

**POLICY-MAKING FOR LOCAL GOVERNMENT
EXCELLENCE IN THE FREE STATE PROVINCE**

WILLEM HENDRIK BOSHOFF

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Supervisor: Prof A.J. Geldenhuys (D. Admin.)

BLOEMFONTEIN

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DECLARATION OF INDEPENDENT WORK

I, Willem Hendrik Boshoff, identity number [REDACTED] and student number 206071450, do hereby declare that this research project submitted to the Central University of Technology, Free State for the Degree MAGISTER TECHNOLOGIAE, is my own independent work; and complies with the Code of Academic Integrity, as well as other relevant policies, procedures, rules and regulations of the Central University of Technology, Free State; and has not been submitted previously to any institution by myself or any other person in fulfilment (or partial fulfilment) of the requirements for the attainment of any qualification.

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SUMMARY

In terms of the *Constitution of the Republic of South Africa*, 1996 (Act 108 of 1996), local government in South Africa is obliged to ensure that sustainable services are provided to communities. Without any doubt, the effective and efficient execution of this responsibility would bring about an environment conducive to service excellence on local government level.

However, South African municipalities are characterised by poor service provision; and the various incidents arising from dissatisfaction on the part of residents in respect of the services rendered are daily becoming a greater challenge to municipalities in the Free State Province.

In order to meet the service provision standards, as stipulated in the *Constitution*, the development and implementation of municipal policies is essential. Policy is defined, *inter alia*, as the setting out of basic principles that must be pursued in order to achieve specific objectives. Local government has the legislative and executive competency to develop and implement policies.

As a result of the diversity and complexity of policy-making, a conceptual framework for the policy-making process at local government level is an essential requirement. This process is described in the dissertation as a sequential pattern consisting of the following phases: policy agenda-setting, policy formulation, policy adoption, policy implementation and execution and policy evaluation.

However, municipalities do not have the institutional capacity, skills and experience necessary for the development and implementation of municipal policies. A further aspect that complicates the creation and implementation of policies is the large amount of legislation that regulates local government in South Africa. This legislation also requires municipalities to develop and implement various policies.

There are several factors that influence policy-making at local government level. Aspects such as the political environment, the financial environment and community needs have a direct and significant effect on policy-making at this level of government. Capacity shortages probably comprise the factor that has the most detrimental effect on policy-making at local government level; and therefore the necessity for the relevant skills and knowledge relating to policy-making is indisputable.

It is just as essential, however, that the other two spheres of government, namely national and provincial government, should carry out their constitutional obligation to support municipalities and strengthen their capacity.

Therefore, the aim of this study is, firstly, to identify specific actions that could be implemented by local and district municipalities to improve the policy-making process. Secondly, to determine the reasons for the inadequate formulation, adoption and implementation of the municipal policies. Thirdly, to determine the specific role of national and provincial government, as well as that of the South African Local Government Association (SALGA), in supporting municipalities in the policy-making process. In addition, strategies that could be implemented in order to improve the institutional capacity, skills and experience at local government level, with a view to developing and implementing appropriate policies, have also been identified.

OPSOMMING

Plaaslike regering in Suid-Afrika is verplig om in terme van die *Grondwet van die Republiek van Suid-Afrika*, 1996 (Wet 108 of 1996) te verseker dat volhoubare dienste aan gemeenskappe gelewer word. Die effektiewe en doeltreffende uitvoering van dié verantwoordelikheid sal sonder twyfel 'n omgewing vir voortreflike dienslewering op plaaslike regeringsvlak teweegbring.

Suid-Afrikaanse munisipaliteite word egter gekenmerk deur swak dienslewering en die verskeie insidente van inwonerontevredenheid ten opsigte van dienslewering word daaglik 'n groter uitdaging vir munisipaliteite in die Vrystaat Provinsie.

Ten einde te voldoen aan die diensleweringstandaarde, soos vervat in die *Grondwet*, is die ontwikkeling en implementering van munisipale beleide 'n noodsaaklikheid. Beleid word onder andere gedefinieer as die uiteensetting van basiese beginsels wat nagestreef moet word om spesifieke doelwitte te bereik. Plaaslike regering het die wetgewende en uitvoerende bevoegdheid om beleide te ontwikkel en te implementeer.

Die diversiteit en kompleksiteit van beleidvorming vereis dat daar 'n konsepsuele raamwerk vir die beleidvormingsproses op plaaslike regeringsvlak moet wees. Dié proses word in die verhandeling bespreek as 'n voortvloeiende model wat bestaan uit die volgende fases: beleidsagendabepaling, beleidsformulering, beleidsgoedkeuring, beleidsimplementering -en uitvoering en beleidsevaluering.

Munisipaliteite het egter nie die institusionele kapasiteit, vaardighede en ondervinding vir die ontwikkeling en implementering van munisipale beleide nie. 'n Verdere aspek wat die daarstelling en implementering van beleide kompliseer is die groot hoeveelheid wetgewing wat plaaslike regering in Suid-Afrika reguleer.

Hierdie wetgewing vereis ook dat munisipaliteite verskeie beleide ontwikkel en implementeer.

Daar is verskeie faktore wat beleidsvorming op plaaslike regeringsvlak beïnvloed. Aspekte soos die politieke omgewing, die finansiële omgewing en gemeenskapsbehoefte het 'n direkte en betekenisvolle invloed op plaaslike regeringbeleidsvorming. Kapasiteitstekort op plaaslike regeringsvlak is waarskynlik die faktor wat plaaslike regeringsbeleidsvorming die nadeligste beïnvloed en daarom is die noodsaaklikheid van beleidvormingsvaardighede –en kennis onvermydelik.

Dit is egter net so noodsaaklik dat die ander twee regeringsfere, naamlik nasionale en provinsiale regering, gehoor gee aan hulle grondwetlike verpligting om munisipaliteite te ondersteun en hulle kapasiteit te versterk.

Die doel van hierdie studie is daarom om eerstens spesifieke aksies te identifiseer wat plaaslike en distriksmunisipaliteite kan implementeer ten einde beleidvorming te verbeter. Tweedens, om die redes vir die onvoldoende formulering, goedkeuring en implementering van die munisipale beleide te bepaal. Derdens is die spesifieke rol van nasionale en provinsiale regering en die Suid-Afrikaanse Plaaslike Regeringsvereniging (SALGA) ter ondersteuning van munisipaliteite in die beleidvormingsproses vasgestel. Strategieë wat geïmplementeer kan word om die institusionele kapasiteit, vaardighede en ondervinding op plaaslike regeringsvlak te verbeter ten einde geskikte beleide te ontwikkel en te implementeer word ook geïdentifiseer.

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POLICY-MAKING FOR LOCAL GOVERNMENT EXCELLENCE IN THE FREE STATE PROVINCE

CHAPTER 1

INTRODUCTION AND ORGANISATION OF RESEARCH

1.1 INTRODUCTION

The legislative framework initiated by the *White Paper on Local Government* (1998) aims at creating a basis for viable local government in South Africa. This is making individual municipalities responsible for ensuring appropriate service provision to meet the developmental needs of their communities. Municipalities are more than ever the “delivery arm” of the government, committed in meeting the basic needs of all South Africans. To achieve this municipalities have the legislative and executive powers to develop and implement policies. It, however, appears that municipalities lack institutional capacity, skills and the experience for the development and implementation of policies. Therefore, local government excellence that manifests in effective and efficient service provision will not materialise if this situation of inadequacy prevails, posing a comprehensive challenge to municipalities in the Free State.

Local government in South Africa has undergone radical and almost continual transformation since 1994, culminating in the local government elections on 5 December 2000 and the reduction of the number of municipalities from 843 to 284. The election of 231 local councils, 47 district councils and 6 metropolitan councils established local government as a fully fledged sphere of government alongside national and provincial government. Since 1994, government has engaged in a systematic and pervasive overhaul of all previous local government policy and legislation (Republic of South Africa. 2001. http://www.municipalities.co.za/Reports/MAC_verslag.doc - accessed 28/05/2006).

