



2022 LOCAL GOVERNMENT WEEK

Creating Oversight and Accountability Mechanisms in Local Government Sphere: The role of the Municipal Public Accounts Committee (MPAC) and Finance Committee

13 SEPTEMBER 2022



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We dare not forget!



"We operate in a country where inequalities are still prevalent and define our life's journey. Because of the limited resources at our disposal - human, physical and financial capital - the one way to build formidable capacity to enable others is to invest in good people. Public servants and representatives stand as midwives between these limited resources and the prospects for a better qualitative life for all citizens. If the lure for money and material benefits is their primary motivator, the service ethos and care for others is compromised."

- Kimi Makwetu

RIP Auditor- general Kimi Makwetu

AMANDLA
action for mzansi

Constitutional and Legislative Obligations

- i. The local sphere, unlike the national or provincial spheres, does not have the separation of powers between the legislative and executive arms;
- ii. Section 151(2) of the Constitution and section 11 of the MSA, provide that the executive and legislative authority of a municipality is vested in its municipal council.
- iii. The municipal council is an executive decision maker and the Speaker presides over meetings where executive decisions are taken (Municipal Council).
- iv. The council makes decisions concerning the exercise of all the powers and the performance of all the functions of the municipality, as provided in section 156 of the Constitution (and powers listed in schedule 4 & 5 of the Constitution).
- v. This system, however, demands checks and balances and role clarification in order to avoid role confusion, conflict and abuse of power.

Constitutional and Legislative Obligations

- LG is seen in many countries as a key institution for the enhancement of democracy and as a vehicle for development.
 - LG in South Africa is no exception.

And our Municipalities have a clear Constitutional obligation (**Section 152**):

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

POLITICAL (EXECUTIVE AUTHORITY)

Executive Mayor /Executive Committee
Speaker
Mayor / Mayoral Committee
Whip of Council
Committees of the Council
Chairpersons of section 79 committees
Councillors

ADMINISTRATIVE (IMPLEMENTATION ARM)

Municipal Manager
Sect 56 Managers;
Municipal Employees

- ✓ **Exercise** the municipality's executive and legislative authority;
- ✓ **Provide**, democratic and accountable government;
- ✓ **Encourage** the involvement of the community in municipal affairs;
- ✓ **Ensure** services are provided in sustainable manner;
- ✓ **Consult** the community about the level, quality, range and impact of services and the available options for service delivery;
- ✓ **Promote** and **undertake** development in the municipality;
- ✓ **Contribute** to realization of constitutional fundamental rights;
- ✓ **Develop mechanisms** to consult the community and community organizations in exercising and performing its powers and functions

- ✓ **Implement** the lawful strategies, plans, policies, resolutions and bylaws of the municipal council and the policies and laws of other spheres of government;
- ✓ **Advise** the council and all political structures and political office bearers;
- ✓ **Develop** administrative/operational policies;
- ✓ **Manage**, operate and maintain the provision of services in a sustainable and equitable manner;
- ✓ **Administer** the affairs of the municipality;
- ✓ **Manage** the municipality's resources.

Section 80 committees

- ✓ Section 80 of the Structures Act provides for the appointment of committees to assist the executive committee or executive mayor;
- ✓ The chairperson and the section 80 committee in a Collective Executive System council are appointed by council;
- ✓ The chairperson and section 80 committee in an Executive Mayoral System are appointed by the Executive Mayor;
- ✓ There cannot be more 'section 80 committees' than there are executive committee members or mayoral committee members;
- ✓ Section 80 committees would generally be linked to specific portfolios with names such as 'corporate services', 'community services' or 'economic development'.

SYSTEM OF DELEGATIONS (CONTINUED)

- ✓ The main difference between a section 79 committee and a section 80 committee is that the latter does not report to the council but to the executive committee or executive mayor in the manner prescribed by the executive committee or executive mayor;
- ✓ The Structures Act clearly intended to design two different kinds of committees and to limit the number of section 80 committees;
- ✓ It is suggested that the two types of committees serve different purposes and they are accountable to different entities;
- ✓ The intention of the Structures Act would be defeated and good governance may be jeopardised if a section 79 committee were to be structured in such a way that it practically assumes the role of a section 80 committee.

