

# BUILDING CAPACITY FOR CIVIL SOCIETY TO PARTICIPATE IN LOCAL GOVERNMENT

## FACTSHEETS



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# FACTSHEETS: BUILDING CAPACITY FOR CIVIL SOCIETY TO PARTICIPATE IN LOCAL GOVERNMENT

Good local governance depends on an active community. While the municipality is responsible for creating an enabling environment for effective community participation in local government, Civil Society Organisations (CSOs) and Community-Based Organisations (CBOs) must be equipped to take the lead in mobilising the community to participate in local government and to ensure municipalities are held accountable for their performance.

Many CSOs and CBOs struggle to effectively monitor municipal performance or challenge poor decision-making because of a lack of crucial information, resources, or knowledge about the local government system. This gap weakens service delivery and local democracy.

These Factsheets are designed to close that gap. They serve as an essential training resource to strengthen your organisation's ability to engage with municipalities effectively. The series covers five core topics critical for local engagement:

- 1) Local Government Structures and Systems;**
- 2) Community participation in the IDP and Budget process**
- 3) Service Delivery;**
- 4) Community Safety; and**
- 5) Anti-Corruption and Integrity.**

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# FACTSHEET 1: INTRODUCTION TO LOCAL GOVERNMENT

By Jaap de Visser

## What is a municipality?

The country is divided into municipalities. There are eight (8) metropolitan municipalities, 44 district municipalities, and 205 local municipalities.

A number of local municipalities form a district municipality. They share the local government responsibilities. Metropolitan municipalities are 'stand-alone' municipalities, and have all the local government responsibilities.

## What are the responsibilities of a municipality?

The Constitution of South Africa allocates the following functions to municipalities:

Air pollution

Building regulations

Child care facilities

Electricity and gas reticulation

Firefighting services

Local tourism

Municipal airports

Municipal planning (i.e. town planning)

Municipal health services (only environmental health services)

Municipal public transport

Municipal public works

Pontoons, ferries, jetties, piers and harbours, (excluding the regulation of international and national shipping and related matters)

Stormwater management systems in built-up areas

Trading regulations

Water and sanitation services limited to potable water supply systems and domestic waste-water and sewage disposal systems

Beaches and amusement facilities

Billboards and the display of advertisements in public places

Cemeteries, funeral parlours and crematoria

Cleansing

Control of public nuisances

Control of undertakings that sell liquor to the public

Facilities for the accommodation, care and burial of animals

Fencing and fences

Licensing of dogs

Licensing and control of undertakings that sell food to the public

Local amenities

Local sport facilities

Markets

Municipal abattoirs

Municipal parks and recreation

Municipal roads

Noise pollution

Pounds

Public places

Refuse removal, refuse dumps and solid waste disposal

Street trading

Street lighting

Traffic and parking

These responsibilities are divided between the district municipality and the local municipalities in a district. In general, district municipalities are responsible for regional functions such as firefighting, district planning, district roads, etc. They assist local municipalities, and play a coordinating role in the district. Local municipalities deliver municipal services, such as water, sanitation, electricity, refuse removal, etc. to households. The precise division of responsibilities between district and local municipalities may differ from one district to the next.

Local municipalities often receive additional responsibilities, such as housing, disaster management, and libraries.

These are a few examples of functions that are not performed by local government:

- education (primary, secondary and tertiary education)
- policing (municipalities to enforce traffic laws, do general law enforcement and sometimes municipal policing)
- social welfare grants

## What are the institutional arrangements?

### What are the structures of a municipality?

#### Municipal Council

The highest organ in the municipality is the Municipal Council. The Municipal Council is responsible for:

- Adopting by-laws and policies, such as by-laws on street trading, property rates, debt collection, etc;
- Adopting the Integrated Development Plan (IDP) and the Budget;
- conducting oversight over the Mayor, the Mayoral Committee and the Municipal Manager to account; and
- Taking key decisions, such as appointing a Municipal Manager.

The Municipal Council of the Local Municipality ('Local Council') comprises elected councillors. 50% of the councillors are elected by voters from the wards within the municipality. Ward councillors can be aligned to a political party but they may also be independent. The other 50% of the local council is elected from party lists.

The Municipal Council of the District Municipality ('District Council') also comprises elected councillors. 60% of the District Council is made up of representatives of the Local Municipalities in the district (they are elected by the local

councillors). The other 40% of the District Council is made up of directly elected councillors (elected by the voters in the district).

#### Speaker

The Speaker is elected by the Municipal Council. He or she is mainly responsible for:

- Chairing meetings of the Municipal Council; and
- Enforcing the Code of Conduct for Councillors.

The Speaker also has a casting vote, which means that he or she can break a deadlock in voting, with an additional vote.

#### Executive Mayor

The Executive Mayor is elected by the Municipal Council. He or she is the political head of the municipality. The Municipal Council may dismiss the Executive Mayor with a motion of no-confidence. Sometimes, there is not one political party in the council with an outright majority (i.e. more than 50% of the seats). In that case, the Executive Mayor needs the support of a coalition, i.e. two or more political parties that work together.

#### Mayoral Committee

The Executive Mayor is assisted by the Mayoral Committee. The Executive Mayor appoints (and may also dismiss) the members of the Mayoral

Committee (MMCs). These members will each have their own portfolio, such as finance, corporate services, community services, planning, etc. Each MMC gives political guidance to one or more departments in the municipality, and chairs a portfolio.

### **Council Committees**

The Municipal Council has a number of committees with specific portfolios, such as finance, corporate services, community services etc. Most of the council work takes place in committee meetings. Each councillor serves on one or more of those committees. Most committees are chaired by MMCs. However, some are chaired by other councillors. The Municipal Public Accounts Committee (MPAC) is an example of that - this committee is dedicated to overseeing the municipality's finances.

### **Ward Committees**

Each ward is represented by a ward councillor who is elected by the voters in that ward. The ward committee is a group of 10 community members from that ward who assist the ward councillor. The municipality has adopted a policy on how these additional members are elected by the community. Each of the 10 community members is selected from a specific sector, such as business, churches, civic organisations, youth organisations, etc. The 10 community members assist the ward councillor with identifying issues in that ward that must be addressed by the municipality. So, while the Committee is headed by a politician, he or she

must work together with members of the public within that Committee. There are about 4 400 wards in South Africa, and all of them have ward committees. This means that, through the ward committee system, more than 40 000 members of the public can play an active role in the affairs of their municipalities. Ward committees are important vehicles for youth engagement because many of them have a dedicated 'youth portfolio'. This is an avenue for young people to raise issues specific to them. The ward committee is not a committee of the council but it advises the municipality on matters affecting the ward. It may also recommend specific projects for the ward.

### **Municipal Manager and senior managers**

The Municipal Manager (MM) is the head of the municipal administration. The MM is appointed by the council for no longer than five (5) years but the contract can be renewed. The MM is the accounting officer, which means that the MM is responsible for the performance of the municipality's administration; that the municipality collects the revenue that is owed to it; and that the municipality's finances are used prudently. The council also appoints senior managers that report to the MM. They are often called Executive Directors, and manage the various municipal departments. They are appointed on permanent contracts. All senior managers sign performance contracts, which spell out the targets that they must achieve. These performance contracts must be made public.

## **How are municipalities funded?**

The local municipality is funded by a combination of:

- Money it collects from the public; and
- Money it receives from the national government.

Two main sources of own revenue for local municipalities are:

- Property Rates - this is a tax on property levied by the local municipality against the owner of the property; and
- Fees for Services - the municipality charges households for electricity, water, sanitation, refuse collection, etc. Poor households can apply to receive basic services for free.