The evolution of local government policy and legislation began with transitional legislation and the *White Paper on Local Government* setting out a broad and strategic statement of intent that paved the way for a new, developmental approach in local government. The *White Paper* emphasised the democratisation of local government, as well as improved service rendering, integrated development planning and the need for continued community involvement in local governance. In order to achieve these aims, the *White Paper* provided for thorough organisational transformation and for appropriate and sustainable financial management of resources in municipalities.

The above actions aimed, among others, to make municipalities more accountable and financially sustainable. Against this background, this research primarily focuses on the ability of municipalities in the Free State Province to fulfil their constitutional and legislative responsibilities, especially in the context of formulating and implementing municipal policies to ensure effective local government. The research maintains that the art and skill of policy-making is really the essence of local government excellence.

In terms of the *White Paper on Local Government* an ambitious legislative programme has been implemented. This programme has in principle dealt with the institutional and political re-organisation of the local government system. This legislative programme resulted in a plethora of significant legislation with a decisive influence on local government policy and applicable functions (Local Government Laws, Department of Provincial and Local Government, 2004: 12-14). Including the *Constitution of the Republic of South Africa*, 1996 (Act 108 of 1996) the following current legislation regulates local government in South Africa:

- *Organised Local Government Act*, 1997 (Act 52 of 1997);
- *Transfer of Staff to Municipalities Act*, 1998 (Act 17 of 1998);
- *Remuneration of Public Office Bearers Act*, 1998 (Act 20 of 1998);
- *Municipal Demarcation Act*, 1998 (Act 27 of 1998);
- *Municipal Structures Act*, 1998 (Act 117 of 1998);

- *Municipal Electoral Act*, 2000 (Act 27 of 2000);
- *Cross-Boundary Municipalities Act*, 2000 (Act 29 of 2000);
- *Municipal Systems Act*, 2000 (Act 32 of 2000);
- *Disaster Management Act*, 2002 (Act 57 of 2002);
- *Municipal Finance Management Act*, 2003 (Act 56 of 2003); and
- *Municipal Property Rates Act*, 2004 (Act 6 of 2004).

A number of Acts administered by national government also have a direct affect on local government including the following significant examples:

- *National Building Regulations and Building Standards Act*, 1977 (Act 103 of 1977);
- *Development Facilitation Act*, 1995 (Act 67 of 1995);
- *South African Police Service Act*, 1995 (Act 68 of 1995);
- *Housing Act*, 1997 (Act 107 of 1997);
- *Water Services Act*, 1997 (Act 108 of 1997); and
- *Traditional Leadership and Governance Framework Act*, 2003 (Act 41 of 2003)

Additionally, local government is further affected by laws that are not deemed to be “local government legislation”, for instance the *Basic Conditions of Employment Act*, 1997 (Act 75 of 1997), the *Occupational Health and Safety Act*, 1993 (Act 85 of 1993), the *Labour Relations Act*, 1995 (Act 66 of 1995), the *Employment Equity Act*, 1998 (Act 55 of 1998) and the *Skills Development Act*, 1998 (Act 97 of 1998).

The importance of local government cannot be underestimated, especially in a South African environment of dire socio- economic demands. The restructuring of local government also resulted in various externalities that have affected staff, income, expenditure, assets, liabilities, plans and budgets and a number of internal, structural, administrative and financial challenges confront municipalities

in particular. The fact that local government is the most diverse of the three spheres of government in South Africa, linking rural, semi-urban and urban areas across the country is in itself a challenge for effective service provision (Youens, B. 2003. <http://www.hsf.org.za/focus30/Youens.pdf> - accessed 23/01/2006).

The increasing incidents of dissatisfaction in the service rendering of municipalities have become a mammoth challenge for local government in the Free State Province. There are many examples of towns and cities in this Province that experience a rapid increase of ineffective and notoriously poor service provision in various areas including sewerage systems not in proper operation, streets riddled with potholes, pavements turning into jungles and central business areas looking like rubbish dumps (Makhafola 2007:4). To add to this unsatisfactory situation the insufficient collection of service fees in arrears, the debt burden of millions of rand and the increasing incidence of serious corruption spark the already intolerant attitude of residents (Setena 2007:3).

As mentioned, the legislative framework is in place for local government excellence in the Free State to address ineffective service rendering and to be able to meet the service needs of residents. At the root of this challenge lies the need for a specific art and skill of policy-making in the local government milieu. It is crucial, therefore, to identify and analyse the nature and extent of local government policy-making and what is required at operational level in this area for the establishment of innovative actions to achieve effective municipal service rendering in the Free State.

1.2. SIGNIFICANCE OF STUDY

The process of restructuring local government and developing and implementing new policies within the Free State Province create an opportunity both to examine the process of policy reform at local government level and to gather data that will inform the process. While much attention has been paid to aspects such as service provision and the adoption and implementation of Integrated

Development Plans, far less attention has been paid to identifying effective interventions and to examining barriers to policy-making and implementation.

In the quest for local government excellence, the results of this study can direct the appropriate process of policy-making to the benefit of municipalities in the Free State in terms of the following:

- i) The identification of a specific process that larger and smaller district and local municipalities can implement in policy-making.
- ii) The identification of the reasons for the inadequate formulation, adoption and implementation of policies by municipalities.
- iii) The identification of the specific role National and Provincial Government should play to assist municipalities in developing policies and as such giving effect to constitutional provision that all spheres of government are distinctive, interdependent and interrelated.
- iv) The determination of the extent of involvement of the South African Local Government Association (SALGA) in the formulation of policies, but more important, the identification of the specific role of the Association to ensure that policies are developed.
- v) The identification of strategies that municipalities can implement to address the problem of lack of institutional capacity, skills and experience to develop and implement policies at local government level.

1.3 PROBLEM STATEMENT

Local government excellence in the Free State Province can only realise if municipalities understand the dynamics of public policy. Public policy is an evolutionary process and it is expected from municipal functionaries to develop the policy processes to achieve the required results. In terms of this, the research problem for this study emphasises that municipalities in the Free State experience a significant lack of sufficient policies and are facing a serious need for appropriate policy-making.

Although municipalities have legislative and executive powers to develop and adopt policies, policies are not developed accordingly. Since 2001 the Provincial Public Accounts Committee of the Free State Legislature made a number of recommendations to ensure that municipal policies were developed and implemented at local government level. The recommendations mainly relate to the implementation of effective and sustainable policies. The Provincial Public Accounts Committee also expressed its concern that in the absence of appropriate policies, accounting officers did not comply with the responsibilities allocated to them in terms of section 60(b) of the *Municipal Finance Management Act* (Weideman, 2005).

On the reasons for the non-creation of policies at local government level speculation about many theories are possible, including that local government is affected by a plethora of national and provincial legislation. For municipalities complying with the law is not an option; it is a basic constitutional requirement (Section 151(3) of the *Constitution*), as it is for all spheres of government and all organs of state within those spheres.

The lack of policies to regulate activities at municipalities requires that the municipality must make up the rules as it goes along. It also results in inconsistencies in the treatment of different cases involving the same subject matter. Lack of policies also mean that managers and political office-bearers cannot effectively deal with routine matters as they first have to determine from the council about policy on a particular issue.

