SALGA: STAKEHOLDER ENGAGEMENT TOOL

Introduction and purpose

The legislative requirements relating to local government, including those relating to public- or stakeholder participation, are numerous. In 2014 the Financial and Fiscal Commission found that local government is the most regulated sphere of government.[1] This is supported by a recent report on municipal finances.[2] The purpose of this tool is not to increase the compliance burden, but to provide a mechanism to assist municipalities to fulfil the minimum requirements for public participation, keeping in mind their capacity.

The purpose of this document is to:

1. Assist municipalities to manage and facilitate engagement with stakeholders through the *various stages where it is required by legislation or the principles of good governance*;
2. Provide details of engagement that *must be undertaken* with stakeholders;
3. Serve as *evidence of compliance* with legislative requirements;
4. Define a *technically and legally appropriate approach to consultation* and disclosure;
5. Improve and facilitate decision-making that actively involves government-affected people and other stakeholders in a timely manner; and
6. Allow municipalities to evaluate their performance regarding stakeholder engagement.

Participating municipalities

Free State	Xhariep District Municipality Matjhabeng Local Municipality Masilonyane Local Municipality
Western Cape	Oudtshoorn Local Municipality Prince Albert Local Municipality Witzenberg Local Municipality
Northern Cape	Siyancuma Local Municipality Umsobomvu Local Municipality Emathanjeni Local Municipality
North West	Rustenburg Local Municipality Madibeng Local Municipality Moses Kotane Local Municipality

[1] Financial and Fiscal Commission. (2014). The regulatory burden on municipalities. Presentation to the Department of Cooperative Governance and Traditional Affairs technical MinMec policy seminar. FFC. Pretoria.
[2] Ledger & Rampedi (2020) "The end of the road: A critical review of the local government fiscal framework" Public Affairs Research Institute.

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1. Constitutional imperative regarding stakeholder engagement

South Africa is a democratic state founded on a "multi-party system of democratic government, to ensure accountability, responsiveness and openness."[3] The government is constituted as national, provincial and local spheres.[4] In the local sphere, the executive and legislative authority of a municipality is vested in its Council.[5] It must govern subject to the Constitution and national and provincial legislation.[6]

Municipalities enjoy constitutionally entrenched powers, functions, rights and duties which can be constrained only as permitted by the Constitution. The executive and legislative authority of a municipality may not be impeded or compromised by national or provincial spheres of government.[7] The judgment in *Fedsure Life Assurance vs Greater Johannesburg Transitional Metropolitan Council*[8] makes the following salient points in support of this view:

> "Under the interim Constitution (and the 1996 Constitution) a local government is no longer a public body exercising delegated powers. Its council is a deliberative legislative assembly with legislative and executive powers recognised in the Constitution itself."[9]

The Constitution bestows original legislative powers and functions upon local government, makes provision for the assignment of additional powers and functions and has entrenched local government with fiscal powers and incidental powers.[10] A municipality exercises these executive and legislative powers through its elected council and only within its boundaries.[11] The manner in which municipalities exercise these powers is prescribed in section 11(3) of the Local Government: Municipal Systems Act (Systems Act).[12] Municipalities must, *inter alia*,

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[3] Constitution of the Republic of South Africa, 1996, Section 1(d).
[4] Constitution of the Republic of South Africa, 1996, Section 40(1).
[5] Constitution of the Republic of South Africa, 1996, Section 151(2).
[6] Constitution of the Republic of South Africa, 1996, Section 151(3).
[7] S151(2) and (4) of the Constitution.
[8] 1998 (12) BCLR 1458 (CC).
[9] *Fedsure v Greater Johannesburg Transitional Metropolitan Council* par 26.
[10] Steytler and De Visser *Local Government Law of South Africa* (2014) 5-5 – 5-8.
[11] SS11(1) and (2) of the Local Government: Municipal Systems Act 32 of 2000 (Systems Act). A municipality may exercise these powers in the area of another municipality by agreement with another municipality and subject to Chapter 5 of the Local Government: Municipal Structures Act 117 of 1998 (Structures Act).
[12] Act 32 of 2000.

develop and adopt policies, implement applicable national and provincial legislation and pass by-laws. Effect is also given to these powers by the provision of municipal services to the local community and preparing, approving and implementing budgets, imposing and recovering rates, taxes, levies, services fees, and surcharges on fees. In addition to the abovementioned matters, municipalities may do anything else which falls within their legislative and executive competence.[13]

The Constitution divides legislative powers between the spheres of government by listing functional areas set out in Schedule 4 and Schedule 5 of the Constitution. The general rule is that Part B of both Schedules 4 and 5 are the exclusive legislative competence of municipalities. This is confirmed by the judgment in *City of Johannesburg Metropolitan Municipality v Gauteng Development Tribunal*.[14]

Constitutionally, as far as stakeholder engagement / public participation / consultation / public involvement is concerned municipalities have obligations to:

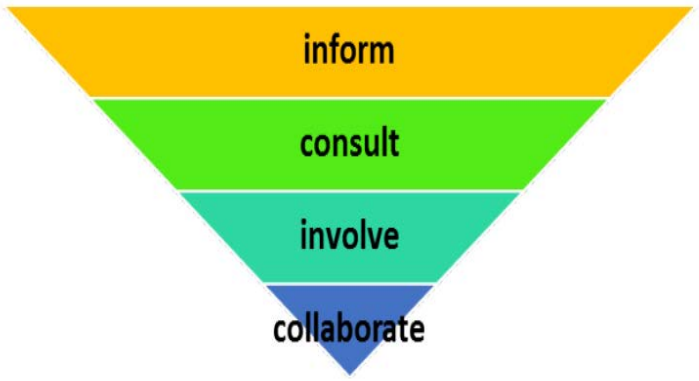
a) Provide democratic and accountable government for local communities;[15] and encourage the involvement of communities and community organisations in the matters of local government.[16]
b) To make and administer by-laws for the effective administration of the matters which it has the right to administer.[17] Proposed by-laws must be published for public comment.[18]
c) A municipality may make by-laws which prescribe rules and orders for its business and proceedings,[19] which may include the way it will conduct stakeholder consultation / public participation.
d) Municipalities must conduct their business in an open manner,[20] and openness may require the involvement of stakeholders and the public.

In terms of section 17 of the Constitution everyone has the right to present petitions. A petition is a document signed by a group of people which asks a government or other official group to do a particular thing.[21] It is a formal request, and if people take the trouble to formally present a petition, it should not merely be received, but acknowledged, considered and acted upon. Petitioners should also receive regular feedback. Due to the importance of petitions, it is discussed in more detail in **Annexure A.**

2. Stakeholder identification

Stakeholder identification is a process of identifying individuals or groups of people who have an interest in a plan, development or project, or governance. The process starts by identifying all possible stakeholders. It then analyses them according to their possible contributions or interests in various engagements. It must also be established where the stakeholders fit in on the public participation spectrum – should they be informed, consulted and/or involved or should the municipality collaborate with them? The extent is illustrated as follows:

[13] SS11(3)(a); (e); (f); (h); (i); (l); (m) and (n) of the Systems Act.
[14] 2010 (9) BCLR 859 (CC).
[15] S152(1)(a) of the Constitution.
[16] Constitution of the Republic of South Africa, 1996, Section 152(1)(e).
[17] Constitution of the Republic of South Africa, 1996, Section 156(2).
[18] Constitution of the Republic of South Africa, 1996, Section 160(4)(b).
[19] Constitution of the Republic of South Africa, 1996, Section 160(6).
[20] Constitution of the Republic of South Africa, 1996, Section 160(6).
[21] https://www.collinsdictionary.com/dictionary/english/petition (accessed 28 August 2020).



