision-making as follows:

- Agendas are prepared before meetings, and any committee reports, petitions, or motions have to appear on an agenda before they can be discussed
- Some reports appear on pink or green paper, and that is classified as confidential
- When an issue comes up for discussion at a council meeting, it is often referred to a committee or to the executive for further discussion, and a deadline is given for when a report should be made
- If the matter is referred to a committee, the committee will report to the executive committee. The executive will consider the issue and either support the recommendations or put forward opposing recommendations to the council meeting
- The council then votes on the matter

## **RAISING ISSUES WITH COUNCIL**

There are many different ways that councillors (and the public) can raise issues with the council. These are:

### **PETITIONS**

Councillors or individuals are allowed to send petitions to the municipal manager. The purpose of the petition is to inform the council and the administration that a large number of people want something to be done, for example, if a law is not being applied properly.

Petitions are handed to the council secretary at the council meeting. The petition is usually referred to the management committee, which will then report to council. The officials send the petition around to the relevant departments who will make recommendations to the relevant committees. These committees then make recommendations to the executive. The executive discusses the petition and then makes recommendations to the council.

The councillor or group that has sent the petition must follow its progress by keeping in contact with the relevant departments.

### **QUESTIONS TO COUNCIL**

Questions can be used to monitor progress and implementation and get reliable information about council policies and programmes. Questions can be sent in writing or asked during a meeting. Written questions must be submitted 10 days before the council meeting so that the officials have time to prepare the answers. Answers will often be given at the meetings themselves. The executive chairperson can often answer a question verbally or provide a reply in writing. Any councillor can ask a question about executive recommendations or decisions and any executive member can make immediate verbal replies.

### **REQUESTS**

Collective and individual requests are the easiest way to get information or to bring problems to the attention of officials. When councillors table requests on behalf of their constituency, this should be done in a manner that respects rules and protocol. If by-laws exist to address a request, then a positive response may be done quickly.

For example, if someone has a blocked water drain, you can go to the relevant official and make a request to get it fixed. But if you want something new in your ward and there is no policy on this, then a request will not work.

## The role of municipal councils

The roles played by municipal councils are to:

- Pass by-laws - local laws and regulations about any of the functions they are responsible for. By-laws may not go against any national laws and are subject to the Constitution.
- Approve budgets and development plans - every year a municipal budget must be passed that sets down how money will be raised and spent. The council must also approve the integrated development plan.
- Impose rates and other taxes, for example, property tax
- Charge service fees - for using municipal services like water, electricity, libraries, and so on
- Impose fines - for people who break municipal by-laws, for example, traffic fines, littering
- Borrow money - the council can take a loan for a development or other project and use the municipal assets as surety
- Draw up, approve or amend integrated development plans (IDPs)

In playing their role, municipal councils have a duty to:

- Use their resources in the best interests of the communities
- Be democratic and accountable in the way they govern
- Encourage communities to be involved in the affairs of local government
- Provide services to the community
- Make sure the environment is safe and healthy

## RESPONSIBILITIES OF MUNICIPALITIES PART B: SCHEDULE 4 & PART B: SCHEDULE 5 OF THE CONSTITUTION

Municipal councils have executive and legislative powers for these functions.

In other words, they have the right to make laws and decisions about the affairs of residents and communities in their areas and to claim service fees from residents regarding:

- Electricity delivery
- Water for household use
- Sewage and sanitation
- Storm water systems
- Refuse removal
- Fire fighting services
- Municipal health services
- Decisions around land use
- Local roads
- Local public transport
- Street trading
- Abattoirs and fresh food markets
- Parks and recreational areas
- Other community facilities
- Local tourism

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### The role of district councils

District Municipalities must see to the development of their areas as a whole. They must build the capacity of local municipalities in their areas so that the local councils can carry out their functions. District Councils must also ensure those resources and services are distributed fairly amongst the local municipalities.

These are some of the functions and powers of District Councils:

- To plan for the development of the district municipality as a whole
- Bulk supply of water for the municipalities in the district
- Bulk supply of electricity for the municipalities in the district
- Bulk sewage purification works and main sewage disposal
- Waste disposal sites for the whole district council area
- Municipal roads, if support is needed, and gravel roads for the whole district council area
- Regulating passenger transport services
- Municipal health services for the whole area
- Fire-fighting services for the whole area
- Control of fresh produce markets
- Control of cemeteries
- Promoting local tourism for the whole area
- Municipal public works

National or provincial government can also delegate other functions to municipalities, though these must be within the limits of legislative provisions to do so.