1.4 GOAL AND OBJECTIVES

The goal of this study is to assess the nature and extent of policy-making, resulting in the formulation of appropriate policy-making strategies to promote local government excellence in the Free State Province. The research emphasises specific factors that have a direct influence on policy-making in

municipalities and stipulate relevant suggestions to improve the process of policy-making. In addition, the following complementary objectives address the problem of the research:

- i) To assess the reasons and circumstances of a lack of appropriate policies that must direct municipal activities in the Free State Province.
- ii) To identify and analyse the reasons why municipalities in the Free State are not continuously utilising the support services of the South African Local Government Association (SALGA) in their policy-making actions to improve policy-making.
- iii) To evaluate the role of the Policy Unit of the Motheo District Municipality of maintaining and updating applicable policies and to propose similar actions for the other municipalities in the Free State. The activities of this Unit can then be considered as a benchmark for municipalities in the Free State.
- iv) To analyse the lack of comprehensive and integrated policies for financial management and accounting in municipalities in the Free State Province. These policies must comply with current legislation and have to direct and guide subsequent decision-making. Not only should policies on different financial management and accounting issues be integrated with each other, these policies must also support and be integrated with other policies. While *pro forma* financial management policies could be developed at provincial level, each municipality would have to use such *pro forma* policies as base documents and adjust it to its own peculiar circumstances.
- v) To evaluate the meaningfulness of a centralised structure and the accompanying actions for policy-making at individual municipalities. With the results of this evaluation as foundation, recommendations for suitable actions can be made.
- vi) To establish the affect of the National and Free State Provincial Governments' regulatory authority on the executive authority of municipalities and how it influences policy-making in particular. In terms of

- section 155(7) of the *Constitution* national government, subject to its constitutional legislative authority, and provincial governments have the legislative and executive authority to ensure that municipalities perform their functions.
- vii) To identify the nature and extent of the monitoring and support approach of the Free State Provincial Government and how it influences the policy-making activities of municipalities in the environment of co-operative governance. In terms of Section 40 of the *Constitution* the three spheres of government are distinctive, interdependent and interrelated. It is important, therefore, that provinces take note of these principles when monitoring and supporting local government.
 - viii) To indicate the important role of the National and Provincial Government, as well as SALGA in ensuring that municipal policies are appropriately adopted and implemented by a continuous process of policy-making.

1.5 KEY CONCEPTS

The South African Concise Oxford Dictionary (2002:903) defines “policy” as a course or principle of action adopted or proposed by an organisation or individual, and as a prudent or expedient conduct or action. According to Craythorne (1997:82) the term “policy” does not just mean an intended plan of action, it also has a strong element of wisdom, and this can only mean that, before a policy is adopted, there must be careful thought, investigation and debate before any action. Craythorne (1997:83) also states that policies are concerned with events to take place in the future, arising from, or based on events in the present or past and that, before a policy can be adopted, there must be a recognised issue, that issue must be considered or investigated; a decision must be taken; and that decision has to be translated into action.

Fox *et al.* (1991:27-28) define public policy in the following terms:

- Public policies are those policies developed by government actors, although non-government actors may influence policy formulation and development.
- Public policy is a purposive or goal – oriented action rather than random or change behaviour.
- Public policy consists of courses or patterns of action by governmental officials rather than their separate discrete decisions; not only the enactment of a law, but the decisions relating to its implementation and enforcement and the feedback, form part of the policy.
- Policy is what governments actually do, for example, protecting the environment, regulating trade, controlling the money supply or inflation and in general providing public services.
- Policy can be seen as the authoritative, but democratic allocation of values, implying the result of consensus and compromise between contending groups in society.

At local government level municipal officials submit policy recommendations to council for consideration, but the ultimate responsibility remains with the council to amend, approve or reject a particular policy recommendation. Once a policy has been adopted it must be translated into action. Policies have little meaning unless they are implemented. Generally, the following aspects need consideration when adopting applicable policies: political feasibility; operational feasibility; technical feasibility; financial feasibility; organisational implications and personnel implications (Ismael *et al.* 1999:153).

The nature and extent of municipal policy-making is reflected in this research in terms of the requirements that it should comply with fairness, equity, justice and balance. Reference is also made to the Constitutional Court judgement of *City Council of Pretoria v Walker* 1998 (3) BCLR 257 (CC) (De Visser 1999:5) in this regard. The research conceptualised and analysed the practice of policy-making at local government level to promote excellence in service rendering.

1.6 RESEARCH METHODOLOGY

The qualitative research methodology is the most suitable for this research because the study is conducted in a specific setting that is bound by the theme of this enquiry. The further justification of this choice of methodology is the fact that the emphasis is on applicable processes and meanings in the research area. Experimental examination or measurement in terms of quantity, amount intensity or frequency as such is not under consideration, hence the utilisation of qualitative research determined by the nature and extent of the research problem, goal and objectives (Denzin & Lincoln, 2000:8).

A detailed literature study, mainly descriptive, serves as the primary source of data collection in the milieu of local government policy dynamics with the emphasis on the policy-making process. The research focuses on the adaptation of theories and applicable descriptions of the evolutionary process of policy-making in the public sector in general and the environment of local government in particular. The literature review, including official documentation and legislation, form the basis for the conceptualisation and operational exposition of the research.

In addition, a series of personal interviews with specifically identified important participants contribute to the reliability and scientific quality of the research outcomes. The collection of data in this instance is based on in-depth structured interviews. These interviews were conducted with government and municipal officials who play a directing role in policy-making. It took place in the form of two-way conversations where the researcher asked the formulated questions to collect the required data on, among others, the ideas, beliefs, views and opinions of the participant. With the consent of the interviewed, the interviews were tape recorded and transcribed accordingly.

The population for purposes of the research has been determined as being the identified municipalities in the Free State Province as it is the intention to

evaluate public policy as a generic process at local government level. Determined by the nature of policy-making and the factors influencing the process of policy-making, the following specific participants in this field, in terms of the goal and objectives of the research are included:

- Senior local government representatives and elected councillors. Participants of the two categories of municipalities in the Free State with reference to local and district municipalities were interviewed. Persons with different responsibilities in bigger and smaller local municipalities, and within different districts, were identified. Therefore, the following individual people were interviewed:

- Executive Mayor - Motheo district municipality
- Member of the Mayoral Committee - Mangaung local municipality
- Member of the Mayoral Committee - Motheo district municipality
- Municipal Manager - Motheo district municipality
- Municipal Manager - Mantsopa local municipality
- Municipal Manager - Xhariep district municipality
- Strategic Executive Director: Corporate Services - Motheo district municipality
- Executive Director: Corporate Services - Mangaung local municipality
- Chief Financial Officer - Masilonyana local municipality
- Chief Financial Officer – Phumelela local municipality

- Senior participants in the National Department of Provincial and Local Government. The following people who assisted in the research by providing information referring to the support the Department is providing in municipal policy-making were interviewed:

- Acting Director: Research
- Manager: Institutional Development Systems

- Senior officials in the Free State Department of Local Government and Housing. To be able to determine the level of support municipalities receive in the development of policies, the following people were interviewed:
 - Superintendent General: Local Government and Housing
 - Manager: Regulatory Services

- The Chief Executive Officer of SALGA: Free State to determine the contribution of the South African Local Government Association in assisting with municipal policy challenges.

1.7 LIMITATIONS

There are a number of limitations to the methods used in this study. Firstly, the study focuses on eliciting the views of officials within the local government environment and does not investigate the opinions of the general public. This is done to be able to develop an in-depth understanding of the policy-making processes in the local government environment, as perceived by the applicable councillors and officials only and to analyse their knowledge and expertise in this field.

Secondly, it was the intention of the study to evaluate public policy as a generic process in the public sector in general and the municipal sector in particular rather than to focus on the formulation of one specific policy at one particular municipality in the Free State. The reason for this approach is to contextualise public policy at local government level in the Free State. With this in mind, the ultimate aim is to evaluate policy-making as one of the most critical actions to achieve excellence in local government. Although the study is restricted to specific participants in the Free State local government sphere, the generalisation of information is justifiable because of the generic nature and extent of the subject and the similar circumstances of municipalities in this region.

Finally, this study uses a cross-sectional approach rather than following the policy process over time. The methods rely on the recall of respondents regarding past events, and is taken into account during data analysis.

1.8 LAYOUT OF CHAPTERS

The following chapters are included in the delimitation of the research:

CHAPTER 1 – INTRODUCTION AND ORGANISATION OF RESEARCH

Chapter 1 provides an overview of the research project in terms of the introduction, problem statement, goal and objectives. The importance of policy-making for effective public policy to promote local government excellence is the focus of this section. The reality of ineffective service rendering and the urgent need for appropriate actions for policy-making to improve service provision explain the research topic in this Chapter.

CHAPTER 2 – CONCEPTUAL FRAMEWORK FOR LOCAL GOVERNMENT POLICY-MAKING

This Chapter focuses on the theoretical foundation of public policy in general and local government in particular with specific reference to the different policy-making phases, including the policy agenda-setting, formulation, adoption, implementation, and evaluation. Policies should comply with certain minimum requirements, with the emphasis on fairness or equity, justice and balance. Equity and justice demand that issues be dealt with in an even-handed way. In this regard the Constitutional Court judgement of *City Council of Pretoria v Walker* 1998 (3) BCLR 257 (CC) (De Visser 1999:5) is expanded on.

