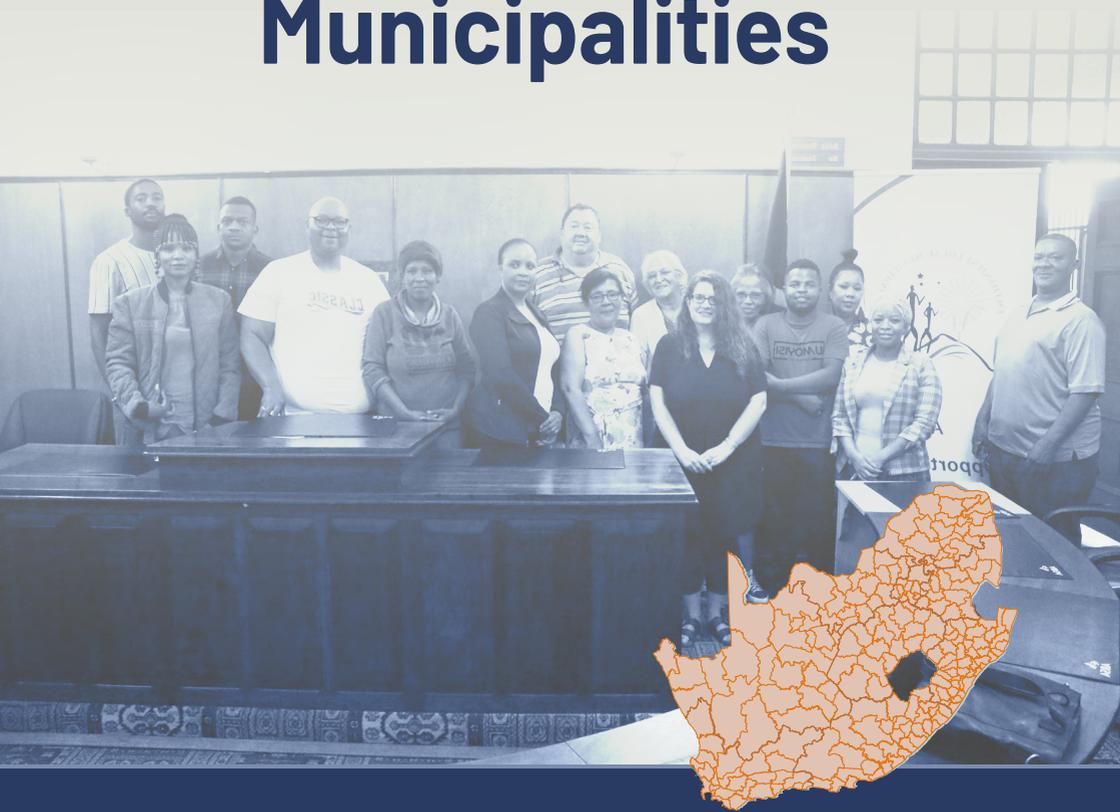


*Your voice. Your community. Your power.*

LOCAL GOVERNMENT PAMPHLET SERIES

# Accountability and Oversight in Municipalities



This pamphlet provides information on local government in South Africa. Municipalities are very important and provide the services that allow us to live dignified and healthy lives.

All councillors, municipal officials and ward committee members have the responsibility to make sure that there is **accountability**, **oversight** and **assurance** in their municipality. We have the right to know that a municipality is functioning properly and can provide services.

When challenging a local government action or refusal to act, there are two questions you need to ask:

1. What law gives the government the authority to act?
2. Has the government complied with (obeyed) the law?

The South African Constitution is the highest law in the land, and any law that doesn't follow it is invalid. All of government, including local government, must act according to the Constitution and laws passed by the government.

## What are **accountability**, **oversight** and **assurance**?

**Accountability** means that those in public office must be willing to give reasons for their choices and actions, and also face the consequences for them.

**Oversight** is the process of monitoring performance and activities to ensure they meet goals and standards. Accountability relies on oversight to ensure that those responsible answer for their decisions and actions.