Where local municipalities lack capacity, the district should provide the service directly to the people at local level – for example, fire trucks and road scrapers are often based in district municipalities and serve all the locals.

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## **The developmental role of local government**

Local governments must play a developmental role in their communities. This means working with communities (leaders and organisations) to find sustainable ways to meet the social, economic and material needs of people and to improve the quality of their lives. In particular, local governments should target people who are most often marginalised or excluded, such as women, disabled people and very poor people.

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## **The four main aims of developmental local government**

### **1. TO DEVELOP COMMUNITIES AND PROVIDE FOR ECONOMIC GROWTH IN THE AREA**

Municipalities must be serious about their responsibility to provide services to meet the basic needs of the poor in the most cost-effective and affordable way. They should do this in the following ways:

- Consult communities about services, affordability of service fees and service levels
- Provide effective relief for the poor, for example, a specific allocation of free water and electricity to people who don't have access to these services or who are unable to pay for them, and an indigent policy for people who are too poor to pay for additional services they need.
- Set up partnerships with the community, local businesses and organisations to develop and improve the conditions people live under
- Work in partnership with local businesses to improve economic development, job creation, and investment in the area.

## **2. CO-ORDINATE THE DIFFERENT SECTORS INVOLVED IN DEVELOPMENT OF THE AREA**

There are many different sectors involved in the development of an area, for example, national and provincial departments are all involved in some way in establishing and maintaining health clinics, schools, etc. There are also parastatals (partly government, partly private) like Eskom and Transnet, trade unions, businesses and non-government organisations that play a role in developing an area. The municipality must take responsibility for co-ordinating all their activities for the benefit of the whole community.

## **3. ENCOURAGE PARTICIPATION IN DECISION-MAKING PROCESSES**

Local councillors should make sure that the broader community is involved in the decision-making processes. They can do this through the ward committees and community consultation.

## **4. LEARN ABOUT NEW WAYS TO ENCOURAGE COMMUNITY DEVELOPMENT AND LEAD THE COMMUNITY**

People around the world are always thinking of new and better ways to build communities. For example, there are new ideas on how to create jobs, protect the environment, save water, do away with poverty, and so on. Local government leaders need to know about these changes and build them into their policies.

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### **Is your local government playing a developmental role?**

Ask yourself these questions to see whether your government is playing a developmental role. Do they:

- Provide services to everyone, for example, local roads, stormwater drainage, refuse collection, electricity, water?
- Try and integrate living areas – for example, the poor often live far away from the business and industrial areas?
- Introduce schemes to promote job creation?
- Provide adequate services to encourage people to live and work there?

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## **Drawing up an Integrated Development Plan (IDP)**

Integrated development planning is an approach to planning that involves the whole municipality and its citizens in finding the best solutions to achieve effective long-term development. An IDP is a broad plan for an area that gives an overall framework for development. It looks at existing conditions and facilities, at the problems and needs and finally at the resources available for development.

The six main reasons why a municipality should have an IDP are to:

- Make good use of scarce resources
- Help speed up delivery of services to poor areas
- Attract additional funds (government departments and private investors are more willing to invest their money where municipalities have an IDP)
- Strengthen democracy
- Overcome the inequalities and discrimination of the apartheid system
- Promote coordination between local, provincial and national government

All municipalities have to draw up an IDP in consultation with local forums and stakeholders. In other words, the public must participate fully in the process. The final IDP document has to be approved by the council. The plan must show:

- The basic needs of disadvantaged sections of the community
- The long-term vision for meeting those needs
- The need for these sections of the community to advance socially and economically
- How the plan will be financed and whether it is financially sustainable, that there will be money in the future to keep the plan going
- The capacity of the municipal council to carry out the plan and what resources are available to help carry out the plan.

The municipality is responsible for coordinating the IDP and must draw in other stakeholders in the area who can help and/or benefit from development in the area. Decision-making is devolved from the executive mayor or Exco, who pass on responsibility to the municipal manager and municipal officials. All municipal planning must take place using the IDP, related policies, by-laws and plans as a guide. The annual council budget should be based on the IDP.