CHAPTER 3 – LEGISLATIVE AND EXECUTIVE REQUIREMENTS TO FORMULATE AND ADOPT POLICIES: EMPIRICAL SURVEY

The major contribution that local government can make to support development is the provision of basic services to everyone, particularly those who currently have little or no access to services. Applicable policies to ensure effective and efficient service provision are identified in this Chapter. The Chapter also focuses on the non-compliance of municipalities to exercise their legislative or executive authority to develop and adopt policies. Reference is also made to decisions taken by the Public Accounts Committee of the Provincial Legislature regarding the implementation of effective and sustainable policies.

CHAPTER 4 – FACTORS INFLUENCING POLICY-MAKING

This Chapter focuses on the factors that influence policy-making at local government level such as the political environment, the socio-economic environment, the financial environment and the public need. The research project also expands on whether these factors are contributing to the inadequate formulation of policies.

CHAPTER 5 – CAPACITY BUILDING REQUIREMENTS FOR POLICY-MAKING

Local government excellence that manifests in effective and efficient service rendering will not materialise if municipalities are lacking in institutional capacity, skills and the experience in the policy-making process. This Chapter researches whether policy analysts on local government level are equipped with a certain level of knowledge and skills that supports and determines the effectiveness of their performance.

CHAPTER 6 – CONCLUSION AND RECOMMENDATIONS

This Chapter summarises the specific factors that have a direct influence on policy-making in municipalities and stipulates relevant suggestions and strategies to improve policy-making beneficial to service excellence in the Free State Province.

CHAPTER 2

CONCEPTUAL FRAMEWORK FOR LOCAL GOVERNMENT POLICY-MAKING

2.1 INTRODUCTION

Every resident in South Africa is on a daily basis, directly or indirectly, influenced by local government policies. Policies on tariffs, social development, local economic development, debt collection, service provision standards, language and development and maintenance of pavements, to refer only to a few, have certain consequences for the welfare, security and comfort of the community. These public policies are designed to accomplish specified goals and consist of courses of action. Policies are also based on law and are authoritative.

It should be the objective of a municipality to provide a democratic and organised environment that is conducive to growth and development, and that will contribute to the rendering of levels of services that comply with the principles identified in Chapter 10 of the *Constitution*. The implementation of policies to address service rendering challenges will directly contribute towards local government excellence. It is important, therefore, to understand how public policies, which include local government policies, are identified, developed, implemented and evaluated.

The research acknowledges that there is not one process only for the development of policies because the complexity of demands requires different approaches. The diversity and complexity of policy-making and the broad-spectrum theory of policy-making has therefore been researched to provide a conceptual framework of the policy-making process at local government level. A sequential pattern of functional activities leading from the problem identification or agenda setting phase concluding with the evaluation phase, to guide the examination of the policy-making process, has been scientifically developed over

time and an exposition of this forms part of this Chapter. This policy-making process or policy cycle is a workable approach for analysing public policy.

Municipalities are compelled, in terms of the *Constitution*, to achieve the objectives of local government. One of these objectives is to ensure the sustainable provision of services to communities. The formulation of proper local government policies are therefore required to ensure that municipalities achieve this objective and consequently local government excellence.

The purpose of this chapter is then to conceptualise the nature and extent of policy and policy-making as foundation for local government excellence in the Free State Province. Basic principles and concepts of policy dynamics and appropriate development are identified and analysed as a foundation for local government excellence.

2.2 CONTEXT AND DYNAMICS OF PUBLIC POLICY

Linking to the key explanation in paragraph 1.5 a more comprehensive exposition is necessary to accentuate the dynamics of the concept. The definitions of policy in this section illustrate the multidimensional nature of policy as such. Local government with its executive and legislative powers control, regulate and develop local affairs and render local services as the third sphere of government in a system of co-operative government and reference to “public policy” in this environment therefore also includes local government *per se* (Meyer, 1998:8).

Policy is defined as “a statement of intent” (Cloete & Wissink, 2005:3). According to Botes *et al.* (1995:199) policy is “simply the direction to be followed to attain specific aims”. Policy specifies the basic principles to be pursued in attaining specific goals. Policy interprets the values of society and it is usually embodied in the management of pertinent projects and programmes. Cloete and Wissink (2005:3) also explain that the policy process “has several phases, including

initiation, design, analysis, formulation, dialogue and advocacy, implementation and evaluation”.

Public policies may regulate behaviour, organise bureaucracies, distribute benefits, or extract taxes – or all these aspects at once (Dye, 1992:2). According to Dye (1992:17) public policy is indeed an art and a craft. It is an art because it requires insight, creativity, and imagination in identifying societal problems and describing them, in devising public policies that might alleviate them, and then, in finding out whether these policies end up making things better or worse. It is a craft because these tasks usually require a degree of knowledge of economics, political science, public administration, sociology, law, and statistics.

Dye (1992:3) further defines public policy as whatever government “chooses to do or not to do”. He argues that books, essays and discussions of a “proper” definition of public policy have proven futile, even exasperating, and they often divert attention from the study of public policy itself.

Cloete (1993:57) defines public policy in the context of setting objectives that are made public and that indicate what is intended, how the objective is to be achieved, who will take action, what resources will be used and where and when action will be taken. Anderson (2006:6) points out that the term policy “designates the behaviour of some actor or actors, such as an official, a governmental agency, or a legislature, in an area of activity”.

Cloete and Wissink (2005:13) make the following important conclusions with regard to what policy boils down to:

- “The fact that public policy is a functional perspective on the process of government.
- The fact that policy is not always deliberately conceived and written down, but that it is frequently subconsciously accepted and may be unwritten, and that an allegation that no policy exists is in itself an indication of a policy approach to an issue or problem.

- The need to consider various definitions in the field, from which particular relevant elements may be selected, rather than a single (oversimplified) definition.
- The emphasis on value judgements, ethics, values, society and relationships.
- The emphasis on lateral approaches and multidisciplinary applications.
- The emerging focus on policy-making and the process elements of policy.
- The continued importance of defining policy analysis and an important part of policy management.
- The importance of management, governance and institutional arrangements in effective policy management.”

Reference has already been made to the legislative and executive powers of municipalities, indicating the responsibility to develop applicable policies. Craythorne (1997:82) argues in this regard that no public body can operate without applicable policies. It is therefore necessary to expand more comprehensively in this section on the formulation, adoption and monitoring processes of policies at local government level. For the purpose of this research the exposition of policy in this section forms the foundation of public policy in general and for local government in the Free State Province in particular.

2.3 THE POLICY PROCESS AT LOCAL GOVERNMENT LEVEL

To operate properly all municipalities need to develop policies continuously and thoroughly. A policy-making process, based on a pattern of activities, can be distinguished to guide the process of developing policies at local government level. Dunn’s policy-making model is according to Cloete and Wissink (2005:45) a process model which is generally regarded as representative of the international experience of policy-making. It shows that the phases of agenda-setting, policy formulation, policy adoption, policy implementation and policy assessment are fairly common.

Fox *et al.* (1991:32-33) note that an alternative approach to developing a policy-model is to break down the policy process into descriptive stages that correlate with the real dynamics and activities that result in policy outputs. It is argued that these stages are recognised as the identification of the public concern, the agenda-setting or the placing of issues on the policy-making agenda and processing the public concerns by categorising the major participants and the identified problems. The different alternatives are thereafter considered by identifying the major alternatives to solve the concern, and finally one alternative is decided on and made public. Subsequent to these activities the allocation of resources as part of the implementation and adjudication processes takes place. Adjudication includes imposing the policy through administrative and legal means before the influence evaluation is done and feedback is given to all relevant parties.

Ismael *et al.* (1999:151-153) also base their approach on the Dunn model and state that the policy process, also at local government level, could be seen as consisting of the following phases, specifically agenda-setting, formulation, adoption, implementation and evaluation.