**Assurance** is a process of providing confidence and trust that information or performance is reliable and valid. It is often done through methods like audits and evaluations. Assurance aims to guarantee that municipalities are operating transparently and responsibly.

Oversight uses assurance to inform monitoring, and assurance supports accountability by giving proof that reported actions or outcomes are trustworthy.

For local government and its leaders to be held to account, the taking of decisions and actions must be:

- **Transparent:** You should know how decisions were taken, by whom, where, when, and why.
- **Participatory:** Decision-making processes must include communities and CSOs.
- **Subject to the rule of law:** Consequences for poor decisions or the abuse of public power can only be enforced when laws apply to everyone.



# How accountability and oversight work inside municipalities

Within municipalities, there are many internal mechanisms that should play an oversight and accountability role. They include the following

- The **Internal Audit Unit** should provide independent and unbiased evaluations of the municipality's financial and operational activities to ensure efficiency, effectiveness, and compliance with law and regulations. It helps identify risks, recommends improvements, and verifies the implementation of corrective actions.
- The **Audit Committee** is an independent advisory body that oversees the municipality's financial reporting processes, internal controls, risk management practices, and performance management.
- The **Municipal Public Accounts Committee (MPAC)** is very important in a municipality and ensures that public funds are used effectively. It holds municipal officials and councillors accountable for financial management and service delivery. Its primary responsibilities include analysing audit and financial reports, tracking the implementation of Auditor-General recommendations, reviewing cases of unauthorised, irregular, fruitless, and wasteful expenditure, and presenting oversight reports to the council.

## Section 79 or Standing Committees

provide oversight on the implementation of council resolutions or investigate issues. They report to council.

## Section 80 or Portfolio Committees

advise the executive and oversee specific sectors within the municipality, such as infrastructure and community services.

**>> See section 4.5 of the COMPACT Working Towards Collaborative Local Government guide for more information on portfolio and oversight committees.**



The internal audit system and MPAC are extremely important, but there are often efforts to weaken these in municipalities. Communities, community organisations and ward committees should have eyes on these structures and their work to ensure accountability in a municipality!

# National and provincial government oversight and accountability

Provincial and national departments and legislatures are critical role-players in enhancing local government oversight and accountability. **In addition to internal mechanisms in municipalities, these external bodies have the power to monitor and investigate local government, and to help hold it accountable.** Especially where municipalities are unresponsive, these institutions can be approached for assistance, and their reports can be important sources of information and channels of advocacy and engagement.

## PROVINCIAL DEPARTMENTS

- **Provincial COGTAs (report to provincial MECs):** Monitor and support municipalities, ensuring they meet legal obligations. MECs can investigate maladministration, fraud, or corruption, monitor Integrated Development Plan (IDP) processes, and submit annual performance reports to provincial legislatures, identifying underperforming municipalities and proposing corrective actions.
- **Provincial Treasuries (report to provincial MECs):** Monitor municipal financial performance, provide technical support (e.g., budget preparation, MFMA compliance), and coordinate with National Treasury on financial interventions, reporting irregularities to provincial COGTAs for potential Section 139 interventions.

## NATIONAL DEPARTMENTS

- **National COGTA (reports to COGTA Minister):** Oversees municipal governance, requiring performance reports and implementing national policy frameworks. The COGTA Minister reports annually to Parliament and provincial MECs on local government performance and actions addressing Auditor-General concerns. It coordinates provincial interventions, assesses municipal capacity and service delivery, and advises on national support or legislative changes.
- **National Treasury (reports to Minister of Finance):** Manages municipal financial oversight, receiving monthly budget statements and Annual Financial Statements. It enforces financial compliance, intervenes in cases of financial distress, and maintains the Database of Restricted Suppliers and Register for Tender Defaulters.