## **LOCAL ECONOMIC DEVELOPMENT (LED)**

LED is an approach towards economic development that allows and encourages local people to work together to achieve sustainable economic growth and development and, in this way, bring economic benefits and improved quality of life to all residents in a municipal area.



Municipalities decide on LED strategies, and the process of arriving at an LED strategy must be part of the integrated development planning (IDP) process. Local economic development must aim to create jobs by making the local economy grow. This means that more businesses and factories should be started in the municipality.

As part of the IDP, people in a municipality must come together to reach an agreement and make decisions to make the economy grow and create income opportunities for more people, especially the poor.

The LED strategies should be based on the overall vision outlined in the IDP and should take into account the result of the analysis phase. It should also look at things like integrating our residential and work areas, building development corridors between areas and supporting the economy with good public transport.

Key principles underlying Local Economic Development include:

- Making job creation and poverty alleviation a priority in any LED strategy
- Targeting previously disadvantaged people, marginalized communities and geographical regions, black economic empowerment enterprises and supporting SMMEs to allow them to participate fully in local economies
- Promoting local ownership, community involvement, local leadership and joint decision-making
- Involving local, national and international partnerships between communities, businesses and government to solve problems, create joint business ventures and build local areas
- Using local resources and skills
- Integrating diverse economic initiatives in a comprehensive approach to local development
- Applying flexible approaches to respond to changing conditions

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## **Municipal service delivery**

Municipalities have the responsibility to make sure that all citizens are provided with services to satisfy their basic needs. The most important services the municipality must provide are:

- Water supply
- Sewage collection and disposal
- Refuse removal
- Electricity and gas supply
- Municipal health services (mostly environmental health)
- Municipal roads and stormwater drainage

- Street lighting
- Municipal parks and recreation

Municipalities provide services to people by using their own resources – finances, equipment and employees. People must pay a certain rate to the municipality for providing these services.

## **FREE BASIC MUNICIPAL SERVICES**

The government provides free basic levels of water, electricity and sanitation for the poor. This is only a small amount each month, and those who use more than the free allocated amount have to pay for it.

### **Free basic water**

The free basic water amount allocated to poor households is 6 000 litres per household per month. This might vary from municipality to municipality so households should contact their municipality directly to find out exactly what the free basic water service is that they provide.

### **Free basic electricity (FBE)**

The amount of free electricity is 50kWh per household per month. This is approximately the amount of energy needed for basic lighting, running a small black and white TV and radio, basic ironing, and basic water boiling through an electric kettle. Households that use above this amount will have to pay for it.

FBE is intended for indigent or low-income households. In many municipalities FBE is automatically provided to households using a pre-paid electricity meter, but some municipalities might require households to apply and prove their low-income status.

Users who have pre-paid electricity meters will receive their FBE allocation at the beginning of each month. Once the free units are used up, the household will need to buy more electricity at the normal rate. The free allocation doesn't roll over to the next month. This means if a person doesn't use all of their FBE in a given month, they lose any unused portion and will have to start again with the new month's allocation.

Users with traditional meters (where they pay at the end of the month) will usually have to go through a means test to qualify for the FBE. Their FBE will normally be deducted from the monthly bill (if they qualify). These users will not easily be able to see when they have used up their FBE units. They will be charged for additional use at the end of each month.

### **How to claim Free Basic Electricity (FBE)**

If you qualify for FBE your municipality will include you on the list of FBE

beneficiaries (qualifying people) and then submit the list to Eskom so that you can claim your FBE token.

Once you are registered you are entitled to a monthly amount of free electricity. This electricity is usually provided in the form of a prepaid FBE token (a number code that is punched into a prepaid meter). You can access the FBE token number through your mobile device. If you are a new beneficiary, you can claim your free electricity as follows:

- Dial \*130\*269#
- Select the FBE prompt
- Select 'NEW'
- Enter the electricity meter number
- Confirm that the number is correct
- Click Dismiss
- An SMS will be sent to you

If your household is already registered for FBE, you can access the FBE token number through your mobile device by dialling \*269\*120# or \*130\*869#

The FBE tokens are effective from the 1st of the month and can be collected anytime during the specific month. One only FBE token will be accepted by the meter during a specific month and it will expire at the end of the month. In other words, the tokens cannot be carried over from month to month. For traditional credit meters, the total units used by a household in a month will be reduced by the amount of free basic units.