- **Agenda-setting**

Agenda-setting is the first phase in the policy process and it deals with the process of identifying policy challenges and problems which require attention. It broadly sets out the parameters of the policy problem and it is up to the local government institution (the municipality) to formulate an appropriate response to challenges. According to Anderson (2006:3) the focus here is on how the problems that may become the target of the policies are identified and specified. The municipality decides what problems from all the apparent ones should receive attention and must form part of the agenda.

- **Policy formulation**

Municipal employees play a significant role in the policy process. The general framework for decisions is determined by them and they define the important questions and recommend solutions. During this phase the nature, origin and scope of policy problems are determined, analysed and investigated and recommendations are formulated for consideration by the municipal council. Anderson (2006:3) adds that this phase entails the identification and creation of alternatives for resolving public problems. The policy formulators may be confronted with several options to deal with a specific problem and they need to keep several factors in mind to address these problems adequately. In this environment the following matters need attention: Is the alternative technically sound? Are the budgetary costs acceptable? Is the proposed alternative politically acceptable? Will the public agree with the approach?

- **Policy adoption**

As the policy formulation phase shifts towards the policy adoption phase, some alternative proposals will be rejected, others accepted and others modified. The focus during the policy adoption phases involves deciding which proposed alternative will be used to address the problem. Anderson (2006:121) adds that a policy decision involves the action of an official person or body to adopt, modify, or reject a preferred policy alternative. At local government level the ultimate responsibility remains with the municipal council to amend, approve or reject a particular policy recommendation from the particular municipal officials. A municipal council has to take the following factors into consideration before adopting any policy matter. These factors include political, operational, technical and financial feasibilities, and organisational, personnel and legal implications. The adaptation of policies and decisions receives more attention in paragraph 2.5 of this Chapter.

- **Policy implementation and execution**

Once a policy has been adopted by a municipal council, it must be translated into action. During this phase attention focuses on what should be done to execute the adopted policies. Anderson (2006:201) points out that the consequences of implementation and the impact and degree of success are every bit as important as what emerge during the formulation and adoption phases. If implementation fails then all the stages that preceded this phase was to no avail.

It is the responsibility of the municipal officials to implement the policies of the municipality. According to Ismael *et al.* (1999:153) it is, however, the responsibility of municipal councillors to monitor and oversee the implementation process to determine whether or not policies are executed the way it was intended. Anderson (2006:200) points out that policy implementation deals with the relevant officials involved, the procedures they follow, the systems they employ and the political support and opposition they encounter. As a significant phase in the policy-making cycle and to discuss the policy implementation features, the policy implementation and execution phase, as an instrument to ensure an acceptable level of local government services, is explained comprehensively in paragraph 2.6 of this Chapter.

- **Policy evaluation**

Policy evaluation involves the estimation and assessment of the goal accomplishment of a particular policy (Anderson, 2006:255). Policy evaluation also searches for the factors that contributed to the success or failure of a policy and it may, in turn, lead to the reprocessing of the policy cycle to modify or even terminate the policy. During and after the policy implementation phase the municipal council has to evaluate the overall performance of its policies to determine its effectiveness and efficiency of its policies. Section 11(3)(j) of the *Municipal Systems Act* stipulates that a municipality must

monitor the affect and effectiveness of its policies. The purpose of these evaluations is to take corrective steps and to ensure public accountability. Policy evaluation concerns the continuous development of policies as described in paragraph 2.7 of this Chapter.

2.4 PARAMETERS IN POLICY-MAKING

In terms of section 151(3) of the *Constitution* a municipality has the right to govern the local government affairs of the community, subject to and in terms of national and provincial legislation. A municipality therefore cannot exercise repressive powers and all policies should comply with certain minimum requirements, namely equity, justice and balance. It is compulsory, therefore, to emphasise and analyse the principles of equality, justice and balance.

Craythorne (1997:88) is of the opinion that justice means that advantages should be shared and that disadvantages should be distributed. Craythorne (1997:88) adds that justice does not mean that some residents should be deprived of certain rights and privileges so that other residents should be the only beneficiaries. The racial history of South Africa does not imply that justice is served when one group rules over another, or that the rich should be impoverished because there are poor. Policies should therefore be formulated in an even-handed manner. Craythorne (1997:88) also argues that balance denotes that the entire spectrum of local government services should receive attention, and that not only specifically identified services should receive attention, to the omission of the other. Communities need a full range of services as determined in Schedules 4 and 5 of the *Constitution*. It is then important that policy-makers should bear in mind that allocated funds are the tax payers' money and should be spent cost-effectively.

Equity and justice are to an extent overlapping concepts and are purely moral or ethically founded, implicating that one section of society should not acquire all resources available. Neither should a section of society deliberately be deprived

of a share of the available resources because of race, religion or party affiliation. The principle of equality is reflected in the very first section of the *Constitution* stating that the achievement of equality is one of the founding values of the Republic. In terms of Section 9 of the *Constitution* the following principles apply in the milieu of equality:

- “(1) Everyone is equal before the law and has the right to equal protection and benefit of the law.
- (2) Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken.
- (3) The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.
- (4) No person may unfairly discriminate directly or indirectly against anyone on one or more of those grounds in terms of subsection (3). National legislation must be enacted to prevent or prohibit unfair discrimination.
- (5) Discrimination on one or more of the grounds listed in subsection (3) is unfair unless it is established that the discrimination is fair.”

Craythorne (1999:88) noticed that balance should prevail in the provision of services even where equity and justice are the norms of decision and policy-making. A full range of services is the prerogative of the community and is not based on the personal view and caprice of policy-makers as such. The only determining factor is the availability of resources to meet the specific needs of the community.

Local government in particular has been subjected to many court cases in which their actions, by-laws and policies, whether it concerned property or electricity rates, zoning conditions or even dog licences, have been in possible conflict with

section 9 of the *Constitution*. In *City Council of Pretoria v Walker* 1998 (3) BCLR 257 (CC), the Constitutional Court applied the equality test in its judgement as to whether or not the City Council of Pretoria had violated a person's right to equality (De Visser 1999:5). The facts of the case were that the residents of Mamelodi and Atteridgeville paid for their electricity on a so-called "flat rate" basis calculated on a fixed amount of the average usage of electricity in the specific area. Residents of the historically white Pretoria paid for their electricity on a "metered rate" which is the individual amount based on the actual usage of electricity by the consumer.

Legal action was instituted against residents of old Pretoria only, whereas the municipality endorsed a benevolent approach towards the residents of Mamelodi and Atteridgeville. This action resulted in the municipality not suing the Mamelodi and Atteridgeville residents to enforce payment of arrears in those areas. A resident of the historically white Pretoria was sued for arrears in respect of charges for electricity provided by the municipality. He challenged the constitutionality of the municipality's actions in respect of its policy for the rendering of electricity services. The Court concluded that the differentiation in rates did not amount to unfair discrimination. The right to equality does not prohibit municipalities from having service fee policies that amount to substantive equality and not formal equality. A strict policy of equal pay services, disregarding historical inequalities and discrepancies in the quality of services, can thus be inconsistent with the constitutional right to equality.

De Visser (1999:6) indicates that it is the duty of local government to eliminate these disparities resulting from the legacy of the previous dispensation. Uniformity in rates and other levies, therefore, does not assure identical rates for everyone. Rates may vary from user to user, depending on the quality of services and circumstances involved. De Visser (1999:6) also states that a policy of selective enforcement of service fee arrears according to which disadvantaged areas are treated "with a softer hand" is not always unconstitutional. For such a policy to be constitutional, it should, however, be carefully formulated, announced

and debated in public and implemented in such a way that it does not seriously impair the rights and interests of other residents of the municipality. The principles identified in Chapter 10 of the *Constitution* should, however, be the basis for a municipality to remain objective in the milieu of effective service delivery.

Policies should comply with the requirements of equity, justice and balance to ensure that all citizens have equal rights to receive service rendering of a reasonably expected level. The Constitutional Court has now also differentiated between substantial equality and formal equality in a local government environment. Strict policies to enforce equal payment for services, for example, may infringe on residents constitutional right to equality.