Two main sources of funds received by the national government are:

- Equitable Share - a grant aimed at supporting local municipalities to provide free basic services to poor households, and to fund community services that the municipality cannot charge for (such as street lights, cleansing etc); and
- Conditional grants - grants aimed at specific projects or programmes (the biggest grants are for infrastructure projects).

# Where do civil society and Community-Based Organisations fit in?

The municipality must encourage the participation of Civil Society Organisations (CSOs) and Community-Based Organisations (CBOs) in its affairs. Community participation in local governments can be divided into four (4) levels, with the first being the 'lightest' and the fourth being the 'most intense' form of community participation.

- **Transparency**

Local governments are expected (and also instructed by law) to be transparent about what they do. Participatory democracy is not possible when local governments do not share critical information with the public. This relates to information about:

- Governance (e.g. council meetings, minutes, policies, by-laws, performance agreements etc);
- Finance (e.g. budget, financial statements, what services cost, declaration of interests); and
- Administration (e.g. where/how to get hold of officials to raise service delivery issues, which tender contracts have been awarded to whom).

Municipalities in South Africa must maintain a website and keep it updated. Generally, municipalities also use social media, and some even developed apps dedicated to keeping the public informed. But they must also display information in accessible places such as libraries and municipal offices, so as not to disadvantage those with limited access to the internet. South Africa has 12 official languages. Using the right language is important - municipalities must assess the language preferences in their area, and decide which language(s) to use when communicating with the public.

This is the 'lightest' form of public participation because it is generally 'one-way traffic' through the municipality making information available. The next theme, namely complaints, petitions and demonstrations, is more intense and demanding on the municipality as explained below.

- **Complaints, petitions and demonstrations**

Residents and communities will not always be content with the municipality. They may have grievances or complaints, which may be big or small. It is important that there are avenues for the public to air these grievances. First, if there are no avenues, residents will feel unheard, and tensions may boil over. Second, grievances and complaints may contain information that assists the municipality to do better. Municipalities in South Africa offer these avenues in the form of complaints boxes, anonymous hotlines to report fraud or corruption, etc, but also through providing a right to 'appeal' to people affected by a decision.

The Constitution of South Africa recognises everyone's right to demonstrate peacefully, picket and petition. The right to demonstrate is an important element of public participation. The municipality plays an important role in facilitating this right. When a demonstration or protest is planned, the organisers must notify the municipality. The municipality, together with the police, must assist the protesters to have a peaceful march or protest. The municipality may not prohibit the protest unless the safety of protesters or the public cannot be guaranteed.

The key message of a demonstration is often contained in a petition. This usually involves a serious complaint, often made in public. For example, a group of residents officially 'hands over' a petition to the mayor or the municipal manager. Municipalities must develop procedures to receive and process petitions. Some even have a council committee dedicated to dealing with petitions.

While this form of public participation is more intense than the mere publication of information under the first theme, the municipality is still required to only 'receive' information. The next theme, namely consultation, requires more engagement by the municipality.

- **Consultation**

This third theme of public participation is about the municipality opening up opportunities for public input on decisions that it is preparing. The municipality must consult communities, communicate with them, and provide feedback. Unlike the first two themes, this is no longer passive - the municipality must actively seek the community's input or comments and establish two-way communication on those comments. The municipality must consult communities about any decision that will affect them.

This requires that municipalities publish draft decisions and invite the public to comment. However, inviting and receiving written comments on a draft by-law, budget, policy or project is not enough. The municipality must analyse the comments and provide feedback to communities. Also, it may be necessary to support communities to provide comments. For example, it may be appropriate to convene community meetings, provide translation, and/or assist people who cannot read or write to make comments.

There are two major municipal decisions in which municipalities are expected to make a special effort to involve residents and communities. They are the Integrated Development Plan (IDP) and the Budget (see Fact Sheet 2).

- **Co-production**

The fourth theme is co-production, or collaboration, and is the most intense form of public participation. This form of public participation is no longer about the municipality 'presenting a draft decision' for the public to comment on. Rather, it is about the municipality collaborating with residents, communities and/or community organisations in a more organised, regular, or institutionalised way. The policy and legal framework for local government contains a range of mechanisms for this. One of the most prominent mechanisms is the ward committee (see above).

The municipality can also collaborate with communities and community organisations by

contracting community organisations to help with service delivery issues (see Fact Sheet 3). For example, a youth organisation in an underprivileged area could be contracted to assist the municipality with collecting waste for recycling, or with cutting the verges. This type of collaboration is more complicated, though, because the municipality will pay the youth organisation for the service. This brings in questions surrounding competition (who gets the contract?) and performance (does the organisation perform the service well enough?). However, the legal framework allows municipalities to 'favour' community organisations for these tasks.

Another mechanism for the municipality to directly involve residents and communities is when it establishes advisory committees to advise the municipality. It could establish an advisory committee on a specific theme (for example, 'youth'), a specific problem (for example, 'youth unemployment') or a specific project (for example, 'building a youth centre'). Or, it could establish inclusive project teams, put together to co-design or implement a specific project, such as the construction of a community hall, the design of a precinct or the development of a social programme.

## Resources/References

- **Civics Academy - Local Government Video Series**  
<https://civicsacademy.co.za/category/videos/local-government/>
- **Section27 - Making Local Government Work: An Activist's Guide**  
<https://section27.org.za/2011/08/making-local-government-work-an-activists-guide/>
- **Local Government Bulletin -**  
<https://dullahomarinate.org.za/multilevel-govt/local-government-bulletin>



# FACTSHEET 2: COMMUNITY PARTICIPATION IN THE IDP & BUDGET PROCESS

By Jennica Beukes & Tinashe Chigwata

## What is an IDP?

Every municipal council must adopt an Integrated Development Plan (IDP), which must be reviewed annually, with public input. The IDP is the principal strategic plan that sets out the municipal council's vision and developmental priorities, guiding both short and long-term development in the municipality. It guides and informs all planning, management, and financial decisions. It serves as the 'master plan for development', linking,

integrating, and coordinating all development plans. The core function of the IDP is to align the resources and capacity of the municipality to ensure the plan's implementation. Once adopted, the IDP binds the municipality in the exercise of its executive authority and imposes duties on all other persons whose rights are affected. Municipalities are legally obliged to give effect to the IDP.

## What is the relationship between the IDP and national and provincial development plans?

Municipalities operate within a multilevel system of government and must cooperate with other spheres of state i.e., national and provincial governments. The law instructs municipalities to participate in national and provincial development programmes. Therefore, municipal IDPs must be compatible with, and complement, national and provincial development plans and strategies. A municipality's IDP must also align with the development plans of other affected municipalities (e.g., local municipalities within the same district). This vertical and horizontal

alignment of development plans seeks to ensure a 'whole-of-government' approach, enhancing the capacity of municipalities to respond effectively to developmental challenges and to promote socio-economic transformation. For example, the provincial government is responsible for the building of schools and clinics, and the national government determines where police stations are built. In the IDP, the municipality can ensure that these national and provincial initiatives are properly planned for and integrated within the municipality.