- ✓ Section 53 of the Systems Act require municipalities to determine the roles and responsibilities of all political office bearers, political structures and the municipal manager;
- ✓ Terms of reference must:
 - ❖ be in writing;
 - ❖ be in precise terms;
 - ❖ give effect to council's internal documents, such as rules, procedures, delegations, standing orders, etc.
(NB: This means that standing orders, delegations, policies and procedures must not contradict the terms of reference, but implement them);
 - ❖ contain a definition of areas of responsibility;

- ✓ indicate lines of accountability and reporting (which differ);
- ✓ explain the relationship and interaction between structures, office-bearers and the administration;
- ✓ specify communication lines, including interaction with the municipal manager and interaction with officials other than the municipal manager;
- ✓ include dispute resolution mechanisms;

NB: Terms of reference must be aligned to and read with the system of delegations of the municipality

ESTABLISHMENT AND APPOINTMENT OF MPACS

- ✓ Municipal Public Accounts Committee (MPAC), is established in line with the provisions of section 79A of the amended Structures Act.
- ✓ The act, section 79A (1), provides that: “A municipal council must establish a committee called the municipal public accounts committee (MPAC)”.
- ✓ The act, in section 79A (2), instructs municipalities that: “The mayor or executive mayor, deputy mayor or executive deputy mayor, any member of the executive committee, any member of the mayoral committee, speaker, whip and municipal officials are not allowed to be members of the municipal public accounts committee”.
- ✓ A Council resolution on the establishment must be clear on all legislated and delegations (powers & functions) of the MPAC – To prevent disputes – Any dispute must be referred to Council for a resolution