2.5 DECISIONS IN POLICY-MAKING

Public policy-making begins with a decision and it concludes with a final policy decision. The policy decision-making process involves the decisions to select the most effective means of solving a particular problem. Anderson (2006:136) indicates that the decision-makers often “devise rules of thumb, or guidelines”, to simplify decision-making but that no set of decision rules is common to decision-makers. Cloete and Wissink (2005:151) state that decision-making is nothing else than a choice between alternatives at a given moment.

Decision-making involves the consideration of facts and values and is usually the product of many accompanying decisions. Cloete and Wissink (2005:152) explain that facts refer to “concrete, relatively immutable data, while values cannot be accurately measured or assessed and depend on the policy-maker’s beliefs about what is right and wrong”. In the local government context municipal officials will provide the members of the municipal council with facts. The values of the community will have a determining influence on the final decision of the council.

The *Municipal Structures Act* determines how decisions can be taken at local government level. Section 30 (2) and (3) of the Act stipulates as follows:

- “(2) All questions concerning matters mentioned in section 160(2) of the *Constitution* are determined by a decision taken by a municipal council with a supporting vote of a majority of the councillors.
- (3) All other questions before a municipal council are determined by a majority of the votes cast ...”

There are a number of factors that place specific constraints on policy decision-making. Hanekom (1987:71-72) in Fox *et al.* (1991:41) identifies the following influences on public choices:

- The setting of policy objectives, deciding what is required in a policy document and how contending needs and values should be accommodated in the document;
- the challenges that should be addressed by means of policies are constantly changing. These challenges are artificial constructs of the society and of individuals which are also constantly changing;
- the objective attainment determination and the measurement of the potential impacts of the objectives are complex processes;
- the measurement of costs in achieving the required objectives and the determination of the costs of abandoned objectives in order to achieve a specific identified objective;
- the legal requirements that influence policy choices;
- the political ideology or ruling political party policy;
- the budget structure and requirements of the public institution;
- the ethical and moral aspects of public choice;
- the personal commitments and subjective disposition of the public officials;
- risk and uncertainty of specific policy choices and their ultimate outcomes;
- the limits of rationality when performing policy-making responsibilities under time constraints;

- the infrastructural and internal organisational support for policy decisions;
- the degree to which any policy decision is supported by relevant information; and
- generating the relevant information required for the various policy challenges that might arise in a particular situation.

The factors influencing local government policy-making are discussed in detail in Chapter 4.

Cloete and Wissink (1991:152) point out that making a decision is the crux of administrative action. Decision-making means choosing a preferred action from two or more alternatives as already indicated previously in this section. Decision-making at local government level is a rational attempt by a manager to achieve the objectives of his institution. Decision-making is required from the time when objectives are set at an early stage of the policy planning process and it requires discernment, creativity, capability and experience. Before the appropriate policy-making actions can be taken, it is necessary to identify policy challenges and problems which require attention. Alternatives should then be developed and analysed where after the appropriate policy path of action is decided upon.

To put the procedure and activities of decision-making into perspective it is important to note the existence of different types of decision-making. Cloete and Wissink (2005:153) identify the following types of decision-making:

- Impulsive decision-making: Impulsive decision-making occurs spontaneously and no discretion, value judgement or alternatives are taken into account.
- Intuitive decision-making: The decision is not reached on the basis of facts or results determinable by means of facts and statistics. The decision-maker relies on instinct that a specific alternative will have the desired result.
- Programmed decision-making: Programmed decisions are standing decisions. They guide the public manager in the making of repetitive and routine decisions. Objectives, standards, procedures, methods and policy are all examples of standardised or programmed decisions.

- Unprogrammed decision-making: Occasionally decisions are made that require a large measure of creativity and even a greater measure of discretion. They are usually decisions that are made for special purposes. A budget is the most familiar unprogrammed plan and is expressed mainly in numerical terms.
- Single choice decisions: The decision-maker has only two choices: either accept the alternative or reject it; for example, if a committee of inquiry has made a recommendation on a matter it investigated, the decision-maker may choose to accept or reject its findings.

Anderson (2006:136) points out that the judiciary often use the *stare decisis* rule (rule of precedents) to make specific decisions. Using precedents to guide decision-making is not only limited to the judiciary. Administrators and legislators frequently make decisions on the basis of precedents. Cloete and Wissink (2005:160) indicate that creativity is one of those abilities that differentiate good decision-makers from poor decision-makers. Creativity enables managers to develop alternatives, to extend the alternatives and to visualise the results. When managers probe for solutions they can depend on their experience, knowledge of what has happened previously under similar circumstances, or their creativity in search for alternative solutions. Creativity is generally considered to be the ability to combine or associate ideas in a unique manner.

Decision-making has a specific significance for local government policy-making. In the entire process of public policy-making, there are a multitude of different decisions between the very first decision and the last one. According to Cloete and Wissink (2005:162) the “quality of decision-making will also enhance the quality of the policy-making process”. This will in the end also contribute towards efficiency and effectiveness. The decisions taken during the policy-making process are of the utmost importance to ensure that municipalities reach their objectives effectively.

2.6 POLICY IMPLEMENTATION AND EXECUTION

Policy implementation is one of the most important phases in the policy-making cycle to ensure local government achieves its objectives in the rendering of services to the community. Fox *et al.* (1991: 33) regard policy implementation as “designing and initiating a programme of action”.

Pressman and Wildavsky (1973:166) in Cloete and Wissink (2005:165) state that implementation “means just what Webster (dictionary) and Roget (thesaurus) say it does: to carry out, accomplish, fulfil, produce, complete”. Van Meter and Van Horn (1975:447-448) in Cloete and Wissink (2005:166) provide a more specific definition: “Public implementation encompasses those actions by public or private individuals that are directed at the achievement of objectives set forth in prior policy decisions”.

Public policies are not made merely to keep policy-makers busy, or to create the impression that policy-makers are doing something to alleviate societal problems or demands. All public sector policies are aimed at promoting specific aspects of the quality of life of the citizens, and are usually the result of the agreements, the ideals, and the intentions of the policy-makers (Thornhill & Hanekom, 1996:56).

Anderson (2006:200) indicates that policy implementation is neither a routine nor a predictable process. Cloete and Wissink (2005:174) point out that there is general agreement that policy implementation is a complex, dynamic, multilevel, multi-actor process influenced both by the content and context of the policy being implemented. Policy implementation implicates the putting into effect of the ideals, intentions and course of action selected by the policy-maker. The ultimate aim of policy implementation is to ensure that the ideals and intentions, as provided for in the policy, are achieved. Policy implementation also aims at moving from a particular existing situation to a future situation which is deemed better or more appropriate than the existing situation (Thornhill & Hanekom, 1996:56).

Cloete and Wissink (2005:165) indicate that researchers have consistently identified the same or similar policy implementation variables. The five interlinked variables, also known as the 5-C protocol form the norm for successful implementation actions:

- The content of the policy itself – what it sets out to do and in what way the policy aims to address the specific challenge. Policy content is not only important in the way it envisages achieving its goals, but it also determines the goals itself.
- The nature of the institutional context – the standard procedures through which policy must travel in the process of implementation and it will unavoidably be shaped by the political, social and legal realities.
- The commitment of those municipal employees entrusted with the carrying out of the implementation at various levels in the municipality's administration.
- The administrative capacity to discharge the duties related to the implementation of policies in ensuring that challenges are addressed.
- Soliciting the support of clients and coalitions whose interests are enhanced or exposed by the policy.

Once a decision has been made and, where necessary, the resources allocated, it has to be implemented (Craythorne, 1997:96). Where physical work is involved, implementation amounts to the physical construction of efforts to accomplish and complete the goals provided for in the policy. Implementation could also take the form of making representations to a higher authority, such as a government minister, or putting into action a programme such as for health or road safety. When implementation commences, the matter should be monitored to ensure that implementation is carried out according to the intention of the decision-making body as well as to ensure adjustment to changing circumstances (Craythorne, 1997:96).

Apart from the local government manager who can be regarded as the key functionary in the implementation of public policies, specific public institutions

are also actively involved in policy implementation, namely the legislators, the courts of law, interest groups and community institutions. It is common practice, however, that municipal officials are the most important implementers of local government policies, that is the policies which they themselves have often initiated and formulated (Thornhill & Hanekom, 1996:57).