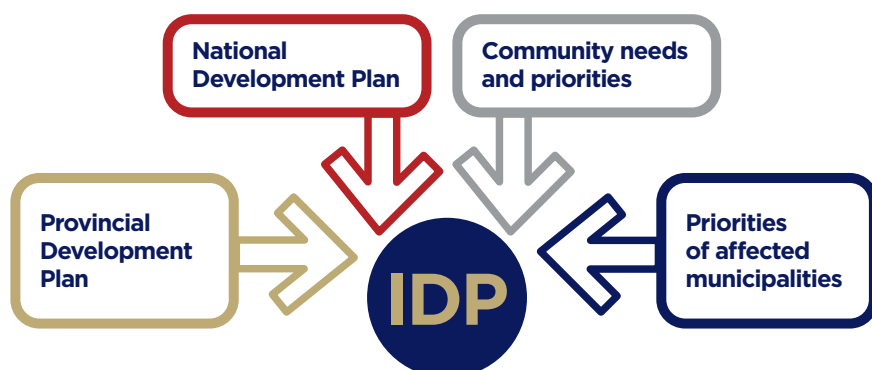


Fig 1: Vertical and horizontal alignment of the IDP

## What is the link between the IDP and budget?

The municipality's annual budget is used to implement the IDP. The budget is the mechanism that funds the IDP's vision. It is divided into an operating budget, and a capital budget. The operating budget funds day-to-day expenses (e.g. salaries, utilities, etc) while the capital budget finances long-term investments (e.g. infrastructure, road construction, etc). As stated in Factsheet 1, the budget is funded from resources raised by the municipality, and funds received from the national government, such as the equitable share.

The IDP's priorities are generally realised through the allocation of the capital budget, which is also funded from conditional grants received from the national government. Municipalities must have a budget that is funded and balanced. This means, among other things, that the budget must be realistic about how much money will be collected from households. Furthermore, municipalities may incur expenditure only in terms of an approved budget and within the limits appropriated for the different line items (budget votes).



Fig 2: IDP-budget-service delivery link

## Who are the relevant role-players in the IDP and budget formulation process?

The IDP and budget are integral and without them, a municipality is unlikely to function well. The centrality of these policies is reflected by, among other things, the variety of actors that are involved in their formulation, adoption and implementation.

As shown in table 1 below, the planning process generally starts around August and continues until the end of June (of the following year), when the budget is adopted.

Table 1: IDP-Budget timelines

Phase	Timeframe (Approx. 10 months)	Key Input/Activity	Key Output/Document
1. Preparation	August - September	Mayor tables the draft IDP and budget time schedule and process to guide the planning, drafting, adoption and review of the IDP.	Approved IDP/Budget Time Schedule and Process Plan.
2. Annual IDP Review	September - November	Assess current performance; consult the public to identify developmental needs and priorities.	Time Schedule is made publicly available (notice). Revised IDP and Strategic Objectives
3. Budget & Costing	November - February	Costing projects identified in the IDP; Drafting revenue policies.	Draft IDP & Draft Annual Budget (MTREF)
4. Public Participation	March - April	Publishing the draft IDP and Budget for public comment.	Feedback to the public on drafts
5. Final Adoption	May - June	Mayor tables draft budget and IDP (by 31 March). Council finalise and approves documents (before 1 July).	Adopted IDP & Adopted Annual Budget
6. Implementation	July - Next June	Execution of funded projects; Performance Monitoring.	Service delivery to local communities

### Executive Mayor

The executive mayor, as the executive head of the municipality, oversees the drafting of the IDP and the budget. The draft plans identify needs, prioritises them, recommends strategies, and assigns responsibilities to the municipal manager. As indicated in the table above, the mayor is responsible for, among other duties, tabling the budget for council approval.

### Municipal Council

The council's key function is to adopt the IDP and the budget. The Council must not just rubber-stamp the draft IDP and budget presented by the executive mayor, it must engage around both documents before they are adopted, and ensure that community needs are prioritised. Members of the community may also direct their priorities to the council, and other structures such as the ward committee, as explained in Factsheet 1. After the

adoption of the IDP and the budget, the council must hold the executive mayor and the municipal manager accountable for the implementation of the IDP and the budget.

### Municipal Administration

The municipal administration is led by the municipal manager and provides technical support in the preparation of both the IDP and budget. The administration ensures legislative compliance, including community participation requirements. Once the IDP and budget have been adopted by the municipal council, the administration implements the adopted IDP and budget under the guidance of the executive mayor.

### The Community

The Municipal Systems Act defines the community as an integral component of the municipality together with the council and the administration.

Therefore, the community needs to assume an active role in the governance of the municipality, while the municipality must create an enabling environment for community members, including Civil Society Organisations (CSOs) and Community-Based Organisations (CBOs), to participate in local government. The public may attend council and council committee meetings (unless they are held behind closed doors).

#### **The MEC for local government and the provincial treasury**

The province exercises oversight over the IDP process, and this is done by the MEC for Local Government. Dissatisfied communities can lodge complaints with the MEC regarding the IDP procedure. Similarly, the provincial and national treasury exercise oversight with respect to the municipal budget, ensuring that the budget is funded, realistic, based on public participation, and aligned to national and provincial priorities.

## **What can civil society and community-based organised do?**

CSOs and CBOs can get involved in the IDP and budget processes by engaging, analysing, and monitoring to ensure the IDP and budget truly reflect community needs.

- **Public consultation prior to adopting the IDP and the IDP**

CSOs and CBOs must engage to ensure the municipal executive accurately identifies the priority developmental needs, especially for marginalised communities lacking access to basic services. Municipalities must consult communities in the development of the IDP, budget and other strategic policies. However, CSOs and CBOs must put pressure on municipalities to move beyond token gestures and insist on meaningful, accessible opportunities for input.

- **Consultation on the tabled IDP and budget**

CSOs and CBOs should use the opportunity afforded for public representations to ascertain and challenge the alignment between the IDP's strategic objectives and the proposed budget. Where opportunities are not there or limited, they should not fold their hands but create their own channels, within the confines of the law, so that they can be heard.

- **Lobbying for priorities**

CSOs and CBOs can influence the IDP and the budget by lobbying the Mayor, Council and other structures to allocate adequate funding to critical community priorities, using informed submissions to ensure that the final budget reflects community preference.

- **Monitoring of the implementation of service delivery programmes**

Once the IDP, the budget and other strategic policies of the municipalities have been adopted, CSOs and CBOs must become watchdogs, monitoring the execution of service delivery projects (e.g., observing the quality of construction, and building timelines).

Within 28 days after the adoption of the budget, the Executive Mayor approves the Service Delivery and Budget Implementation Plan (SDBIP). The SDBIP is like a detailed version of the IDP. It determines quarterly service delivery targets and monthly revenue/expenditure projections, directly linking the IDP to the municipal administration. For example, it translates into performance agreements for the municipal manager and the top managers in the municipality. CSOs and CBOs can therefore use the SDBIP to hold municipalities accountable for their performance.

The municipality produces monthly, quarterly and mid-year budget and performance reports. CSOs and CBOs can analyse these to track the municipality's revenue collection, spending and performance. If the municipality underperforms on the targets set in the SDBIP, CSOs and CBOs can use this to petition the municipality to enforce accountability and demand remedial interventions.

- **Petition external oversight structures**

Sometimes the municipality is not receptive to the concerns of CSOs, CBOs and the broader community. When this happens, CSOs and CBOs should raise their concerns with the MEC for local government in the province, the national COGTA, the Public Protector, and/or the South African Human Rights Commission, among other institutions that oversee local government.

## Resources/References

- **Civics Academy - Local Government Video Series**  
<https://civicsacademy.co.za/category/videos/local-government/>
- **Peoples Assembly 'Everything You need to know about the Integrated Development Plan'** available at <https://www.pa.org.za/blog/everything-you-need-know-about-integrated-developm>
- **Local Government Bulletin** - <https://dullahomarinstitute.org.za/multilevel-govt/local-government-bulletin>

# FACTSHEET 3: THE DELIVERY OF SERVICES

By Curtly Stevens & Thabile Chonco-Spambo

## What are the powers, duties and functions of municipalities?

Municipalities must deliver basic services to their communities and address their basic needs. As community service providers, municipalities' services delivery obligations often overlap with the rights in the Bill of Rights. For example, when municipal services collapse, or are delivered inadequately, it is not just an inconvenience, it is a violation of socio-economic rights. The failure

to provide clean water can lead to a health crisis, violating the right to access water and health. This factsheet offers an overview of the fundamental aspects of municipal service delivery, shedding light on the powers, responsibilities, and key functions carried out by local government to meet the basic needs of citizens.