[22]

Stakeholders are also classified into internal and external categories and they should be identified in policies strategies.

a. Internal stakeholders are individuals or groups who are directly and/or financially involved in the operational process. These would include employees and managers,

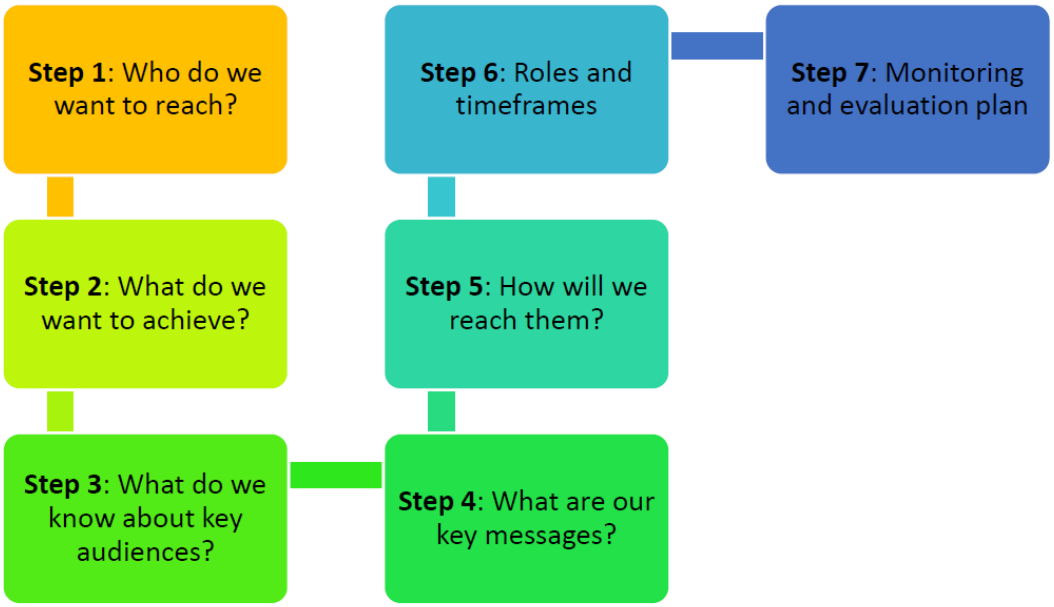
b. External stakeholders are other government organisations who are not necessarily part of the organization but who share the same interest. An example would be the Department of Health who operates a clinic.

c. External (non-government) stakeholders would be the private sector, CBOs, NGOs, Ratepayer's Associations, organised professions and all those organizations that are not part of government.

Stakeholders are the people with an interest in the way that government governs, project outcomes, the achievement of constitutional and legislative objectives, policy development etc. They also have valuable knowledge, expertise and opinions to shape the design, implementation and monitoring of project activities, and support their long-term sustainability. They can make a difference, affect or be affected by the achievement or non-achievement of a municipality's objectives.

The steps for stakeholder identification can be depicted as follows: [23]

[22] LIFE Urban Proof (2016) "*Climate Proofing Urban Municipalities*" 16.
[23] LIFE Urban Proof (2016) "*Climate Proofing Urban Municipalities*" 27.



3. Legislative requirements for stakeholder engagement

The legislative requirements for stakeholder engagement is addressed in table format under the following headings (See **Annexure C**):

- Local Government: Municipal Systems Act, 32 of 2000 (Systems Act)
- Local Government: Municipal Structures Act, 117 of 1998 (Structures Act)
- Local Government: Municipal Finance Management Act, 56 of 2003 (MFMA)
- Local Government: Municipal Property Rates Act, 6 of 2004 (Property Rates Act)
- Promotion of Access to Information Act, 2 of 2000 (PAIA)
- Promotion of Administrative Justice Act, 3 of 2000 (PAJA)

There are other legislation that necessitate municipalities to embark on public participation processes (such as the Spatial Planning and Land Use Management Act), but a general process should satisfy most legal requirements.

The Systems Act envisioned councillors, ward committees and advisory committees to be the main vehicles for community participation. Most ward committees are, however, dysfunctional[24] or not composed in a manner that represent the diversity of communities or stakeholders.

Apart from the above, the by-laws of municipalities can also impose duties about public participation. An example is the Liquor Trading Hours by-law of Prins Albert (See **Annexure B**). In some instances, by-laws require municipalities to have a public participation policy[25] or to "actively engage" the public.[26] Rustenburg Municipality has a Public Participation By-law.[27]

[24] O Fuo "Local government indigent policies in the pursuit of social justice in South Africa through the lenses of Fraser" (2014) 1 *Stellenbosch Law Review* 205-206.
[25] See section 70 of the Prins Albert Municipality's Fire Safety By-law and section 4 of its Rates By-law. Also see section 13 of the Oudtshoorn Rates By-law.
[26] See the Oudtshoorn and Prins Albert Customer Care by-laws.
[27] Published in Extraordinary Provincial Gazette 6313 on 4 September 2006.

In some by-laws, it is a requirement that evidence of invitations to participate in processes must be submitted, but it is not supplemented by detailed form-prescriptions.[28]

The public participation obligations of municipalities regarding the exercise of their powers and functions in terms of by-laws are set out in **Annexure G**.

4. Policy requirements for stakeholder engagement

The policies of most municipalities make provision for some form of public participation. It relates mostly to a particular function, the budget, the IDP or the local government municipal process. Apart from the examples listed in the previous paragraph, paragraph 13 of the Madibeng Rates Policy, for example, requires the municipality to undertake "community participation, i.e. that municipality will in amending this policy commits itself to a process of community participation and will engage interested parties and structures such as rate payers' organizations and ward committees."

Paragraph 19 of the Masilonyane draft Property Rates Policy requires the municipal manager to follow the process of community participation envisaged in chapter 4 of the Municipal Systems Act and to conspicuously display the draft rates policy at the municipality's head and satellite offices, libraries and on the website. It must also advertise in the media a notice stating that the draft rates policy has been prepared for submission to council and property owners and interested persons may obtain a copy of the draft policy from the municipal offices. Written comments or representations to the municipality must be invited and it must be considered by council.

Public participation requirements are also set in Integrated Development Plans in which form is given to the requirement.[29] In some instances, aspects of stakeholder participation are addressed in ward committee policies or communication strategies.[30]

5. Nature and form of stakeholder engagement

a. Legislative prescriptions

The Constitution does not address the content and form of stakeholder and public participation. Concepts such as public involvement, stakeholder engagement, public participation and stakeholder consultation are imprecise notions with many facets.[31] Fortunately, the South African courts had the opportunity to interpret the scope of the government's obligation to facilitate public participation in policy formulation and law-making processes. This has the potential to assist with ensuring that public participation is meaningful.

b. Court decisions

In *Doctors for Life International*; *Matatiele Municipality & Others v President of the Republic of South Africa & Others*[32] the Court indicated that the words "public involvement" and "public participation" often are used interchangeably to refer to the "active participation of the public" in decision-making processes. It stressed that the duty to involve the public in

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[28] See Chapter 7 of the Witzenberg By-law on the Rules of Order for Meetings that require copies of the advertisements inviting the public to make representations and any comments received from the public to be submitted.
[29] See pages 10 and 11 of the Moses Kotane IDP.
[30] Examples include Umsobomvu Municipality,
[31] *King and Others v Attorneys Fidelity Fund Board of Control and Another* [2005] ZASCA 96 par [22].
[32] *Doctors for Life International*; *Matatiele Municipality & Others v President of the Republic of South Africa & Others* (2) 2007 1 BCLR 47 (CC) paras 50-68.

decision-making processes also means that government must ensure that the corresponding right of the public to participate must be realised.[33] The court, however, emphasised that it will not be prescriptive regarding the methods that the legislature or the executive branches must employ to ensure quality participation.[34] This approach was also followed in *Merafong Demarcation Forum & Others v President of the Republic of South Africa & Others*[35] where the court stated that the duty to facilitate public involvement can be complied with by employing a variety of mechanisms.

In the *King*-case the Supreme Court of Appeal found that public involvement might entail the submission of commentary and representations. Informing the public about what it is doing and making them understand may, depending on the circumstances and the complexity of matters, amount to "involving" the public. Whether the obligation to consult and involve has been fulfilled cannot be assessed by examining only one aspect of public participation.[36]

In a local government context, the opinion has been expressed that the jurisprudence indicates that where the Constitution or enabling law requires that local authorities should "facilitate", "promote" or "involve" local communities, they must ensure that communities actively take part in local decision-making processes. It amounts to a duty to make it easier for the community to participate in the development and implementation of policies, plans and programmes.[37]

Participation is the end to be achieved. What is ultimately important is that steps must be taken to afford the public a reasonable opportunity to participate effectively. As was stated in *Doctors for Life International v Speaker of the National Assembly and Others:*[38]

> "All parties interested in legislation should feel that they have been given a real opportunity to have their say, that they are taken seriously as citizens and that their views matter and will receive due consideration at the moments when they could possibly influence decisions in a meaningful fashion. The objective is both symbolical and practical: the persons concerned must be manifestly shown the respect due to them as concerned citizens, and the legislators must have the benefit of all inputs that will enable them to produce the best possible laws. An appropriate degree of principled yet flexible give- and take will therefore enrich the quality of our democracy, help sustain its robust deliberative character and, by promoting a sense of inclusion in the national polity, promote the achievement of the goals of transformation."