Cloete and Wissink (2005:186) point out that while policy can be defined in several ways, implementation moves from set political goals to results on the ground. Policy formulation and implementation are in most circumstances parallel processes and not necessarily consecutive processes, where policy design or redesign and modification can take place even during the formal implementation stages of the policy process. Policy success is in some cases attributable to the redesign or adaptation of the original design during implementation, because the original policy designers did not or could not foresee specific complications.

Implementation is not an action that is to be carried out according to a carefully predetermined plan. In this regard Anderson (2006:202) states that specific variables critical to successful policy implementation still need to be identified. According to Cloete and Wissink (2005:187) it is a process that can only be managed and that the policy implementers should gain knowledge as they progress through the different implementation stages. Managing policy implementation towards a successful product entails strategically attending to those variables over which there is some direct or indirect influence.

To ensure local government achieves its objectives in the rendering of services, policy implementation can thus be regarded as probably the most important phase in the policy-making cycle. Policy implementation challenges should be identified and addressed on a constant basis. Continuous policy evaluation to identify stumbling blocks in the implementation process, will contribute in ensuring that policy goals are achieved. Policy implementation is concerned with a purpose which is observable and measurable. It is also concerned with what effect policies have on the community. It can be stated that policy implementation

is a comparison of the costs to the benefits of the policy. The effectiveness or non-effectiveness of public policy implementation is revealed by the policy evaluation phase which will be discussed in the succeeding section.

2.7 POLICY EVALUATION

Policy evaluation is in essence no different from the evaluation of any other activity in people's daily lives. Anderson (2006:260) states that policy evaluation, as a functional activity, is as old as policy itself and that legislators, administrators, the community and the media have expressed views about the value and effects of particular policies. According to Cloete and Wissink (2005:210-211) policy evaluation in its ideal form should be seen as a reviewing process to compare explicit and implicit policy objectives with actual or anticipated outcomes or results. Thornhill and Hanekom (1996:57) point out that policies are analysed in order to determine whether or not they produce the desired results and impacts, with a view of adapting, reviewing or replacing a particular policy with a different policy alternative.

Dye (1992:354) is further of the opinion that policy evaluation is learning about the consequences of public policy. Shafritz (1998:820) in Cloete and Wissink (2005:212) explains that policy evaluation is, as a rule, undertaken for one or more of the following reasons:

- to measure progress towards the achievement of policy objectives;
- to learn lessons from the project/programme for future policy review, redesign or implementation strategies;
- to test the feasibility of an assumption, principle, model, theory, proposal or strategy;
- to provide political or financial accountability;
- to promote a specific objective; and
- for public relations purposes.

Craythorne (1997:96) warned that, in the absence of the review of a policy, there is always the risk that a policy inappropriate to current circumstances and challenges will be implemented. It will not only be seen as wasting municipal resources but the municipal council will be regarded as thoughtless or ineffective by the public. To be able to achieve the policy objectives, local government policies need to be evaluated on a regular basis to ensure cost effective policy implementation and to account to the public on the efficiency of the municipality.

The policy evaluation process informs policy-makers if policies are achieving set goals. During the evaluation phase an assessment is made to see whether the interventions provided for in the policies, have indeed achieved the intended objectives. The assessment of service rendering standards policies, for example, in a local government context, will inform the municipality whether they have improved the living conditions of those the policies were intended for; the community. Valadez and Bamberger (1994:52) in Cloete and Wissink (2005:212) indicate that a carefully executed policy evaluation process has the following benefits:

- A precise assessment of the nature and extent of the expected affects will be provided. It will also assist policy-makers to identify the projects that are expected to produce the best return on the resources invested.
- It can illustrate that the identified changes in the policies were made to avoid investment in projects that are unlikely to generate the desired advantages.
- The factors contributing to the effectiveness of the policy and projects can be assessed to improve the policy design.
- The community members that tend to benefit least from specific projects will be identified and special measures will be suggested to encourage these community members to take part in the identified project.
- The time period during which the policy implementation is likely to occur can be estimated and to increase the accuracy of project analysis procedures.

Policy evaluation is important because it informs policy-makers about the extent at which the policy objectives are achieved and to act accordingly if the intended goals are not accomplished. It also reveals whether the challenges identified in the administration of a municipality or the concerns of the community were resolved, or could not be resolved. If the identified challenges were not resolved the policy-making process returns to the first phase, namely agenda-setting.

Anderson (2006:270) argues that the most useful form of policy evaluation is a systematic evaluation that measures the results of policy as it is often impossible to measure the effect of public policies accurately, especially social policies. Cloete and Wissink (2005:232-234) state that policy evaluation is an essential part of the rational policy process for ascertaining whether a policy is effective or not. Policy evaluation is a specialised activity that requires specific skills and experience. Policy evaluation has to determine the results of the municipal policy in question as accurately as possible. The willingness and commitment of policy decision-makers to assess the results of municipal policies will determine the scope, depth, nature and effect of the evaluation on future policies.

Policy evaluation is intended for the improvement or continuous development of policies. Its aim is to find out more about the affect of the policy and to produce some change in the current policies. The process of policy evaluation is an assessment based on the comparison between the costs and the benefits of a specific policy. The purpose of assessment is to advise the municipal policy-makers on the necessity of the policy in the context of achieving its legislative objectives.

2.8 EXCELLENCE IN LOCAL GOVERNMENT

All citizens have a legitimate expectation for the provision of proper services by municipalities. Local government is after all the “delivery arm” of government and in terms of the *Constitution* must ensure sustainable provision of services to communities in an environment of local government excellence.

The South African Concise Oxford Dictionary (2002:401) defines excellence as “the quality of being excellent” and “excellent” as “extremely good or outstanding.” In this regard van der Waldt and du Toit (1997:68) refer to the management by excellence approach that emphasises a set of basic characteristics a municipality should pursue in order to achieve its goals effectively. These characteristics refer, among others, to precision in rendering services, sustained contact and involvement with clients (community), the promotion of entrepreneurship, motivation, a commitment to matters for which the institution possesses the necessary expertise, and a simple and streamlined institution. Other principles which are also included are productivity, creativity, development and quality.

In terms of Chapter 10 of the *Constitution* every sphere of government including local government must be governed by the democratic values and principles enshrined in the *Constitution*. To be able to clarify what is implied with “excellence in local government” the principles of Chapter 10 of the *Constitution* can act as a regulatory and a normative framework for local government. The following principles are provided in section 195(1) of the *Constitution*:

- “(a) A high standard of professional ethics must be promoted and maintained.
- (b) Efficient, economic and effective use of resources must be promoted.
- (c) Public administration must be development-orientated.
- (d) Services must be provided impartially, fairly, equitably and without bias.
- (e) People’s needs must be responded to, and the public must be encouraged to participate in policy-making.
- (f) Public administration must be accountable.
- (g) Transparency must be fostered by providing the public with timely, accessible and accurate information.
- (h) Good human-resource management and career-development practices, to maximise human potential, must be cultivated.

- (i) Public administration must be broadly representative of the South African people, with employment and personnel management practices based on ability, objectivity, fairness, and the need to redress the imbalances of the past to achieve broad representation.”

In his State of the Nation Address, President Thabo Mbeki (2006) remarked that it was extremely important for the machinery of government, especially the local government sphere, to discharge its responsibilities effectively and efficiently, honouring the precepts of Batho Pele. He emphasised that the system of cooperative governance had to be respected and within this context local government should be empowered to discharge its development and service rendering obligations.

Since 1994 significant achievements in the local government sector reflect specific actions to support local government excellence (Republic of South Africa. 2004. http://www.projectconsolidate.gov.za/docs/Base_Document.pdf - accessed 10/04/2006). These include:

- The establishment of a non-racial, democratic developmental local government system;
- the rationalisation of the number of municipalities from over 1200 to 284;
- conducting democratic local government elections of over 8900 councillors; and
- the establishment of a progressive policy and institutional framework and regulatory environment for developmental local government.