## What services do municipalities provide?

To achieve their service delivery and developmental objectives, the Constitution of South Africa empowers municipalities to provide services within functional areas outlined in Factsheet 1. The key functional areas are:

- Electricity and gas reticulation: Making sure homes and businesses have power;
- Firefighting: Protecting people and property from fires;
- Municipal Health: Providing local health services;
- Municipal Public Transport: Managing public transport in towns and cities;

- Stormwater management: Preventing flooding in built-up areas;
- Water and sanitation: Supplying clean water and handling sewage;
- Cemeteries and crematoria: Running burial and cremation facilities;
- Cleansing: Keeping public spaces clean;
- Municipal roads: Building and maintaining local roads; and
- Refuse removal and solid waste disposal: Collecting rubbish and managing waste dumps.

## Why are these services important?

These services (water supply, refuse removal, sanitation, and electricity supply) directly impact a person's quality of life. For instance, poor water quality or irregular refuse collection leads to unhealthy and unsafe living conditions. Inadequate services can also make an area unattractive for business or industry, thereby restricting job opportunities for residents.

As these services are critical to a person's quality of life, the Constitution of South Africa mandates that municipalities meet the basic needs of their communities by providing, as a bare minimum, a level of 'basic municipal services'. The Municipal Systems Act defines basic municipal services as services necessary to ensure an acceptable and reasonable quality of life and that, if not provided, would endanger public health, safety, or the

environment. There is no definitive list of basic municipal services, but examples include local roads, stormwater drainage, refuse collection, electricity, water, sanitation, and transportation, as identified by the White Paper on Local Government of 1998 and clarified by the courts. The list of basic municipal services will likely expand in future, with new services becoming enforceable if they support or relate to socio-economic rights, obligating municipalities to provide them.

The national government tries to meet communities' basic needs through its free basic services policy. The policy aims to ensure that all households receive a basic level of municipal

services. The national government subsidises the policy, and as an evolving policy, national government has classified the supply of basic water, sanitation, electricity and refuse removal as free basic services. The Department of Water and Sanitation has set the national minimum standard at 6 kilolitres of water per household per month. As from July 2003, free basic electricity for each household per month was set at 5 kWh/50 Wp. The free basic service delivery policy is implemented by the municipality through its indigent policy, which ensures that qualifying indigent households are entitled to rates rebates and other essential service benefits.

## How do these services connect to your rights?

Several human rights, particularly socio-economic rights, depend on the delivery of basic municipal services. These socio-economic rights include:

- the right to access to housing;
- the right to access to health care services;
- the right to access adequate food and water; and
- the right to an environment that is not harmful to health or well-being.

### Direct role of municipalities

Generally, while socio-economic rights bind all spheres of government, certain rights are primarily realised within municipal functional areas (the listed 38). For example, the right to access sufficient water directly relates to the municipal function of potable water supply, making municipalities responsible for fulfilling this right, which encompasses water for drinking, cleaning, and sanitation.

Another example is the direct link that exists between a municipality's responsibility for removal, refuse dumps and solid waste management and everyone's right to an environment that is not harmful to their health or well-being and to have the environment protected through legislative

and other measures that prevent pollution and ecological degradation. This means that the failure to provide certain municipal services may constitute direct infringement of the Bill of Rights.

### Indirect role of municipalities

Municipalities may play both direct and indirect roles in realising socio-economic rights, often requiring coordination with other spheres of government. For example, while there is no direct municipal function tied to the right to housing, essential services such as water and sewage provided by municipalities are critical to its fulfilment. Similarly, municipalities support the right to basic education by ensuring schools have water, refuse removal, and accessible roads.

The provision of electricity is another example. Although electricity distribution is not tied to a specific socio-economic right, the fulfilment of many rights relies on adequate electricity provision. For instance, schools and hospitals, which are responsible for providing access to education and health care, cannot function effectively without electricity, as medical and educational resources such as computers rely on it.

## How do these services connect to your rights?

### Duty to pay and calculation of service costs

The right of local community members to access municipal services is contingent upon their obligation, where applicable, to make timely payment of fees associated with access to those services. This obligation remains subject to the

municipality's credit control and debt collection policy, which is required to include provisions for indigent persons. The Constitution of South Africa allows municipalities to levy property taxes and charge fees for services. The courts have affirmed that municipalities are not required to impose



fees or tariffs for all services they provide. In particular, municipalities can charge both property rates and user fees to cover service costs. For instance, they may use consumption charges and property rates for sewage and refuse removal. The Municipal Systems Act allows municipalities to use both methods rather than just individualised service charges.

### **Fees, tariffs and charging methods**

The municipality must have a policy to impose fees and tariffs. The municipal manager is responsible for developing the policy, and ensuring that it is implemented. This policy must be adopted by the municipal council, and a by-law must be adopted to make it binding on everyone using the services. The tariff policy must amongst other things ensure that users pay for services generally in proportion to how much they consume, and that the actual tariffs reflect the cost of providing a service.

Municipalities must cover service costs using their own revenue (such as property taxes and user fees) or national government transfers. This requires that the cost of the services is calculated by including all associated expenses. These consist of the initial capital expenditure required for those services, the operational costs, and the costs associated with maintaining, repairing, and replacing the physical asset used to provide the service.

### **Debt Collection**

Municipalities face increasing levels of debt, making debt collection vital to ensure ongoing service delivery. The Courts have repeatedly reminded municipalities of their constitutional obligation and statutory responsibility to ensure the efficient recovery of debts. Municipalities must establish a customer care management system, which allows users of services to submit complaints and allow the municipality to communicate the costs involved in the provision of services. A municipality must ensure that consumers of services receive regular and accurate accounts, which they can query or verify and dispute.

To secure payment of service fees, a municipality must establish and enforce a credit and debt collection policy, and enact a by-law. This policy and by-law must outline procedures and mechanisms for debt recovery. Municipalities may initiate debt collection processes for outstanding payments only when there is no dispute between the municipality and the liable party regarding the claimed amount. A range of debt collection methods is available to municipalities. For instance, they may consolidate separate accounts held by single households. For example, a municipality can merge service charge accounts with property rate accounts, thereby allocating any incoming payment to the combined account regardless of its intended purpose.

A municipality may also terminate or restrict a service. To this end, the occupier or owner of the property must give an authorised representative of the municipality or service provider access to the property at all reasonable hours. Municipalities must act in a manner that is lawful, reasonable and procedurally fair as required in the Promotion of Administrative Justice Act (PAJA). This means that the municipality must give the user adequate notice of its intention to terminate or reduce the service, and afford that person a reasonable opportunity to make representations.

### **Service delivery mechanisms**

Municipal services need not be delivered solely by municipalities itself (i.e., through a department, or administrative unit within the municipality). They can also be delivered by external service providers under the authority of the municipality. The Municipal Systems Act list a number of external service providers which the municipality may rely upon. These include:

- A municipal entity (i.e. a public company controlled the municipality);
- Another municipality;
- An organ of state such as ESKOM, a water board, or licensed service provider registered or recognised in terms of national legislation;
- A traditional authority;
- A community-based organisation or a non-governmental organisation; or
- Any other institution competent to operate a business activity, i.e. a private company.

If a municipality considers using an external service provider or changes an existing agreement with an external service provider, it must first seek local community input. This involves notifying residents of its intention and consulting those likely affected, such as individuals relying on water services, about how the new arrangement could impact their right to water. The failure to comply with the public consultation obligation can result in the contract being declared invalid.