### **Free basic sewage and sanitation**

Sewage and sanitation, as well as solid waste management, are subsidised up to R50 per month or 100% subsidy for indigent households.

### **Who qualifies for free basic municipal services?**

Only indigent households qualify for free basic services. To qualify for free basic services, a household must be classified as an indigent household by their local municipality. Free basic services of the first 50kw or 6000 litres are usually automatically given to all households that are on prepaid meters. For households using traditional billing meters they will need to do a means test to qualify. Their FBE will normally be deducted from the monthly bill (if they qualify).

The means test will decide whether households meet the criteria set by the municipality to qualify for indigent status. Municipalities determine their own categories of subsidies. In some municipalities, households qualify for 100% subsidies, while others qualify for less than 100% depending on the criteria set.

Once a household qualifies for free basic services, they will be included on the list of FBE beneficiaries.

## **MUNICIPAL SERVICE PARTNERSHIPS**

Municipalities can 'outsource' to other bodies, businesses or people to provide these services. This means it can choose to hire someone else, an NGO, CBO or private company to deliver the service but the municipality is still responsible for choosing the service provider and for making sure that they deliver the service properly.

When a municipality 'outsources' to someone else, this is called a municipal service partnership (MSP). This is not the same as privatisation but must be done carefully so that the municipality keeps control over the quality and cost of services.

So, an MSP is an agreement between a municipality and a service provider. Under this agreement, a service provider agrees to provide a particular municipal service on behalf of the municipality within a certain time frame and budget. The service provider can provide a service to the whole community or part of it. For example, it may be responsible for collecting rubbish in a certain part of the community.

MSPs can also be made with other spheres of government or government projects like the expanded public works programme. Work opportunities, such as expanded public works programmes and the community work programme are being rolled out to help unemployed people and engage them in doing community work for a small stipend. They often clean streets, do safety patrols, manage food gardens, look after old and bedridden people or help with extra classes or sports at schools.

## **MUNICIPAL INFRASTRUCTURE GRANT (MIG)**

The MIG is a financial grant made by the national government to support and promote infrastructure development in municipalities. The MIG aims to remove municipal infrastructure backlogs in poor communities to ensure the provision of basic services such as water, sanitation, roads and community lighting.

The Department of Cooperative Governance (COGTA) is responsible for managing and transferring the MIG and provides support to provinces and municipalities in implementing the grant projects.

Here's how the MIG works:

**Allocation:** The allocation of the MIG to various municipalities is based on a formula that takes into account the population, economic activity, and poverty level of the area. Municipalities that are less

developed or have a larger infrastructure backlog will generally receive a larger proportion of the grant.

**Project-based:** The MIG is project-based, meaning that municipalities apply for funding based on specific infrastructure projects. Each project needs to be well-defined and must cater to the basic needs of the community.

**Conditions:** While the grant is intended to offer flexibility to municipalities, there are conditions attached to ensure that funds are used efficiently and for the purpose that they were intended. The national government requires municipalities to provide detailed plans, monitoring, and reporting on the progress of the projects funded by the MIG.

**Compliance:** Municipalities are expected to comply with various frameworks and guidelines when implementing projects funded by the MIG. This includes considerations for community involvement, environmental impact, and sustainability.

**Monitoring and reporting:** Regular monitoring and reporting are essential components of the MIG. Municipalities need to submit periodic progress reports to the Department of Cooperative Governance and Traditional Affairs (COGTA) detailing the implementation and financial status of the funded projects.

**Capacity building:** Recognising that some municipalities may lack the technical expertise or capacity to implement large-scale infrastructure projects, a portion of the MIG can also be used for capacity-building. This ensures that municipalities can effectively and sustainably implement, operate, and maintain infrastructure projects.

#### **INFORMAL SETTLEMENTS UPGRADING PARTNERSHIP GRANT (ISUPG)**

The Informal Settlements Upgrading Partnership Grant (ISUPG) is a conditional grant that provides funding to municipalities for the upgrading of informal settlements. The funding aims to facilitate a programmatic, inclusive and municipality-wide approach to the upgrading of informal settlements and sets new conditions for provincial departments of human settlements and metropolitan municipalities that will receive this grant.