However, despite the constitutional obligation to facilitate public participation, government institutions should take care not to abdicate their governing powers to the public.[39] The best result that can be expected from public involvement is consensus. In most instances mutually-acceptable trade-offs are to be considered a good outcome, but in the end, it is government that governs. Where mutually-acceptable outcomes cannot be achieved, it may be expected of the courts to evaluate the reasonableness or rationality of decisions

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[33] *Doctors for Life* par 129.
[34] *Doctors for Life* paras 123-124.
[35] *Merafong Demarcation Forum & Others v President of the Republic of South Africa & Others* 2008 10 BCLR 968 (CC) par 27.
[36] Par 22.
[37] ON Fuo "Public participation in decentralised governments in Africa: Making ambitious constitutional guarantees more responsive" (2015) 15 *African Human Rights Law Journal* 167-191: 189 http://dx.doi.org/10.17159/1996-2096/2015/v15n1a8 (accessed 28 July 2020).
[38] 2006 (12) BCLR 1399 (CC) par 235.
[39] Systems Act, 2000, Section 16(2).

and in turn, it will be expected from authorities to "show that they have considered all the views submitted by the public."[40]

c. Policy requirements

Local government must also take cognisance of national and provincial legislation as well as other policy frameworks, such as:[41]

- The National Development Plan 2030
- The New Growth Path
- The National Industrial Policy Framework
- The Industrial Policy Action Plan
- The 14 National Development Outcomes
- The Comprehensive Rural Development Programme
- The Integrated Sustainable Rural Development Strategy
- The National Spatial Development Perspective
- Regional Industrial Development Strategy
- The Agriculture Policy Action Plan
- The Strategic Plan for South African Agriculture
- The National Infrastructure Plan
- The Integrated Urban Development Framework
- The IGR Framework
- The Local Government Strategic Agenda
- Provincial Growth and Development Strategies
- The Strategic Infrastructure Projects
- Provincial Growth and Development Strategies
- Provincial Sector Strategies and Policies
- The IGR Framework
- The Local Government Strategic Agenda

International policy frameworks applicable to local government include the following:

- The Sustainable Development Goals, 2016
- The New Urban Agenda, 2016
- The African Union Agenda 2063

It is clear that the legislative and policy requirements place a heavy burden on municipalities. It would be beneficial for them to develop a process and policy to assess and analyse stakeholders in order to prioritise them in relation to the necessity for their engagement. It is not necessary to engage each stakeholder or group of stakeholders at the same level, or at the same time. The same stakeholder may be engaged differently at different stages. To determine which ones are best suited to contribute and who are critical to involve, the relevance of stakeholders must be established. [42] Must the municipality collaborate with them, involve, consult or inform them (or a combination)?

[40] ON Fuo: 190.
[41] SALGA (Undated) The Legislative Framework Governing Municipal Performance Measurement.
[42] LIFE Urban Proof (2016) "*Climate Proofing Urban Municipalities*" 15.



[43]

Stakeholders who need to be **informed**[44] are those who may have little interest in or influence over outcomes. There is less need to consider them in much detail.[45]	Stakeholders in this box should receive sufficient information to keep them satisfied.
Stakeholders who must be **consulted** are those that may have high interest but low influence and although they could support governance, they lack the capacity to significantly contribute. These are often the marginal stakeholders which are usually 'hard to reach', and that might require special attention to ensure their engagement and to empower them to equally engage in the process with more influential stakeholders.	These stakeholders should work directly with the municipality to ensure that their concerns and requirements are well understood, taken into consideration and, where appropriate, are satisfied through the project actions.
Stakeholders who must be **involved**[46] are highly influential but have little interest or low capacity and/or resources to engage. As a result, they may have significant influence but may be difficult to engage throughout the process.	Stakeholders in this box should be provided with feedback, be informed and consulted on several issues. Take care not to overwhelm stakeholders with information outside of their area of expertise or interest.

[43] Legislative Sector SA (2013) Public Participation Framework for the South African Legislative Sector: 28.
[44] *King*-case.
[45] LIFE Urban Proof (2016): 16.
[46] *Merafong*-case.

Stakeholders who require **collaboration'** box (high interest – high influence) are those who are most likely to benefit. They are potential suppliers of relevant information, permissions and resources, or may be significantly impacted by the final project outcomes.	These stakeholders should be updated with information on the scope of activities, problems encountered, objectives and outcomes to help them recognise the problem, assess alternatives, recognise opportunities and identify potential solutions. Information must be tailored to the specific needs of each stakeholder group.

The purpose of covering the stakeholder engagement spectrum (inform, consult, involve, collaborate) is to ensure active participation, which is the end to be achieved. To achieve the end, steps must be taken to afford reasonable opportunity to participate. This requires that real opportunities must be created, the public must be taken seriously, and their views must be considered.

The general duties on municipalities to facilitate public participation are set out in **Annexure F**.

6. Stakeholder engagement process

Before the process to engage with stakeholders begins, an engagement plan needs to be developed and put in place. A good stakeholder engagement plan contains the following parts:[47]

- **Stakeholder list**

  List the stakeholders and compile a Stakeholder Register.

- **Contact name(s)**

  It's important to be in contact with the correct people. Large organizations or government stakeholders have many layers of bureaucracy which can result in delays when the primary decision maker is not being communicated with directly.

- **Areas of Influence**

  This is where the stakeholder's "stake" is defined. How do their interests overlap with the IDP, budget, project etc? What are their business goals and how does your business interfere with them? Why is this stakeholder interested in you? There can be no meaningful stakeholder engagement without understanding each other's viewpoints.

- **Power**

  Each stakeholder has a unique ability to stop and/or change the project. What is that ability? Where does it derive from, and how can it be controlled? Sometimes the stakeholder's power can be removed, but this comes at a cost, both monetary and in

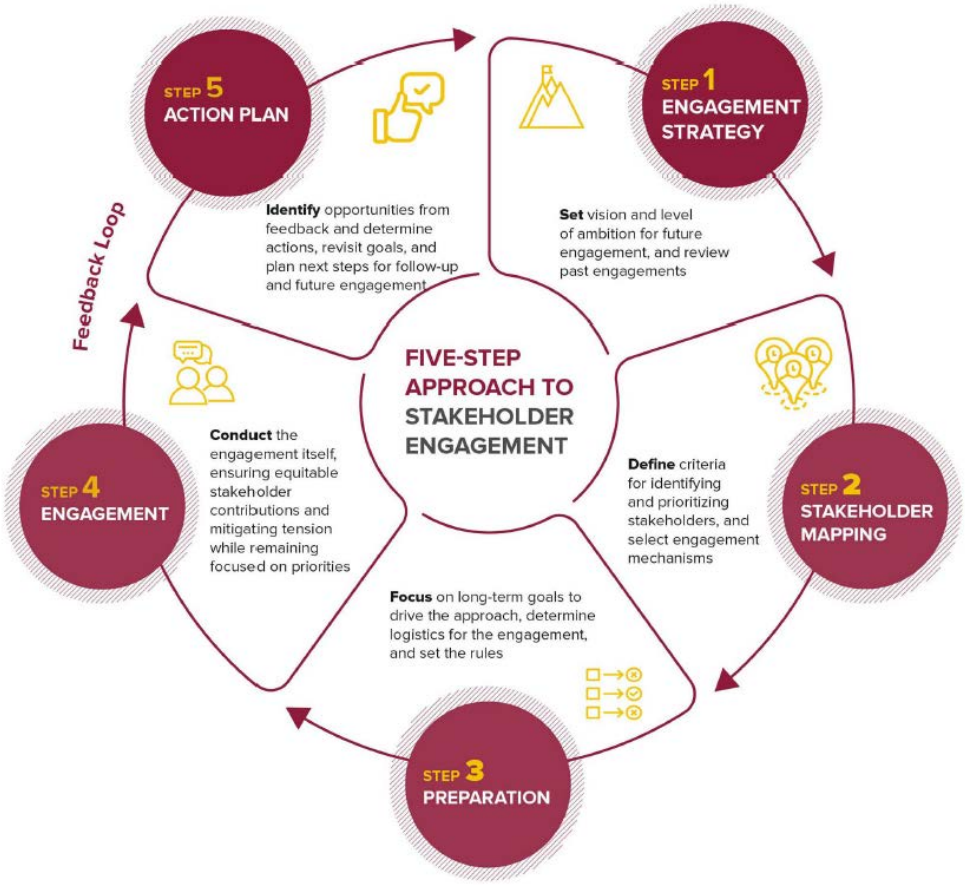
[47] Project Engineer (2019) "How to develop a stakeholder engagement plan?" https://www.projectengineer.net/how-to-develop-a-stakeholder-engagement-plan/ (Accessed 26 August 2020).

stakeholder satisfaction (they could become very unhappy and influence other stakeholders).