The local community must also be consulted when a municipality considers entering into a public-private partnership (PPP) with a private entity, in which the private entity performs a municipal function or renders a service for or on behalf of the municipality, assuming substantial financial, technical, and operational risks. In particular, the municipal manager must make the particulars of the proposed PPP and feasibility study available to the public, inviting comments, before the council considers it. The views of the local community must also be solicited when the PPP agreement is amended.

Overall, municipalities have a general duty to provide members of the local community with full and accurate information about the level and standard of municipal services they are entitled to receive.



# How can civil society and community-based organisations get involved?

Civil Society Organisations (CSOs) and Community-Based Organisations (CBOs) play a vital role in enhancing service delivery by municipalities. CSOs and CBOs may also monitor the delivery of services by companies contracted by their municipality. Their contribution is key in a developmental local government framework, where participation, accountability and responsiveness to community needs are fundamental. CSOs and CBOs complement government efforts by helping to achieve more inclusive, efficient, and sustainable municipal service delivery. CSOs and CBOs can:

- **Enhance participation and accountability**  
CSOs and CBOs can act as bridges between communities and municipal governments. CSOs and CBOs can mobilise grassroots participation, ensuring that the priorities determined by the municipality reflect the needs and concerns of communities. This encourages transparency and accountability as communities, facilitated by CSOs and CBOs, monitor municipal performance and hold authorities responsible for service delivery outcomes. CSOs and CBOs can demand transparency by requiring their municipality to provide timely, accessible and accurate information on service delivery matters. Additionally, by exercising the right to information through the Promotion of Access to Information Act 2000, CSOs can obtain information on what their municipalities plan to do to improve communities' needs and access to services. If CSOs have access to information, they may also be able to understand why municipal services are not being delivered to communities immediately. Furthermore, by exercising the right to get reasons, through the Promotion of Administrative Justice Act 2000, CSOs and CBOs can seek written reasons why a particular decision that may negatively affect communities' access to services was taken.
- **Provide service delivery and implementation support**  
CBOs and CSOs may provide support in areas where municipalities face capacity constraints, such as water provision, waste management, and health awareness, either under formal service level agreements or

through contracted partnerships. CSOs can provide technical expertise, advocacy, and resources, enabling municipalities to extend their reach and effectiveness. For example, CSOs operating in the environment space may assist in implementing recycling programmes, and health-focused CSOs may assist with sanitation campaigns.

- **Undertake advocacy and influence policy**  
CSOs can advocate for policy reforms, improved municipal planning, and resource allocation that prioritise marginalised groups to ensure that municipalities incorporate gender equity, social justice, and sustainability into service delivery strategies. CSOs can participate in policy-making and law-making processes at different stages through persuading people or structures to change a policy or law (lobbying), and by organising mass action and public campaigns (advocacy).
- **Conflict mediation**  
Because of their proximity to communities, CSOs are able to detect issues threatening service delivery continuity, such as infrastructure breakdowns. CSOs and CBOs can serve as warning systems and mediate conflicts, helping to prevent service disruptions and foster social cohesion.

## Resources/References

- Civics Academy - Local Government Video Series  
<https://civicsacademy.co.za/category/videos/local-government/>
- Local Government Bulletin - <https://dullahomarinstitute.org.za/multilevel-govt/local-government-bulletin>
- Education and Training Unit 'Municipal Service Delivery' - <https://etu.org.za/guides/municipal-service-delivery/>
- Kano Consultants, 'Service Delivery in Municipality' - <https://www.youtube.com/watch?v=4pADgGfrR7Y>

# FACTSHEET 4: COMMUNITY SAFETY

By Jean Redpath

When talking about community safety, people often think of crime. But community safety covers far more than just safety from crime, and many local government (municipal) functions affect community safety. Some examples:

*If the municipality fails to carry out its role in ensuring building regulations are followed, then poorly-built buildings may collapse and hurt people. If the municipality fails to provide an adequate firefighting service, people and property may be unnecessarily harmed in a fire. If the municipality fails to ensure child care facilities that meet health and safety standards, or fails to develop new child care infrastructure in underserved areas, children may be at risk. If storm water drains are not cleared, there can be harmful flooding. If traffic laws are not applied, and people speed, drive while drunk, or go through red lights without being held to account, traffic accidents are more likely to happen. Finally, if local government doesn't authorise protests legally, this can lead to more violent protests.*

There are also many local government functions that prevent crime if done properly, and may encourage crime if not done. For example, it is well-known that poor street-lighting encourages crime, by creating conditions where crime can be committed undetected. Poor waste collection also increases crime, as crime and disorder often go together. Poorly formulated or applied informal trading by-laws can increase conflict between people over the use of public space for trading. Finally, poor service delivery in general may lead to public protest, which can often spill over into violence and affect everyone, including those not involved in the protest.

In terms of dealing with crime directly, the Constitution of South Africa says the national government is in charge of the South African Police Service (SAPS), the National Prosecuting Authority (NPA), the Courts, and Corrections (prisons and community corrections), and they are responsible for preventing and processing crime.

However, a municipality's traffic officers and law enforcement officials do have the power to enforce traffic laws and the municipality's by-laws, respectively. They also have some additional powers of search and arrest in relation to some offences, such as illegal firearm possession. However, anyone arrested by a municipal law enforcement official or traffic officer must be handed over to the SAPS for processing. To carry out any of their powers, a law enforcement official or traffic officer must be properly trained, and have an appointment certificate issued by the SAPS.

In some municipalities, mostly the metropolitan ones, municipal police have been established. They have more powers than law enforcement officials, and all of the powers of traffic officers. However, they also have to hand over anyone arrested, to the SAPS for processing.

## What is local government's role?

As discussed in Factsheet 1, the Constitution provides for what falls under local government's executive authority (implementing power). There are different types of powers:

- original powers (laid out in the Constitution of South Africa), and
- assigned powers (provided for in laws passed by national or provincial Parliament).

Then, there are also provincial functions that municipalities carry out such as library and ambulance services, on an agency basis. Municipalities may also carry out law enforcement in terms of incidental powers, which is a sub-type of original powers.

Many of local government functional areas outlined in factsheet 1 are critical for community safety. In addition to this, national or provincial legislation may assign to local government any other matter for it to have executive authority over (s156(2)(b), Constitution). However, as indicated in Factsheet 1, municipalities undertake additional responsibilities on an agent basis rather than through legislative assignment.

An important but possibly not realised law for safety is The Regulation of Gatherings Acts 105 of 1993. In terms of this Act, people who wish to protest legally must make an application to the local authority in order for the protest to be legal. This is important because unlawful, unmanaged protests can lead to harm.

## What are a municipality's powers of law enforcement?

The Constitution of South Africa also says that local government can make by-laws in respect of any matter it is allowed to administer. It further says that a municipality has the right to exercise any power concerning a matter reasonably necessary for, or incidental to, the effective performance of its functions. This means that a local authority can carry out traffic enforcement and by-law enforcement, because enforcement is incidental.

In 2002, the Minister of Justice declared law enforcement officers to be peace officers (in other

words, to have some policing powers) in relation to some offences, in terms of section 334 of the Criminal Procedure Act (CPA). These powers were in relation to by-law offences, as well as offences contained in various local-government related-laws, offences in the Liquor Act of 1989, the Drugs and Drug Trafficking Act of 1992, and the Arms and Ammunition Act of 1969, as well as the serious criminal offences contained in Schedule 1 of the CPA such as murder, rape, robbery and theft. In 2018 these powers were expanded (see table 1 below).