## LEGISLATURES

- Provincial Legislatures (comprising MPLs<sup>1</sup>):** Review provincial COGTA reports, hold public hearings, conduct inquiries, and approve or reject Section 139 interventions to address municipal service delivery and governance issues.
- National Council of Provinces (NCOP):** Represents provincial interests, reviews local government legislation, monitors municipal performance through MEC reports, conducts oversight visits, and facilitates debates. It approves or rejects Section 139 interventions to address municipal service delivery and governance issues. The **Select Committee on Cooperative Governance and Traditional Affairs** focuses on national oversight of provincial and local government.
- National Assembly (comprising MPs<sup>2</sup>):** Passes local government legislation and oversees national COGTA and Treasury. The **Portfolio Committee on Cooperative Governance and Traditional Affairs** monitors municipal performance, policies, and budgets, ensuring responsible public fund management and effective service delivery.

1 MPL = Member of Provincial Legislature

2 MP= Member of Parliament

# Chapter 9 Institutions

Chapter 9 institutions are important bodies that also serve to hold municipalities accountable in various ways. Established in terms of Chapter 9 of the Constitution, these independent bodies are tasked with supporting our constitutional democracy and do not answer to any government department, political party, or other interest groups. The Chapter 9 institutions most relevant to local government oversight are described in more detail below.

## THE AUDITOR-GENERAL (AG)

The AG's purpose is to provide an independent assessment of whether the government spends its money under the rules. The AG is required to audit the spending and performance of all government offices, including municipalities. The AG's report investigates whether:

- The municipality followed the law when managing its finances and programmes. This is called **compliance**.
- The municipality's financial statements accurately reflect its financial situation and how it used its money. This is called **fairness**.

## THE PUBLIC PROTECTOR (PP)

The Office of the Public Protector investigates complaints against government departments or officials, including in municipalities. This includes maladministration, improper conduct by officials or persons performing public functions, abuse of power, corruption, misuse of state resources, and unlawful or improper enrichment of officials.



*Any member of the public can complain to the Public Protector. However, before doing so, it is recommended to first make a complaint with the speaker's office and/or MEC for local government or the councillor's political party.*

## THE SOUTH AFRICAN HUMAN RIGHTS COMMISSION (SAHRC)

If a municipality is not delivering essential services, a complaint can be sent online or to one of the SAHRC's provincial offices. The SAHRC can:

- Give legal advice.
- Investigate complaints.
- Use the courts, including the Equality Courts, to seek redress.

## THE INDEPENDENT ELECTORAL COMMISSION OF SOUTH AFRICA (IEC)

The IEC is the body that manages elections at all levels of government, including local government.

## What can you do if a municipality is being poorly governed?

1. **Engage with municipal structures.** The first step is always to get someone in the municipality to listen. Unfortunately, it is possible that the municipality is so badly managed that none of these people will respond or are able to assist. If that is the case, and if efforts to hold the municipality to account are unsuccessful, provincial and/or national government can be approached. If governance has failed, it is the responsibility of the provincial government to assist it in improving, or intervening.

Below we outline some ways to lobby for either provincial or national support and monitoring, or Section 139 interventions. Because the three spheres of government are independent from one another, direct interventions can only happen in very serious situations, and only after other efforts (such as support or capacity-building) have failed.

2. **Push for the province to investigate the municipality and act on the investigation's findings.** Provincial MECs for local government have the power to investigate municipalities for the failure to deliver services, misuse of money, corruption, or other dishonest behaviour or wrongdoing.
3. **Speak up to the national and provincial legislatures.** Both the national and provincial legislatures receive reports from the national minister and provincial MECs on the state of local government and specific municipalities. Local government MECs must report yearly to their provincial legislature on the state of all municipalities in the province and point out municipalities that are not working well.
4. **Organise a peaceful gathering.** By organising peaceful marches, communities can highlight issues such as poor service delivery or corruption, bringing attention to the problems.
5. **Use the media.** Contacting media outlets such as newspapers, news channels, journalists, or using social media can draw attention to neglected issues to help speed up action and solutions.
6. **Take the matter to court.** Courts have ways to ensure that responsibility for poor service delivery and governance failures is taken by municipal leaders. This option is best used as a last resort.



Chapter 2 of COMPACT's *Working Towards Collaborative Local Government* guide provides more info on oversight and accountability.



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