- **Engagement approach**

  The strategy for engaging the stakeholder must be outlined in detail. The types and frequency of communication, for example weekly emails, monthly phone calls, or weekly face to face meetings. The content of those communications, for example a weekly update that contains project progress, design information, and open house plans.

The stakeholder engagement plan is the foundation for achieving stakeholder buy-in.



[48]

The following table may assist to identify the mechanisms to be used on the community engagement spectrum:[49]

[48] BSR "Five Step Approach to Stakeholder Engagement (2019) https://www.bsr.org/en/our-insights/report-view/stakeholder-engagement-five-step-approach-toolkit (accessed 26 August 2020)
[49] Schmidt, P (2017) Community Engagement Toolkit: 5.

Community engagement spectrum:
Increasing the impact on decision-making and governance

Inform	Consult	Involve	Collaborate	Empower
Provide honest and objective information about services, programmes, projects	On the quality and range of services. Invite feedback on decisions taken about new projects or services	Encourage involvement. Work with the community to ensure that their aspirations and concerns are addressed at every stage of planning and decision-making	Enable community to participate in every aspect of planning and decision-making for new programmes or services to ensure that the community produces outcomes	Give community sole decision-making powers over certain new projects or services. Professionals only consult and support
The municipality will keep you informed	The municipality will inform you, listen to your input and let you know if your ideas and concerns have influenced decisions	The municipality will ensure your input and feedback is reflected and let you know if and how you influenced decisions. You will be a partner in implementing solutions	The municipality will co-create and co-produce solutions. You will be a true partner in making and implementing decisions. Your advice and recommendations will be incorporated as much as possible	The municipality will support your decisions and work to implement solutions
Fact sheets Newsletters Website Newspapers Radio	Surveys Focus groups Public meetings Forums Radio talk shows	Stakeholder forums Public meetings	Council membership Ward committees Advisory boards	Support governance, leadership and partnership

The methods that can be employed to inform, consult, involve or collaborate include:

a. Public meetings
b. Workshops and focus groups
c. Forums
d. Web-based engagement
    i. Websites
    ii. E-mail
    iii. Twitter
    iv. Apps
    v. Others?
e. Consensus building workshops
f. Street/event stalls
g. Community surveys
h. Community radio
i. Community newspapers

From the discussion thus far, municipalities must have a policy or strategy in place to ensure that they comply with the constitutional, legislative and policy requirements regarding stakeholder engagement. The municipalities that are part of this project are evaluated in **Annexure D**.

Challenges and factors causing public participation to fail[50]

[50] Legislative Sector SA (2013) Public Participation Framework for the South African Legislative Sector: 84-85.

Public participation is hampered by **issues of access**. Very often it is only the business sector and organised civil society that have access to the information and resources required to know that matters that may affect them are on the cards, understand the complex and sometimes intimidating processes and language, and formulate a submission and deliver it – all within a limited period. This culminates in NGOs speaking on behalf of community groups, with concern about the representativeness of their views or accountability to these communities. Inadequate information is made available to the public and often it is poorly advertised.

Five common barriers to access:

1. Physical access. Most public hearings are held in places which are inaccessible to the poor and those from rural areas. Authorities should take steps to hold public hearings in communities or to provide transport to those wishing to take part.

2. Lack of effective information. The media should be used more effectively to disseminate information on pending matters and opportunities for public participation.

3. Insufficient public education. Studies show that the public has little or no understanding of policy-and law-making processes and their role in the development thereof.

4. Language barriers. English is the primary language of government. This potentially excludes a large range of language groups. In addition, the technical language often used is a further barrier to participation.

5. Skills for public participation. The skills required for effective public participation such as public speaking and community organisation are unevenly distributed and insufficiently developed.

Administrative challenges of public participation units:

1. It is unclear who is responsible for evaluating the effectiveness of the units and it is evident that they have yet to make any impact in strengthening public participation.

2. Poor inter-departmental collaboration and coordination, and a lack of clear roles.

3. The most common form of public participation is through public meetings, but they have limitations. Invitations are often sent at short notice and thus not allow sufficient time for the public to prepare inputs.

4. The submission of petitions is a potentially powerful form of direct democracy. There should be a standardised process for submitting and processing petitions.

5. Some aspects of communication strategies impose limits on those who do not have the ability and/or technology to access website information. Published information is also not disseminated widely enough and not all publications are published in the relevant languages mostly used in various provinces, to reach as wide an audience as possible.

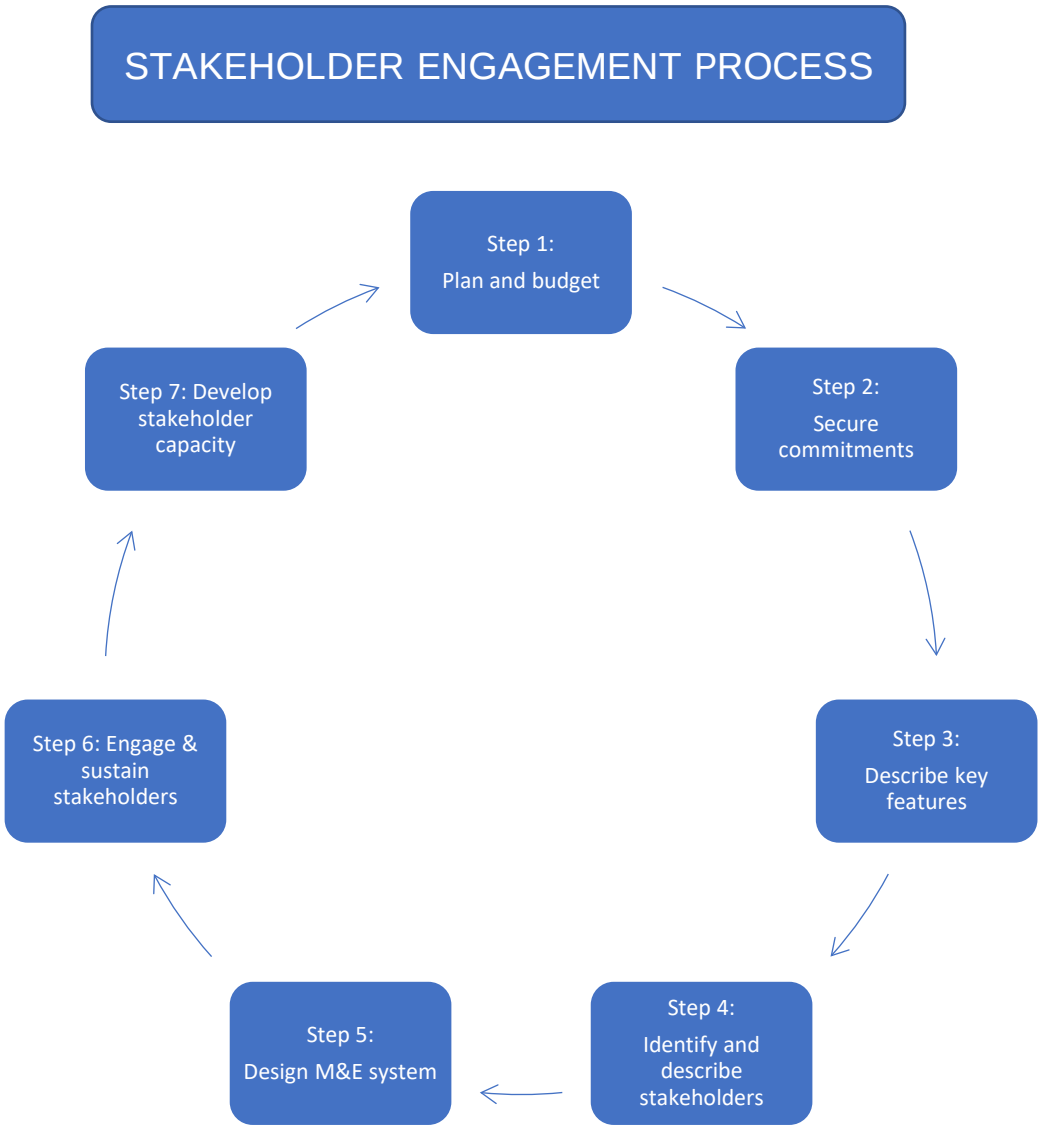
6. Whilst formally some municipalities have public participation systems in place, substantively they are not very successful to promote public participation as constitutionally mandated and as dictated by the courts.