Table 1: Law Enforcement Officer Powers

Column 1	Column 2 - Area	Column 3 - Offences	Column 4 - Powers
Law enforcement officer appointed by a municipality	<p>(a) The area of jurisdiction of the municipality which made the appointment.</p> <p>(b) In respect of the power mentioned in paragraphs (c), (d) and (e) of Column 4, the Republic of South Africa, in respect of paragraphs (h), (i), (l) and (m) of Column 3.</p>	<p>(a) Any by-law or regulation made by or for such a municipality.</p> <p>(b) Any offence contemplated in section 5 of the Business Act, 1991, (Act No. 71 of 1991) or regulations made thereunder.</p> <p>(c) Any offence specified in section 38 of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993) or regulations made thereunder.</p>	<p>(a) The power to issue a written notice in terms of section 56 of the Criminal Procedure Act, 1977.</p> <p>(b) The power to issue a written notice in terms of section 341 of the Criminal Procedure Act, 1977.</p>

Column 1	Column 2 - Area	Column 3 - Offences	Column 4 - Powers
		<p>(d) Any offence contemplated in section 24 of the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977).</p> <p>(e) Any offence contemplated in section 21 of the Fire Brigade Services Act, 1987 (Act No. 99 of 1987), or any by-laws or regulations made thereunder.</p> <p>(f) Any offence contemplated in section 4 of the Control of Access to Public Premises and Vehicles Act, 1985 (Act No. 53 of 1985).</p> <p>(g) A contravention of sections 4 and 5 of the Drugs and Drugs Trafficking Act, 1992 (Act No. 140 of 1992).</p> <p>(h) A contravention of section 82 of the General Law Third Amendment Act, 1993 (Act No. 129 of 1993).</p> <p>(i) A contravention of sections 36 or 37 of the General Law Amendment Act, 1955 (Act No. 62 of 1955).</p> <p>(j) Any offence relating to the supply, possession or conveyance of intoxicating liquor.</p> <p>(k) A contravention of section 120 (1) (in so far as it relates to sections 3, 84, 90 and 94 (2)), (3), (4), (5), (6), (7) and (10)) of the Firearms Control Act, 2000 (Act No. 60 of 2000).</p> <p>(l) Any offence, with the exclusion of the offences of "treason" and "sedition", listed in Schedule 1 to the Criminal Procedure Act, 1977 (Act No. 51 of 1977).</p> <p>(m) Any offence contemplated in section 3 of Criminal Matters Amendment Act, 2015 (Act No. 18 of 2015).</p> <p>(n) Any offence applicable to town or townships planning or land use planning legislation which is operative in an area of a municipality.</p> <p>(o) Applicable Road traffic and road transportation legislation that is operative in the area of a municipality.</p> <p>(p) Any offence contemplated in section 7 of the Tobacco Products Control Act, 1993 (Act No. 83 of 1993).</p>	<p>(c) The powers conferred upon a person in terms of section 23 of the Criminal Procedure Act, 1977, to search a person arrested in terms of section 40 (1) of the Criminal Procedure Act, 1977, and to seize an article.</p> <p>(d) The powers conferred upon a peace officer in terms of section 40 (1) (a), (b), (c), (d), (e), (f), (h) and (j) of the Criminal Procedure Act, 1977.</p> <p>(e) The powers conferred upon a peace officer under section 41 (1) of the Criminal Procedure Act, 1977.</p> <p>(f) The execution of warrants of arrest in terms of section 44 of the Criminal Procedure Act, 1977.</p>

The powers they have include the power of arrest without a warrant, which was increased slightly in 2018 and made available for all offences for which law enforcement have jurisdiction, including by-law offences. They were also given the power to search an arrested person and seize any article used to commit an offence, and the power to arrest suspects or witnesses who fail to give their name and address. The offences for which this is possible was increased to include tampering with (or destroying) essential infrastructure; failure to give account of possession of goods; and offences relating to the control of access to public premises and vehicles. Treason and sedition were excluded from among the Schedule 1 offences in respect of which they previously could act.

Geographical jurisdiction in which these powers may be exercised was extended to the whole of South Africa in relation to a shorter list of offences and a shorter list of powers. The shorter list of offences is tampering with (or destroying)

essential infrastructure; failure to give satisfactory account of possession of housebreaking implement or object; failure to give account of possession of goods; and the Schedule 1 offences excluding treason and sedition. The shorter list of relevant CPA powers in relation to these offences are the powers of arrest, power to search an arrested person and seize any article used in the commission of an offence, and the power to arrest a suspect or witnesses who fails to give their name and address.

So, law enforcement officers have some policing powers, even outside their own municipalities. To be able to exercise these powers, a law enforcement officer may be appointed only if the National Commissioner of the SAPS issues him or her a certificate of competency, taking into account any previous convictions, any declaration of unfitness to possess a firearm, and the training undergone by the applicant in respect of the powers to be exercised.

## What are the institutional arrangements?

Most people are familiar with the Mayor, her or his Mayoral Committee, and the councillors, which make up the Council. However, they do not have direct responsibility for carrying out the functions of municipalities. Their role is to ensure that the employees of the municipality do their job, follow the law, and implement the policies and strategies of the council.

Then, there are specific departments such as the Building Inspectorate which will see to issues such as Building Regulations. You can ask your

councillor who is responsible for what issue in your municipality.

Employees are directed by the Municipal Manager and Management Team. The Municipal Manager, together with her or his Management Team, is responsible for overall service delivery. Law Enforcement and Traffic Services are often grouped together with Fire and Emergency Services to form 'Protection Services' within a municipality.

# Where do civil society and community-based organisations fit in?

- **Report service delivery problems**

The most important role for Civil Society Organisations and Community-Based Organisations is to report service delivery problems. This is because a municipality cannot fix something if it does not know it is broken. If a street light or series of street lights are out, report it. If a drain is blocked, report it. If there is a fire, call the emergency line.

If there is a failure of the municipal officials to act on reports, report this to the ward councillor, with all the details of the report. If there is still no action, escalate to the Mayoral Committee or Mayor. If there is still no response, you can make a complaint to the province or national department of cooperative governance.

- **Report crime**

Report crimes such as the vandalising of municipal infrastructure to both local law enforcement and the police. Law enforcement may be able to take action if the police cannot or will not.

- **Encourage mobilisation and legal protest**

If there is no response to multiple requests and escalations, it may be appropriate to mobilise the community around safety issues, and finally, to protest. Follow legal channels. If you are aware of others protesting, encourage them to abide by the law and not engage in violence.

## Resources/References

- The correlates of victimisation in Galeshewe and implications of local crime prevention <https://issafrica.s3.amazonaws.com/site/uploads/2010IntCrimeConfWeb.pdf>

Role of Municipal Councillors in Building Safer Communities (SALGA) <https://www.salga.org.za/Documents/Knowledge%20Hub/Gazettes/Role%20of%20Municipal%20Councillors%20in%20Building%20Safer%20Communities%20-%20Pocketbook.pdf>

Local government, crime, by-laws, and law enforcement <https://dullahomarinstitute.org.za/multilevel-govt/local-government-bulletin/archives/volume-18-issue-3-september-2023/local-government-crime-by-laws-and-law-enforcement>

Crime Prevention Strategies for Local Government <https://www.escribemeetings.com/blog/crime-prevention-strategies/>

# FACTSHEET 5: ANTI-CORRUPTION AND INTEGRITY

By Johandri Wright, Tinashe Chigwata  
& Lukas Muntingh

Transparency is key for anti-corruption because it gives communities the information they need to scrutinise how decisions are made, and how public money is spent. Transparency also strengthens accountability by making officials explain and justify their choices. This factsheet will explore how Civil Society Organisations (CSOs) and Community-Based Organisations (CBOs) can utilise information on procurement, declaration of interests and blacklisting in their anti-corruption efforts and to promote integrity. When procurement processes are open and

understandable, it becomes far harder for hidden deals, favouritism, or political influence to shape who gets appointed. Declaration of interests (which reveal personal or financial connections) and blacklisting (which prevents corrupt or non-performing companies from receiving new contracts) are essential parts of keeping procurement transparent. They ensure that communities can see not only what decisions were made, but also why, and whether those decisions were made in the public interest. This fact sheet will explore these three tools in further detail.