#### **URBAN SETTLEMENTS DEVELOPMENT GRANT (USDG)**

The USDG provides funding to supplement the funding of functions from municipal budgets of metropolitan municipalities. The funding should be to

implement infrastructure projects that promote equal, inclusive and sustainable urban development.

### **COMMUNITY DEVELOPMENT WORKER PROGRAMME (CDWP)**

This is a national government programme aimed at mobilising communities to:

- Assist with improving service delivery and accessibility of services to communities
- Assist with inter-governmental coordination between government departments
- Facilitate community development and stronger interactions and partnerships between government and communities
- Support participatory democracy

The role of Community Development Workers (CDWs) is to act as a link between Community and Government by informing communities of the government services available while informing government of community needs.

Usually, CDWs are chosen from the communities in which they will work. This ensures they will be familiar with the local issues and needs. CDWs receive training to equip them with the skills to perform their duties effectively.

The responsibilities of CDWs include:

- Information dissemination: CDWs provide communities with information about government services, programs, and projects.
- Facilitation: They help in facilitating access to government services by guiding community members through processes, helping fill out forms, etc.
- Feedback mechanism: CDWs collect feedback from the community regarding the effectiveness and quality of government services and relay this feedback to the relevant government agencies.
- Capacity building: They may also play a role in building capacities within communities, such as organizing workshops, training sessions, and awareness campaigns.

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## **Financial management**

One of the most important duties of a municipal council is to manage its funds effectively. This means:

- Drawing up a budget – working out what income the municipality will receive and balancing this with what they think they will have to spend it on
- Protecting the income, capital and assets, such as money in the bank, motor vehicles, and computer equipment, by putting in proper controls
- Monitoring the actual income and expenditure and comparing this to the budget through regular financial reporting and taking action to correct things when necessary
- Auditing on a regular basis and reporting the financial statements to all stakeholders

### **DRAWING UP A BUDGET**

Municipalities must prepare budgets for each financial year (which runs from 1 July of each year to 30 June of the next year). Council must approve these budgets before the new financial year begins, after proper planning and consultation with ward committees and other stakeholder groups in the area. However, the Council must prepare a draft budget a few months before this to allow for proper consultation to take place.

### **ROLE OF THE WARD COMMITTEE IN DRAWING UP A BUDGET**

Ward committees have the right and duty to ask questions and make recommendations to the council on the best ways to generate (make) income, keep costs down, prevent corruption and protect the assets of the municipality. Approving the budget is one of the most important functions of the ward councillor, who should not approve the budget until there has been proper consultation with the ward committee and other stakeholders. So, ward committees play an important role in the process, and they should look carefully at all the parts of the budget that will affect the people in their area. All members of the community have the right to observe the special council meeting when the budget is debated and voted on.

Ward committees should also be given regular feedback on the ‘cash flow’ of the municipality. ‘Cash flow’ means the movement of money into and out of the municipality’s bank account.

If too much money is spent and not enough money is raised, then the municipality will eventually go bankrupt. Ward committees have a right to ask questions about how well the ‘cash flow’ is being planned, monitored and followed up by the

treasurer and executive or mayoral committee. Ward committee members can also play a positive role in the 'cash flow' of the municipality by:

- Setting an example and paying all rates and taxes for services
- Encouraging others to pay their property rates, accounts for water, power, sanitation, etc.
- Challenging any waste of municipal money that they hear about and asking for an investigation
- Making councillors accountable for fighting corruption or wastage of municipal funds

## Community participation in local government

Municipal councils must be accountable to their local communities. In addition, the Constitution says it is important that communities participate in local government. The most important way that communities can participate in local government is through the structure of the ward committee. (See *pg 154: Ward committees*)

There are three Acts of Parliament that can be used to enforce the accountability of local councillors and the local council. These are:

- *Promotion of Access to Information Act* (No. 2 of 2000) gives people the right to have access to any information which the government has if they need it to protect their rights. Officials can only refuse to give information in certain limited situations.
- *Protection of Disclosure Act* (No. 26 of 2000) which protects people who speak out (whistle-blowers) against government corruption, dishonesty or bad administration
- *Promotion of Administrative Justice Act* (No. 3 of 2000) which says all decisions of administrative bodies have to be lawful, procedurally fair and reasonable. People have a right to be given reasons for decisions taken by government officials.

There are different ways that individuals can participate in local government and influence decision-making. (See *pg 92: Democracy, government and Public Participation*)