7. Constituency offices are often seen as party offices and not as an extension of the council.

To overcome the barriers and constraints, it is necessary that a municipality follow a process. Such a process is illustrated below. **Annexure E** contains a steps and task list to give effect to a stakeholder engagement process.

7. Roles and responsibilities for implementation of stakeholder engagement process

The diverse levels of capacity within municipalities make it difficult to ascribe roles and responsibility. It is proposed that each municipality should undertake an internal assessment under the leadership of the Office of the Speaker and then assign specific roles and responsibilities.



8. Reporting, monitoring and record-keeping, including 2020 M&E Framework by DPME

The Department of Planning, Monitoring and Evaluation, in an attempt to support and improve the performance of municipalities, developed the Local Government Management Improvement Model (LGMIM) tool which focusses on the management practices in 6 Key Performance Areas, including community engagement. The 6 KPAs are further broken down into 26 Management Performance Standards against which performance are assessed. These are the functionality of ward committees (Standard 5.1) and service standards and complaints management (Standard 5.2). It was found that:[51]

Standard 5.1: Functional Ward Committees

Ward Committees are meant to be a channel of communication and interaction between communities and municipalities via the Ward Councillor. Record keeping of complaints, queries and requests from the community happens in quite diverse ways from municipality to municipality. In many instances, complaints recorded by ward committees are done on an ad hoc basis. Whether or not feedback on and/or resolution of such complaints are provided to community members through the ward committee structures *could not be established*.

Standard 5.2: Service Standards and Complaints Management

Only 29,4% of participating municipalities had approved service standards in place. Furthermore only 11% could provide sufficient evidence that they had a *complaints management system* in place capable of resolution tracking via reference numbering, date of closure, etc. Customer satisfaction surveys are not conducted frequently, and where surveys had been conducted, it seems that action was seldom taken to address the findings and recommendation of the survey results.

[51] Department of Planning, Monitoring and Evaluation (2020) Local Government Management Improvement Model 5 Year Review 2014 to 2019: 115.

ANNEXURE A.1

PETITIONS[52]

The right to submit petitions is a basic human right protected by the Constitution.[53]

WHAT IS A PETITION?

A petition is a formal request to a sphere of government for intervention in a matter. It can take the form of either a request for assistance with a specific issue or for the redress of a grievance.

TYPES OF PETITIONS

There are generally two types of petitions, namely special petitions and public or general petitions. A special petition is when an individual makes a specific request or asks for personal relief, which is not authorised by law, such as access to housing. A public petition is when a group of citizens with similar interests request general relief or redress of a grievance.

PRESENTATION OF A PETITION

Although "Everyone has the right, peacefully and unarmed, to assemble, to demonstrate, to picket and to present petitions" there are certain procedures that individuals and/or groups must follow. The presentation of petitions should be governed by a municipality's Rules of Order.

HOW TO WRITE A PETITION

The rules may prescribe that a petition should comply with the following requirements:

- Be in a form prescribed by the Speaker;
- Include the name/s and contact detail/s of the petitioner/s;
- Clearly indicate the intended recipient of the petition (to whom is the petition being addressed);
- Clearly indicate the nature of the request being made (the subject of the petition);
- Include a clear motivation for the petition;
- The petition may be in any of the official languages of South Africa;
- Be signed by the petitioner(s) themselves (unless the Speaker decides otherwise);
- Not contain improper or disrespectful language; and
- Must indicate the nature of the relief, action or assistance asked.

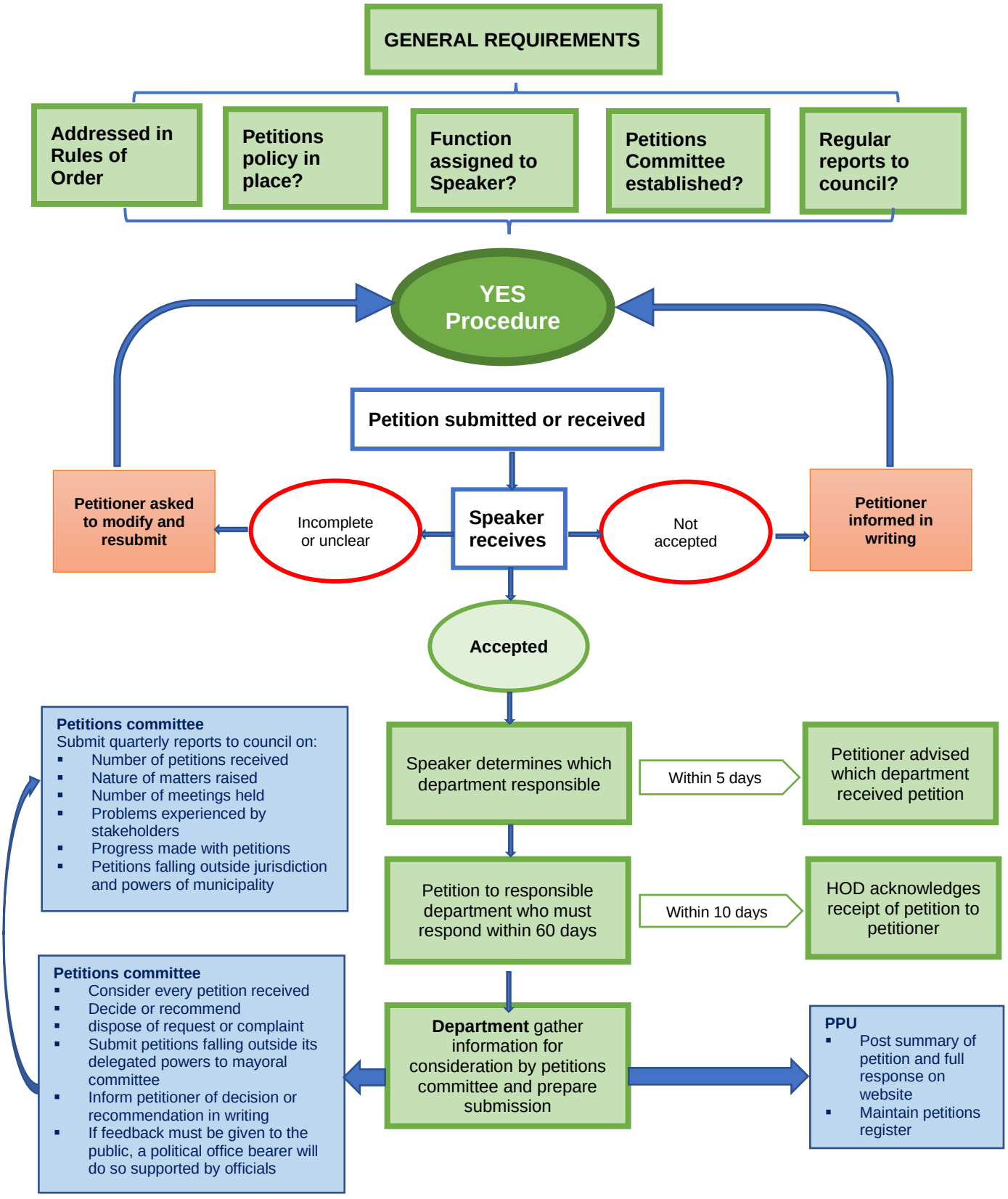
Municipalities should have a policy that provide clear guidelines to officials and office bearers on how to deal with petitions. It is a function that should be overseen by the Office of the Speaker.

A schematic exposition of the general requirements for dealing with petitions is set out on the next page.