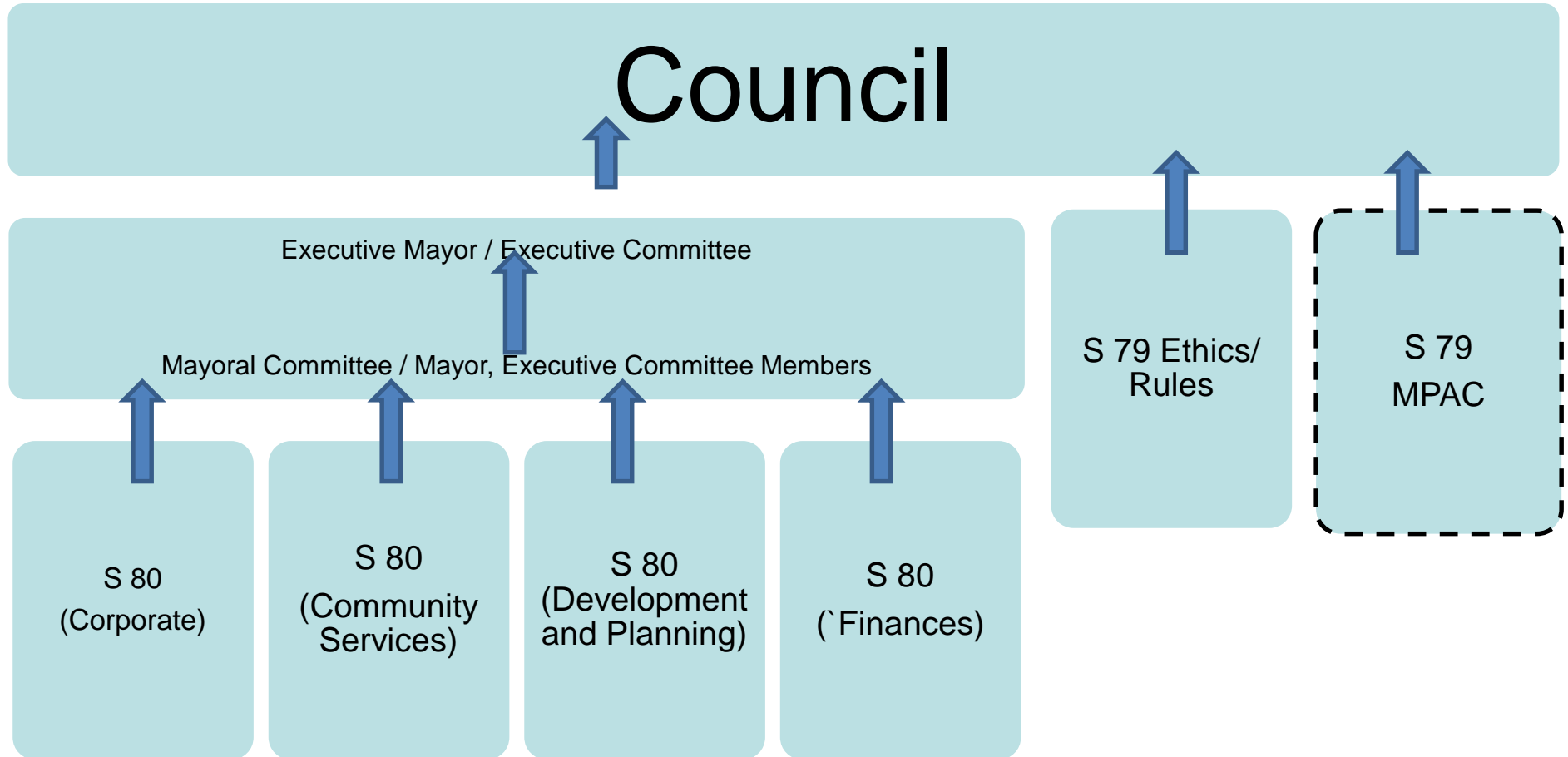
ESTABLISHMENT AND APPOINTMENT OF MPACS

The municipal council, is tasked, in section 79A (3), to determine the functions of the municipal public accounts committee (MPAC), which must include the following:

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

NB: Reports of the municipal public accounts committee must be submitted to the speaker who must table such reports in the next meeting of the municipal council. Sec 79A (4).

GENERAL OVERVIEW COUNCIL POLITICAL STRUCTURES AND ROLES



S79 vs S80 Committees



Section 79 Oversight Committee	Section 80 Portfolio Committee
Municipal council regulates functions and may delegate duties	The Executive Mayor/Executive Committee delegates powers and duties
Municipal council elects the chairperson	Chairperson appointed by the Executive Mayor/Council
Oversight committee may co-opt non-councillors	Committee comprises of councillors only
Oversight committee plays an oversight role of the actual performance of the municipal council	Committee is designed to assist only the Executive Mayor/Executive Committee