## Part 1: Declarations of interests

### What is declaration of interests?

A declaration of interests is a disclosure system that requires key municipal leaders -councillors, the mayor, speaker, whip, municipal manager and all senior managers - to openly record their financial interests, business relationships, outside work, property, investments, and any gifts they receive. The duty to declare financial interests comes from several South African laws, including the Municipal Systems Act, the Municipal Structures Act, which contain codes of conduct for councillors and staff. The municipality must keep these disclosures in an official register of interests, and the Municipal Structures Act requires parts of this register to be made available to the public, so that communities can see whether their leaders have private interests that may conflict with their public duties. The purpose is to prevent conflicts of interest, where a public official's private financial interests could influence, or appear to influence, a municipal decision. This is especially important in areas such as procurement, where private

financial ties to companies bidding for contracts can easily lead to corruption. Municipalities must use these declarations to identify risks, prevent conflicted officials from taking part in decisions, and ensure that the procurement process remains fair and competitive. These declarations also support tools such as blacklisting, which blocks companies connected to wrongdoing from receiving municipal work. In short, the declaration of interest's system gives municipalities both the power and the responsibility to promote clean governance by making private interests visible and subject to community scrutiny.

Declarations of interests from politicians must be submitted in writing within 60 days of taking office and must list all interests that could influence their official duties. Councillors must also declare any gifts above R1 000, and municipalities must keep a gift register, recording who gave the gift, its value, and the nature of the relationship between the councillor and the donor.



Senior municipal administrative staff have similar disclosure duties. The municipal manager and section-56 managers must also declare all financial interests within 60 days and must report any changes quarterly to the chairperson of the municipal council. Staff members must further disclose any direct financial benefits they or their close family members may receive from municipal contracts. This ensures that both political office-bearers and senior officials cannot participate in decisions where they have a private stake.

### **What are the institutional arrangement and procedures?**

These disclosure duties place corresponding responsibilities on the municipality itself. Councillors must declare their interests to the municipal manager, and senior managers must do the same to the chairperson of the municipal council. Once the declarations have been made, the municipal council must decide which parts of the registers of interests should be made public, balancing confidentiality with the public's right to know. Importantly, municipalities must reproduce these registers in Annexure J of the Annual Report, and section 21B of the Municipal Systems Act requires municipalities to make parts of this register publicly available on their official websites.

By keeping accurate registers, publishing required information, and enforcing compulsory declarations, municipalities carry the legal responsibility to prevent conflicts of interest and protect the integrity of local governance.

### **Where do civil society and community-based organisations fit in?**

The declaration of interests system is designed to make the private financial interests of municipal leaders visible, so that communities can identify potential conflict of interests in local public decision-making processes. When properly implemented, this system allows residents to

see whether decision-makers and their close associates have private ties to companies bidding for municipal tenders or receiving municipal contracts. By making this information accessible, municipalities give communities the ability to check for possible corruption, raise concerns early, and demand accountability when leaders fail to declare their interests honestly or participate in decisions where they stand to benefit. In order to promote accountability through this declaration of interests system, civil society actors are advised to do the following:

- Check the municipal website, annual reports, and other council documents for the published register of interests;
- Submit an information request to the municipality through its website or customer care system if the declaration registers or annual reports are missing or incomplete;
- Compare councillors and senior municipal managers declared interests with companies receiving municipal work in your area;
- Engage the municipality and seek clarifications, and raise concerns about possible conflicts of interest, or ask why certain interests were disclosed or omitted;
- Report suspected undeclared interests or conflicts, which may amount to corruption, to the National Anti-Corruption Hotline (0800 701 701) or submit a written complaint to [report.corruption@dha.gov.za](mailto:report.corruption@dha.gov.za); and
- Document and escalate concerns - such as councillors influencing tenders, relationships between officials and contractors, or discrepancies between declarations and observed conduct - to the speaker of the municipal council, the municipal manager, or external bodies such as the Public Protector and the Auditor-General.



## Part 2: Public Procurement

### What is public procurement?

Procurement is one of the core powers that the Constitution of South Africa gives municipalities so that they can deliver services such as water, sanitation, electricity, roads, waste removal, and many others, covered in Factsheets 3 and 4. This means a municipality has the authority to decide what it needs, who to appoint, and how to structure its contracts, as long as it acts within national rules.

However, this freedom is not unlimited. Section 217 of the Constitution sets the foundation - each time a municipality buys goods or services, it must do so in a way that is

**Fair;  
Equitable;  
Transparent;  
Competitive; and  
cost-effective.**

These five principles act as boundaries on the municipality's decision-making power. They prevent a municipality from choosing contractors based on preference, personal connections, political pressure, or hidden deals. In other words, a municipality may choose any service provider it wants if that choice can be justified under these five principles.

The Municipal Finance Management Act of 2003 (MFMA) builds on this by requiring each municipality to have a Supply Chain Management (SCM) policy that gives practical expression to the constitutional rules. This autonomy is important because municipalities know their local needs best. But with this power comes responsibility. The MFMA places clear limits on how municipalities use their autonomy:

- They may not choose contractors secretly or without proper justification;
- They may not select suppliers because of political influence, friendships, or personal gain;
- They may not award contracts that ignore fairness, competitiveness, or value for money;

- They may not use their discretion in ways that undermine accountability or transparency; and
- If municipalities step outside these boundaries, the decision becomes unlawful, and the community has the right to challenge it.

### What are the institutional arrangements and procedures?

Municipalities also have important transparency duties. According to section 21B of the Municipal Systems Act, read with the MFMA and its Circulars, municipalities must maintain a functional, accessible website and publish key procurement information regularly, including tender notices, specifications, closing dates, awarded contracts, and the names of successful bidders. Importantly, tender documents and specifications may not be removed from the website once a contract has been awarded, so that the public can monitor whether the municipality followed proper procedures.

When a municipality buys goods or services equal to, or more, than the prescribed value (R200 000 for district municipalities, R300 000 for local municipalities; and R750 000 for metropolitan municipalities), it must use a formal competitive bidding (tender) process. This system is designed to protect public money by ensuring that the municipality awards contracts in a way that is fair, transparent, competitive, and cost-effective. To achieve this, municipalities must use a structured committee system involving three independent bodies, each with a distinct role.

The Bid Specification Committee is the first step. This committee prepares the tender specifications - the rules, requirements and technical details that bidders must meet. Their job is to ensure that specifications are clear, fair, and neutral, and not written to favour any specific company or brand. Once specifications are finalised, the tender is advertised publicly. This is importantly not only to make potential bidders aware of the tender but also for the community to know that the procurement process has started.

After bids are received, the Bid Evaluation Committee assesses them. This committee evaluates bidders according to price, their ability

to perform the work, their experience, and their B-BBEE status. The evaluators then recommend an award based on who provides the best value for money.

The Bid Adjudication Committee then reviews the evaluation's recommendation. Depending on the municipality's delegations, this committee may either make the final award or forward a recommendation to the Municipal Manager. If the Bid Adjudication Committee chooses a bidder other than the one recommended by the Bid Evaluation Committee, it may only do so with a valid, lawful reason. In such cases, the Municipal Manager must notify the Auditor-General, Provincial Treasury and National Treasury in writing, explaining the deviation. This requirement ensures oversight and deters political interference or favouritism. Once a decision to award a contract has been made, a municipality must publish on its website the details of the successful bidder and the tender price within five working days. This is important for communities to know who the success bidder is and the associated costs.