[52] The broad outline was obtained from Parliament of the Republic of South Africa "Petitions" https://www.parliament.gov.za/petitions (accessed 28 August 2020).
[53] Section 17 of the Constitution.

ANNEXURE A.2

PETITIONS



ANNEXURE B

Section 4 of the Prince Albert Municipality's Liquor Trading Hours By-law

4. Public participation and duties of municipality

(1) Upon receipt of a copy of the application to sell liquor from the designated liquor officer as contemplated in section 37(4) of the Act, and in order to comply with the requirements of section 40 of the Act, the municipality must –

(a) allow the public to have access to the application by posting a copy of the application on all municipal notice boards; and

(c) make available copies of such application when requested by a member of the public against payment of a fee as determined by the municipality from time to time; and

(b) subject to subsection (2), instruct the ward councillor in whose ward the proposed premises is situated to submit written comments.

(2) The ward councillor who receives an instruction as contemplated in subsection (1)(b) must, within 7 days, –

(a) convene a ward committee meeting to solicit the ward committee members' views with regard to the application that the applicant lodged with the Liquor Board;

(b) convene a consultative meeting with members of the community of the area within a radius of 100 metres of the premises that are sought to be registered to discuss and solicit their views with regard to the application that the applicant lodged with the Liquor Board;

(c) compile and submit a report to the municipality stipulating the date of the meetings referred to in subsections (2)(a) and (b), the time of the meetings, the names and the addresses of the people who attended, indicate whether he or she objects to or recommends the application and what additional conditions he or she proposes, if any; and

(d) attach the minutes of the meetings referred to in subsections (2)(a) and (b).

(3) The municipality must, within 7 days, of receipt of the ward councillors report consider such report and submit to the Board, within the prescribed period, the documents as contemplated in section 40 of the Act.

(4) For the purpose of considering a report as contemplated in subsection (3), an official may undertake such investigation or request such information as he or she may deem necessary for consideration by the municipality and must submit his or her findings to the municipality.

ANNEXURE C

Legislative requirements for stakeholder engagement

Local Government: Municipal Systems Act 32 of 2000

Section	Requirement	Type of action required	Evidence
4(2)(c)	Encourage the involvement of the local community in view of the municipality's financial and administrative resources	1. Develop and adopt a stakeholder engagement strategy 2. Develop and adopt a public participation policy	1. Stakeholder engagement strategy 2. Public participation policy
4(2)(e)	Consult the community about the level, quality and range of services provided by the municipality	▪ A municipal code must be in place ▪ Must be part of the IDP process	▪ Municipal code ▪ IDP
5(1)(a)(i)	Have mechanisms, processes and procedures been developed to contribute to the decision-making processes of the municipality?	Develop and adopt a stakeholder engagement strategy and public participation policy and make provision in by-laws where necessary	Stakeholder engagement strategy, public participation policy and provisions in by-laws
5(1)(a)(ii)	Have mechanisms, processes and procedures been developed to submit: 1. Oral recommendations 2. Representations 3. Complaints to – ▪ Council ▪ Political structures or office bearers ▪ The administration	Petitions system in place, which can be electronic, written or web-based Referral and feedback system in place	Petitions system Evidence of system or register
6(2)(d)	Does the administration facilitate communication with the community?	Is it possible for stakeholders to submit: 1. Oral representations 2. Written representations 3. Petitions 4. Complaints to – ▪ Council ▪ Political structures or office bearers ▪ The administration	Petitions system Register of complaints Electronic system
12(3)(b)	Have by-laws been adopted and were the by-laws published for public comment in a manner that allows the public to make representations?	1. Publish notices in newspapers of record 2. Place notice at offices 3. Place first drafts at libraries and on website 4. Conduct stakeholder participation sessions 5. Discuss at ward committees	Notice in newspapers Tabling at ward committee meetings Public consultation sessions Photographs of notices at offices Photographs of drafts at libraries

15	Has a municipal code consisting of all by-laws been compiled and is it: ▪ In loose leaf format? ▪ Available electronically? ▪ Accessible to the public? ▪ Up to date?	Municipal code developed	Provincial gazette in which it was published. • Website, head office & libraries • Date published and revised
17(2)	Does the municipality have appropriate mechanisms, processes and procedures in place for community participation?	Develop and adopt a stakeholder engagement strategy Develop and adopt a public participation policy Make provision in by-laws where necessary	Stakeholder engagement strategy Public participation policy By-law provisions
17(2)(a)	Does the municipality provide for the receipt, processing and consideration of petitions and complaints?	Petitions system in place, which can be electronic, written or web-based	Petitions system, Complaints register, Electronic system
17(2)(b)	Does the municipality have notification and public comment procedures in place?	Advertisements and notices about opportunities to comment	Proof of advertisements and notifications setting out procedures
17(2)(c)	Do the council, political structures and political office bearers conduct public meetings and hearings?	Advertise and notify	Advertisements and notifications
17(2)(d)	Does the municipality conduct consultative meetings with CBOs and traditional authorities?	Invite CBOs and traditional authorities	Invitations and minutes
17(2)(e)	Does the municipality report-back to communities?	Report back at public or stakeholder meetings and individually where required	Notices of meetings and minutes
17(3)(a)-(d)	Do the mechanisms, processes and procedures in place for community participation consider the needs of: ▪ People who cannot read or write? ▪ People with disabilities? ▪ Women? ▪ Other disadvantaged groups?	Disseminate possibilities that are available	Copies of notifications and arrangements made
18(1)	Has the municipality communicated information concerning community participation to its stakeholders?	Communication strategy in place	Communication strategy
18(2)	Did this communication consider the language preferences and needs of people who cannot read or write?	Make provision for language preferences	The strategy
19	Does the municipality give notice to the public of council meetings? Has the manner of notice been determined by the council?	Notices in newspapers, on radio, at offices etc. Council to adopt a resolution	Copies Resolution and inclusion in communication strategy or policy

20(1) 20(4)	Are council and committee meetings open to the public? If the public is excluded, are the circumstances reasonable and are they excluded in terms of a by-law or council resolution that clearly specify the reasons for exclusion? Does council provide space for the public to attend council and committee meetings?	Notify public that meetings are Explain why public is excluded and provide reasons that justify exclusionProvide space	Attendance register By-law or resolutionThe space that is made available
21(1) 21(2) 21(3) 21(4) 21(5)	Does council make notices known by means of: ▪ Local newspapers ▪ Newspapers circulating in its area; and/or ▪ Radio stations Are notices published in the languages predominantly used in the area? Are copies of every notice that must be published in the *Provincial Gazette* displayed at the municipal offices? When public comments are invited, do the invitations notify the public and provide an official to receive oral representations. Where it is required that a form must be completed, is a staff member available to give assistance?	Notify public by means of notices in local newspapers, circulating newspapers and Publish notices in predominant languages Display at offices Notify public that official will be available and make official available Make staff member available	Copies of notices The notices Photographs Copies of notices Copies of notices, minutes of ward committee meetings, instructions to officials
21(A)(1) 21(A)(1)(a) 21(A)(1)(b) 21(A)(1)(c) 21(A)(2)	Documents to be made public in terms of legislation must be conveyed to the community: ▪ Are documents displayed at head office, satellite offices and libraries? ▪ Are documents displayed on the website? ▪ Is the community notified of the place where detailed particulars concerning the documents can be obtained and are the documents available there? Is the community notified that they can submit written comments or representations and are the submissions considered?	Display documents at required places, on website and make available at sites	 Photographs Access to website Copies of notices Copies of notices

21(B)(1)	Is an official website established? Is the website available on smart phones? If yes, are the required documentation on the website?	Establish and maintain a website	All this can be established by accessing the website
21(B)(2)	If the municipality does not have a website, does it display the required information on an organized local government website?	Display on government website	Government website link
21(B)(3)	Is the website maintained and updated regularly?		
25(4)(a)(i)	Is the public notified that the IDP has been adopted?	Notify the public	Copies of notifications
25(4)(a)(ii)	Has the public been notified that copies of the IDP are available for inspection and has it ensured that such copies are available?	Notify	Copies of notifications
25(4)(b)	Was a summary of the IDP published?	Publish summary	Proof of summary
27(1)	Has the district municipality adopted an IDP framework in consultation with the local municipalities in its region?	DM to adopt	Council resolution
28(1) and (2)	Did the municipality adopt a process in writing setting out the implementation of IDP and did it consult with the community before it adopted the process?	IDP process to be adopted and public to be consulted	Process document and attendance registers
28(3)	Did the municipality give notice to the local community of the particulars of the process it intends to follow?	Give notice	Copy of notice
42	Did the municipality involve communities in the development, implementation and review of performance management systems? Was the community allowed to participate in the setting of KPIs and performance targets for the municipality?	Involve communities Actively involve community	Attendance registers and notices Minutes of meetings
44	Was the public notified of KPIs and the performance targets set?	Notify public	Copies of notices
51(e)(ii)	Did the municipality establish clear communication channels between its political structures and office bearers and the local community?	Make it possible for community to communicate and include it in communication strategy and/or policy	Communication strategy and/or policy
53(6)	Is there a communication plan between the municipality's decentralised administration and its part of the community?	Develop plan and include in communication strategy and/or policy	Communication strategy and/or policy