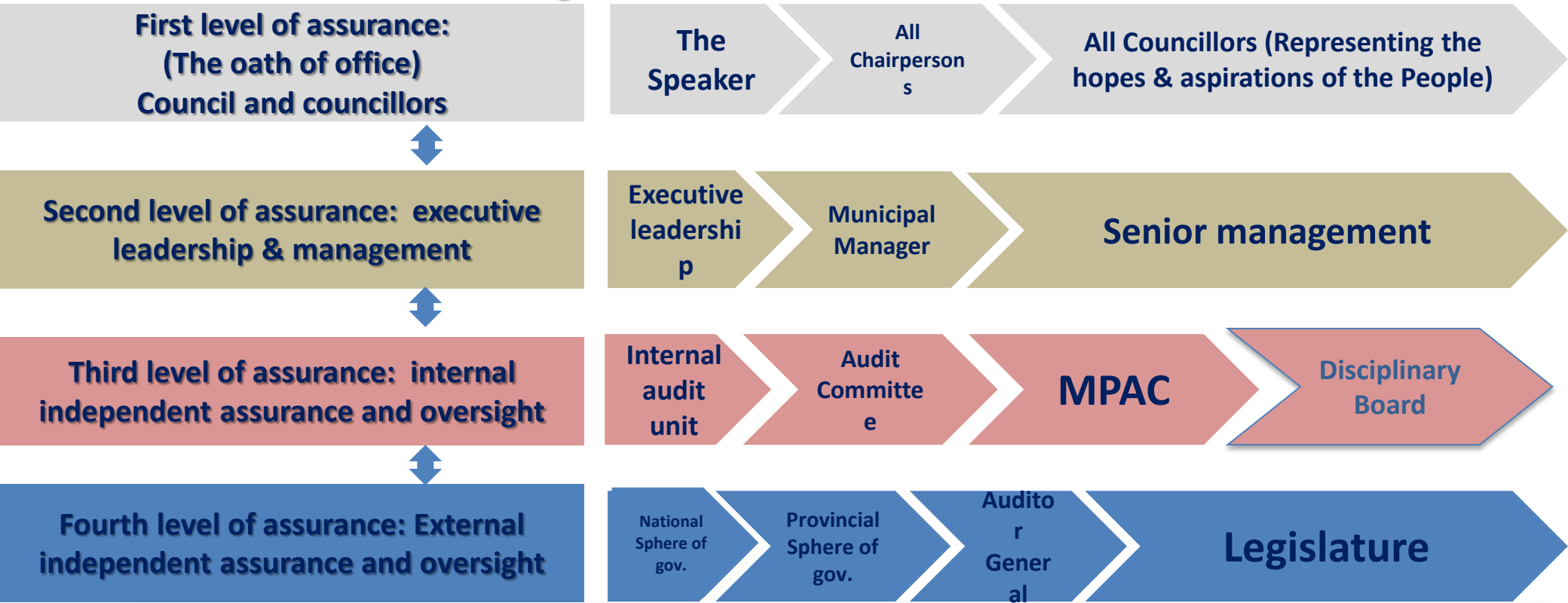
Oversight Committee Responsibility and Functions



Responsibility	Function
Oversight committee plays an oversight role for the actual performance of the executive	<ul style="list-style-type: none"> Review quarterly service delivery budget implementation plan (SDBIP) Review the municipality’s annual report
Oversight committee monitor the implementation of by-laws	Scrutinise compliance with the constitutional obligations by the executive on the implementation of the by-laws
Oversight committee monitors the executive’s programmes: Conduct inspections in loco	Conduct oversight of the delivery of services to communities such as oversight visits. Focus on intervention studies
Oversight committee monitors the spending of the municipal budget	Monitor spending patterns, for example underspending or overspending of budget votes.



It is important for Municipal Councils to ensure effective and efficient Oversight & Assurance Across the Continuum



The Council must always take full responsibility for the state of the municipality. It must ensure that reports which are submitted are accurate and are of good quality. It must understand that they reflect the quality of leadership of the municipality but most importantly, the more a municipality is in a bad state, the more the democratic government loses credibility and the more likely it will soon be considered illegitimate by the people

- ✓ **Ineffective monitoring** of council and committees of council resolutions is contrary to the principles of good governance;
- ✓ Council with the powers vested in it by the Constitution, MFMA, Systems and Structures Acts is the **governing body of the municipality**;
- ✓ **Resolution tracking mechanism** is an important resolution implementation monitoring tool which all committees of council should use;
- ✓ Resolutions ought to be **tracked unto implementation**, and council be advised regularly;
- ✓ Action Plan development;
- ✓ Training of council secretariat.

From the above it is clear that there is an elaborate legal framework that:

- ✓ Establishes the various structures, office bearers and administrative positions within the municipality and broadly determines their functions;
- ✓ Instructs municipalities to equip these organs with a terms of reference and appropriate delegations;
- ✓ Provides a number of instruments that should facilitate checks and balances among, and accountability between, the various structures, office bearers and administrative positions;
- ✓ When used effectively, it may not be able to eliminate, but can certainly limit contestation and ensure effective and efficient political administrative interface in the municipality.



Thank you!



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