## **Where do civil society and community-based organisations fit in?**

Civil Society Organisations (CSOs), Community-Based Organisations (CBOs), and ordinary residents play a critical role in ensuring that municipal procurement is transparent, fair, and aligned with local needs. When municipalities publish procurement information such as tender notices, bid specifications, awarded contracts, contract values, and service delivery schedules, they create conditions for public scrutiny, allowing community organisations, journalists, and residents to act as external watchdogs. This visibility discourages corruption because those involved in procurement know their decisions can be examined and questioned. Community oversight also helps to ensure that contractors deliver what the contract requires. Section 116 of the MFMA obliges municipalities to monitor contractor performance monthly, enforce contracts, and report regularly to council. If municipalities publish these contract updates or progress reports on their websites, residents can compare promised work with actual delivery on the ground. This empowers communities to report failures, demand corrective action, and hold both the municipality and contractors accountable for service delivery.

Civil society input also strengthens needs alignment, because community groups are often the first to know whether water installations, road repairs, sanitation upgrades, or other procured services match what was agreed upon and the real needs of households. Transparent systems also create feedback loops, such as public tender award notices, or accessible online portals, enabling communities to raise concerns, suggest improvements, and identify risks early. Finally, public involvement acts as a deterrent to corruption: when procurement decisions and contract performance information are openly available, irregular deals or poor-quality work are unlikely to remain hidden. In this way, communities become a vital part of the municipality's integrity system which include strengthening oversight, improving service delivery, and helping safeguard public resources. To enhance accountability in their areas, civil society are advised to:

- Monitor procurement information posted on the municipal website, notice boards, and the National Treasury's eTender Portal, and compare contract specifications with what is happening on the ground (e.g., incomplete road repairs, missing materials, delayed work);
- Report suspected irregularities - such as bid rigging, conflicts of interest, political interference, or poor contractor performance - to the Municipal Manager, the Speaker of Council, or through the municipality's official complaints system;
- Escalate serious concerns including fraud, corruption, inflated invoices, or irregular awards to external oversight bodies such as the Public Protector, Auditor-General South Africa (AGSA), the SIU, the Hawks, and the National/Provincial Treasury;
- Participate in public meetings such as the Integrated Development Plan (IDP) forums, budget consultations, ward committee meetings, as discussed in Factsheet 2 and to question officials, raise concerns, and request information; and
- Document and report service delivery failures, including missed deadlines, abandoned sites, unsafe work, or incomplete projects, using channels such as ward councillors, community WhatsApp groups, municipal service-reporting apps, or written submissions to council committees responsible for oversight.

## Part 3: Blacklisting

### What is blacklisting?

The State, ranging from national government to local government, buys or procures goods and services from the private sector. The manner in which such procurement must be done, is regulated through legislation. As stated above, the Constitution of South Africa requires that procurement must be done in a manner that is 'fair, equitable, transparent, competitive and cost effective'.

Blacklisting or debarment is an administrative action (it, therefore, does not need a criminal conviction) to prevent a company or individual from doing business with the state (e.g. a municipality) for a specified period which may be as long as 10 years. Individuals and companies are debarred for a variety of reasons and the most commonly cited reasons are:

- Submission of fraudulent invoices for goods never received by the municipality;
- Misrepresentation of information;
- Non-performance;
- Failure to deliver as per the contractual obligations; and
- Fraud.

Individuals and companies debarred or blacklisted, are placed on the Database of Restricted Suppliers maintained by National Treasury. This list is published on the National Treasury website. To see the list Google "Database of Restricted Suppliers" and follow the link.

The intention is that accounting officers must consult this list before awarding a contract. This seeks to prevent a dishonest supplier simply moving from one government entity to the next without being detected and labelled as dishonest. The blacklist notifies all accounting officers that Person X and/or Company Y are dishonest and should not be used to provide services and/or goods.

It is estimated that some 52% of all state procurement happens at local government level. It is, therefore, important that local governments do not procure or buy goods and services from

individuals and/or companies that have been blacklisted.

However, this potentially very useful mechanism is underutilised, and by November 2025 there were only 286 debarred suppliers on the database nationally. The mechanism compels municipal managers to check against the database that they are not awarding a tender to a listed person or company. It is, therefore, important to ensure that dishonest suppliers are identified and listed.

### What are the institutional arrangements and procedures?

The law requires that matters of dishonesty and crime must be reported to National Treasury and provincial treasuries, and to the police when criminal.

The basic procedure is that a government entity (e.g. a municipality), when suspecting wrongdoing, gives the supplier an opportunity to provide an explanation. If this is not satisfactory, the matter should be referred to the National Treasury, which will investigate, and also provide an opportunity for the supplier to provide an explanation. If this is also unsatisfactory, the National Treasury will place the company and/or individuals on the Database of Restricted Suppliers.

National Treasury Regulations set out the duties of municipal managers as accounting officers in this respect. The accounting officer must:

- Take all reasonable steps to prevent the abuse of the supply chain management system;
- Investigate all allegations of corruption, improper conduct or non-compliance against an official or other person and, if justified, take the necessary steps (Treasury must also be informed of such steps taken and criminal matters reported to the police);
- Verify, prior to awarding a tender, that the recommended bidder is not prohibited from doing business with the state;
- Reject a bid from a bidder who is not in good standing with SARS;
- Reject a bid from a bidder who has committed any corrupt or fraudulent act during the bidding

- process or the execution of that contract; and
- Cancel a contract of a supplier convicted of fraud and corruption, or if an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of that contract that benefited that supplier.

The law also requires that a “municipality must recover unauthorised, irregular or fruitless and wasteful expenditure from the person liable for that expenditure”. There are some exceptions, but they do not apply to a blacklisted supplier.

Table 1: Extract from Database of Restricted Suppliers

Name	ID /Company nr	Restriction type	Reason	From	To	Authorised by
ADAMS, HELENA ROSE	6704030828082	Restricted Supplier	Non - Declaration of Interest	2023-09-04	2028-09-03	Drakenstein - WC Local Municipality
AMOD, MUHAMMADH SHUAYB	8705215141082	Restricted Supplier	Collusive bidding and fronting	2024-09-13	2029-09-12	City of Cape Town Metropolitan Municipality
Ankeli (Pty) Ltd	2012/137565/07	Restricted Supplier	Submission of Fraudulent Health Certificate	2016-12-08	2026-12-07	South African Police Services (SAPS)
ASIVE INVESTMENTS CONSULTANTS	2012/105959/07	Restricted Supplier	Submission of Fraudulent Invoices for goods never received by the department	2023-03-28	2033-03-28	City of Ekurhuleni Metropolitan Municipality

## Where do civil society and community-based organisations fit in?

Accounting officers must verify that a recommended bidder is not debarred from business with the state. Civil society can monitor that this requirement is adhered to by the following four steps:

- **Step 1:** Ensure that awarded tenders are published on the municipality’s website.
- **Step 2:** Compare the awarded list of tenders with the Database of Restricted Suppliers. The easiest way to do this is to do a text search of the successful suppliers on the Database of Restricted Suppliers.

- **Step 3:** If a tender was awarded to a debarred supplier this must be reported to the Municipality and to the Provincial Treasury.
- **Step 4:** If a supplier was disbarred after being paid, the monies paid can be recovered and it needs to be verified that this was done.

Civil society actors can also report any suspected fraudulent or criminal activities to the municipality, provincial treasury or the Police.

**Note:** The Public Procurement Act 28 of 2024 also provides for debarment, but at the time of writing (Nov 2025) it was not yet operational.

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