75A(3)	Did the municipality give public notice of a resolution regarding levying and recovering of fees, charges and tariffs in respect of municipal services?	Give notice to public	1. Copy of the resolution displayed for 30 days 2. Newspaper publication 3. Radio broadcasts
80(2)	If the municipality has entered into a service level agreement for the provision of services through external mechanisms, did it establish a programme for community consultation and information dissemination?	Develop programme for community consultation	Pubic consultation programme Evidence of information dissemination
85(2)(a)	If the municipality established an internal service district, did it consult with the community prior to the establishment about: ▪ The boundaries ▪ The services to be provided ▪ Proposed financing methods ▪ The mechanism to be used to provide the services?	Consult with community	Copies of notices and minutes of consultation sessions
85(2)(a)	Was the consent of the community obtained?		
95(a)	Did the municipality establish a customer management system that creates a positive and reciprocal relationship between persons liable for payments and the municipality?	Communication strategy and / or public participation policy or by-law	Communication strategy and / or public participation policy or by-law
95(b)	Are mechanisms in place for users of services and ratepayers to give feedback to the municipality regarding the quality of the services? and	Put mechanisms in place	Nature of mechanisms (website, customer care offices, statistics kept, monitoring of newspapers and social media)
	Is the municipality responsive?	Respond	Proof of responsiveness e.g. ▪ Letters to authors of written submissions ▪ Feedback to stakeholder groups
95(c)	Are users informed of the costs of services and what the monies are used for?	Include in budget and deal with as part of budget process	Budget and adoption process
95(f)	Are mechanisms in place to verify accounts and metered consumption and are appeal procedures in place to address disputes?	Put mechanisms in place to verify and establish an appeal process	Nature of system in place and proof of existence of appeal process
95(g)	Are accessible mechanisms in place for the receipt of and dealing with complaints?	Put petitions and/or complaints mechanisms in place	System that is in place
	Do complainants receive prompt replies?	Reply promptly to complaints	Register or electronic evidence
	Is corrective action taken promptly?	Take corrective action	Evidence of corrective actions taken

Local Government: Municipal Structures Act 117 of 1998

Section	Requirement	Type of action required	Evidence
73(1)	Did the municipality establish ward committees?	Establish ward committees	Proof of establishment, notices, minutes
73(2)	Is it constituted as required (10 members of the public)?	Constitute as prescribed	Composition
	Does the composition of the committee promote stakeholder participation?	Compose WC so that it reflects diversity of interests	Composition
73(3)	Are rules in place and do the rules provide for women and diversity of interests?	Develop rules for conduct of meetings	Rules for the conduct of WC meetings
	Are meetings held frequently and is the relevant information supplied to ward committees?	Hold frequent meetings	Notices and minutes of meetings
	Do ward committee members disseminate information to the public?	Dissemination of information by WC members. Write letters or hold feedback meetings	Complaints register. Letters, attendance registers
74	Are recommendations by the ward committee fed to higher structures by the ward councillor?	Ward councillor must feed recommendations to higher structures	Minutes of WC meetings compared with agenda and minutes of meetings of higher structures

Local Government: Municipal Finance Management Act 56 of 2003

Section	Requirement	Type of action required	Evidence
22(a)	Is the public invited to submit representations in connection with the annual budget immediately after it is tabled in council? Is the public invited in such a way that - ▪ they are aware of the invitation? ▪ they can participate meaningfully?	Notify public	Notices (nature of and content)
23(1)(a)	Are the views of the local community considered? • By Council • By the administration	Council and administration to consider views	Minutes of public meetings
	Does the municipality provide feedback to those who made submissions?	Provide feedback	Proof of feedback

Local Government: Municipal Property Rates Act, 6 of 2004

Section	Requirement	Type of action required	Evidence
4(1)	Has the community been consulted before adoption of the rates policy?	Notify public	Notification
	Did the process comply with Chapter 4 of the Systems Act?		
4(2)(a)	Was the draft policy displayed?		
4(2)(b)	Was a notice published?		Proof of publication
5(2)	Were any amendments to the policy subjected to public participation as part of the budget process?	Submit to public participation session if amendments are affected	Notices and minutes of public participation sessions
22(1)(a)	Was the community consulted before the establishment of a special rating area?	Notify public	Notices and minutes
	Were they consulted on the boundaries of the area?		
22(1)(a)	Were they consulted on the proposed improvements or upgrading of the area?		
	Was consent obtained?		
49(1)(a)	Was the valuation roll published in the Provincial Gazette?	Publish in *Provincial Gazette*	Copy of *Provincial Gazette*
	Was the valuation roll advertised once a week for 2 consecutive weeks in the media?	Publish in local media	Copy of publication
49(1)(a)(ii)	Was a manner prescribed for the lodging of objections?	Include in notice	Notice in *Gazette*
50	Did the municipal manager receive the objections and were they submitted to the valuer within 14 days of the closing date?	Did MM receive objections and, if so, they must be submitted to the valuer within 14 days	Referral to valuer
53	Did the valuer consider objections and informed in writing all persons who lodged objections about the outcome and the reasons therefore?	Valuer to consider objections and respond in writing	Minutes of consideration and copies of responses

Promotion of Access to Information Act, 2 of 2000

Section	Requirement	Type of action required	Evidence
17(1)	Has a deputy information officer been appointed?	Appoint deputy	Letter or resolution
17(3)	Has the Information Officer delegated powers to the deputy information officer?	Delegate	Delegations register

17(4)	Does the delegation improve access to the municipality's records?	Evaluate whether access is improved by delegation	Delegation
17(5)	Is the delegation in writing?	Delegate in writing	Letter
18(1)	Are requester forms available?	Develop form	Forms
18(2)	Is the requester form in the format prescribed by section 18(2)?	Ensure that form is in correct format	Requester form
18(3)	Can illiterate and disabled persons make oral requests? Is a person designated to receive oral requests? Are records kept of oral requests? Is the public aware that they can submit written and oral requests	Include in community participation strategy or policy	Strategy or policy
19(1)	Is assistance available to the public to complete information requests as required by section 18(1)?	Make assistance available	Notices and dissemination of information that assistance is available

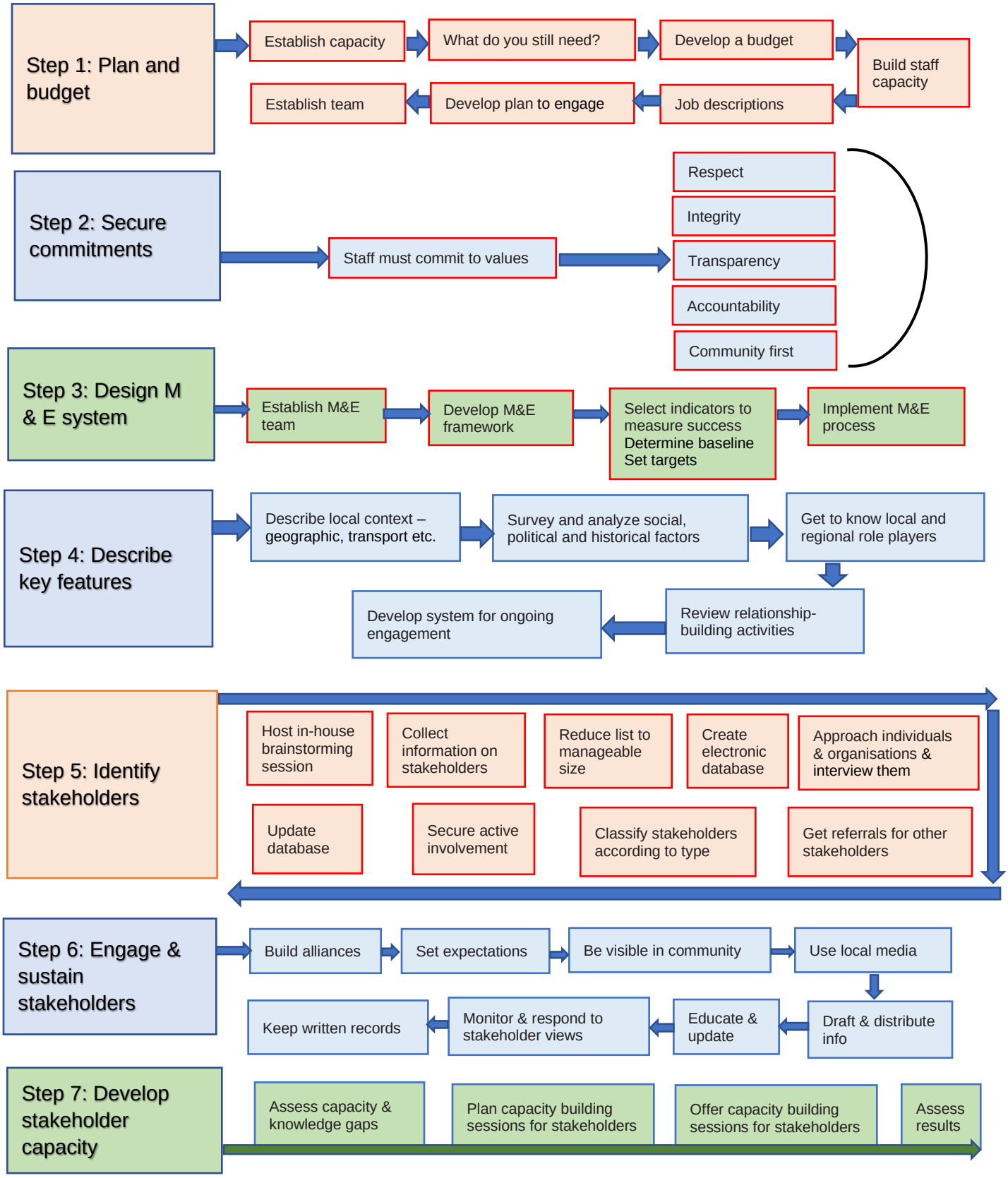
Promotion of Administrative Justice Act, 3 of 2000

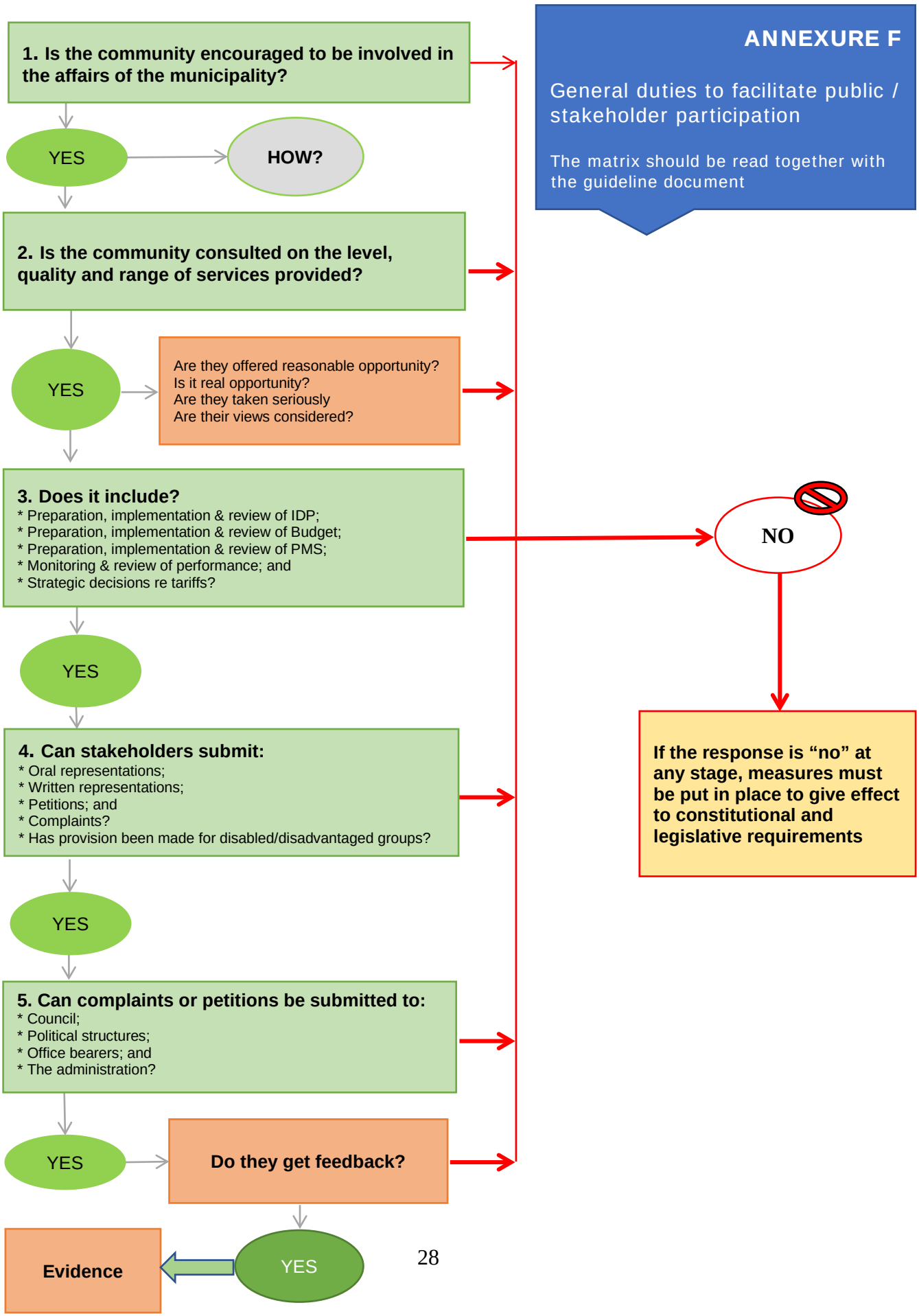
Section	Requirement	Type of action required	Evidence
3(1)	Is a procedurally fair system in place to deal with administrative action which materially and adversely affects the rights or legitimate expectations of any person?	Ensure that procedure is included in participation strategy or policy	Strategy or policy
3(2)(b)	Does the procedure provide for: ▪ adequate notice of the nature and purpose of the proposed administrative action ▪ a reasonable opportunity to make representations ▪ a clear statement of the administrative action ▪ adequate notice of any right of review or internal appeal ▪ adequate notice of the right to request reasons?	Ensure that procedure satisfies the requirements	Strategy or policy
5(2)	Does the administrator to whom a request is made, give the requester adequate reasons in writing for the administrative action within 90 days after receiving the request?	Ensure that procedure in participation strategy or policy provide for requirements	Strategy or policy and responses from administrator

Annexure D is attached separately**.**

STAKEHOLDER ENGAGEMENT PROCESS: STEPS AND TASK LIST

Annexure E




ANNEXURE F
General duties to facilitate public / stakeholder participation
The matrix should be read together with the guideline document
1. Is the community encouraged to be involved in the affairs of the municipality?
YES
HOW?
2. Is the community consulted on the level, quality and range of services provided?
YES
Are they offered reasonable opportunity?
Is it real opportunity?
Are they taken seriously
Are their views considered?
3. Does it include?
* Preparation, implementation & review of IDP;
* Preparation, implementation & review of Budget;
* Preparation, implementation & review of PMS;
* Monitoring & review of performance; and
* Strategic decisions re tariffs?
NO
YES
4. Can stakeholders submit:
* Oral representations;
* Written representations;
* Petitions; and
* Complaints?
* Has provision been made for disabled/disadvantaged groups?
If the response is "no" at any stage, measures must be put in place to give effect to constitutional and legislative requirements
YES
5. Can complaints or petitions be submitted to:
* Council;
* Political structures;
* Office bearers; and
* The administration?
YES
Do they get feedback?
Evidence
YES

Public participation obligations regarding functions and powers

ANNEXURE G