The government’s Imbizo campaign and the profiling of the current *status quo* in the 284 municipalities in South Africa are also further examples of objectives to realise excellence (Project Consolidate a hands-on Local Government Programme, Department of Provincial and Local Government, 2004:13).

- Municipalities must build their capacity and develop systems that will enable them to discharge their constitutional mandate.

- The affect of the new local government system should be optimised and demonstrated.
- Communities, institutions and individuals who, despite South Africa’s legacy of the past, contribute positively to local government excellence should be recognised and encouraged.

Against the background of Project Consolidate section 19(2) of the *Municipal Structures Act* stipulates that a municipal council must annually review the needs of the community, its priorities to meet those needs, its processes for involving the community, its organisational and provision mechanisms for meeting the needs of the community and its overall performance in achieving the objectives. These provisions can be regarded as a further foundation to achieve local government excellence.

In terms of section 73(1) of the *Municipal Systems Act* a municipality must give effect to the provisions of the *Constitution* and should prioritise the basic needs of the local community. A municipality must also promote the development of the local community and ensure that all members of the local community have access to at least the minimum level of basic municipal services. Section 73(2) of the *Systems Act* identifies specific principles for municipal services and if neglected, excellence in local government will not prevail:

- “(a) be equitable and accessible;
- (b) be provided in a manner that is conducive to—
- (i) the prudent, economic, efficient and effective use of available resources;
 - and
 - (ii) the improvement of standards of quality over time;
- (c) be financially sustainable;
- (d) be environmentally sustainable; and
- (e) be regularly reviewed with a view to upgrading, extension and improvement.”

Local government has to achieve specific constitutional objectives to be able to adhere to specific constitutional demands. The existing legislative framework

requires accessible and affordable service provision, which is of a high quality and which incorporates the values of accountability and sustainability. The achievement and compliance with the constitutional demands on service rendering is required to achieve local government excellence.

2.9 CONCLUSION

In meeting the needs of the community and its overall performance objectives a municipality must annually review its priorities. Effective policy-making at local government level should form the basis for the annual review of priorities to ensure compliance with the constitutional obligations. To be able to function effectively and to promote efficiency within local government municipalities need to develop policies consistent with their goals, obligations and strategic priorities.

A sequential pattern of activities has been distinguished to guide the process of developing policies at local government level. The conceptual framework of the policy-making process at local government level divides the policy-making process in constant stages which are interrelated and every stage has an effect on continuous policy development. Policy-making usually incorporates the recognition of a problem, the provision of alternatives, the adoption of the alternative, which is the policy itself, the implementation of the policy and finally, continuous feedback and formal evaluation for legislative or administrative adjustments. Various participants regularly, or from time to time, play meaningful roles to shape the policy-making process.

The sequential nature of the policy segments or stages of activity assists to comprehend the flow of action in the policy process. It also presents a dynamic opportunity for the continuous development of policies to achieve one of its constitutional obligations, namely to ensure the sustainable provision of services to communities.

Policy-making is not the end product, but encompasses a continuous process of improving policies. It should be seen as a sustainable action to increase the quality of life of the community in an atmosphere of local government excellence.

CHAPTER 3

LEGISLATIVE AND EXECUTIVE REQUIREMENTS TO FORMULATE AND ADOPT POLICIES: EMPIRICAL SURVEY

3.1 INTRODUCTION

In compliance with the *Constitution* the *Municipal Systems Act* substantiates the legislative and executive authority of a municipality. Therefore, for a municipality to be able to exercise its executive and legislative authority it has to comply with constitutional and other legislative requirements. With local government's continuous transition since 1994, far-reaching changes were instituted in the field of local government policy-making. These changes include the redirection of substantive priorities and goals of municipal policies.

A significant number of legislation regulating local government has been implemented since the enactment of the *Constitution*. This legislation does not only provide the framework for local government operation in ensuring the rendering of services, it also compels municipalities to adopt and implement specific policies.

The urgent need for proper service rendering directly affects policy-making and one of the aims of this Chapter is to identify whether municipalities are indeed developing policies in ensuring that effective municipal services are provided to the community. Policy-making includes a number of actions with reference to amongst others the setting of standards and ensuring a minimum level of uniformity in implementation, providing a framework for action and assuring the transparency and accountability of municipal service providers. The number of policies that need to be developed to ensure effective service provision at local government level is substantial. Identifying these specific policies indicates what municipalities have to do to advance effective operations for service excellence.

In terms of section 40(2) of the *Constitution* all three spheres of government are obliged to observe and adhere to certain principles that govern the system of co-operative government. Notwithstanding the fact that local government is part of the governmental structure it often has to depend on the other two spheres of government and thus the system of co-operative government is of particular importance to municipalities. The circumstances in the other two spheres of government have therefore been explored in this section to determine local government's compliance with legislation as far as policy-making is concerned.

The information contained in this Chapter was acquired from questionnaires and interviews with municipal councillors, senior officials in the three spheres of government and the South African Local Government Association (SALGA) as well as from legislation and reports of structures of the South African Parliament and the Free State Legislature. The municipalities in the Free State that were identified for purposes of this research include the municipalities construed to be more effective and those identified as less effective and less capacitated in the formulation and adoption of policies.

3.2 AIM OF EMPIRICAL RESEARCH

With reference to the research question to establish if local government complies with its legislative and executive authority to develop and adopt policies the aim of the empirical research in this section is:

- To determine whether municipalities are complying with the legislative provisions to develop, adopt and implement policies.
- To assess the nature and extent of policy-making, resulting in the formulation of appropriate policy-making strategies to promote local government excellence in the Free State Province.
- To assess the reasons and circumstances why there is a lack of appropriate policies that must direct municipal activities in the Free State Province.

3.3 SAMPLING

In determining whether municipalities are complying with the legislative provisions to develop, adopt and implement policies, reports of appropriate structures of the Parliament of South Africa and the Free State Legislature were evaluated. Interviews, based on an arrangement of structured questions, were held with councillors and senior employees of municipalities in the Free State Province as well as with senior employees of the Department of Provincial and Local Government, the Provincial Department of Local Government and Housing and the South African Local Government Association (SALGA).

Interviews in terms of the questionnaires were conducted with councillors and employees of the following municipalities; Motheo District Municipality (central and eastern Free State area), Xhariep District Municipality (southern Free State area), Mangaung Local Municipality (Bloemfontein, Botshabelo, Thaba Nchu area), Mantsopa Local Municipality (Ladybrand, Excelsior, Tweespruit, Hobhouse area), Masilonyana Local Municipality (Theunissen, Brandfort area) and Phumelela Local Municipality (Vrede, Memel area).

The motivation for deciding on these municipalities is that the Motheo District Municipality, Mangaung and Mantsopa Local Municipalities are generally regarded as suitably resourced municipalities in the Free State Province. In terms of *Government Notice 733* of 1 July 2004 (SA, 2004: 13) these were classified as high and medium capacity municipalities respectively. The Mantsopa municipality received the Vuna award for the best local municipality in South Africa in 2004. The Xhariep District Municipality and the Masilonyana Local Municipality receive support from the other spheres of government in terms of Project Consolidate. Due to the fact that the Phumelela Local Municipality did not fulfil its executive obligations in terms of the *Constitution* the Provincial Government in 2004 intervened in terms of section 139 of the *Constitution* to ensure the fulfilment of the obligations. The Xhariep, Masilonyana and Phumelela municipalities can be regarded as some of the less resourced municipalities in the Free State. With the

exception of the Mangaung and Mantsopa Local Municipalities all the other municipalities identified for this survey were classified as low capacity municipalities in terms of *Government Notice 733* (SA, 2004:3).

As indicated not all the municipalities in the Free State were selected for purposes of the survey. As identified in the reports of structures of the Parliament of South Africa and the Free State Legislature the non-formulation of policies appears to be a general concern. Interviews were held with 15 municipal councillors and public and municipal employees who may, by virtue of the positions they occupy, be regarded as being experienced or possessing technical knowledge of policy-making.

According to the official website of the Motheo District Municipality the municipality established a Policy and Research Unit in July 2005, with a General Manager as the head of the Unit (Motheo district municipality. 2006. <http://www.motheo.co.za/admin.php> - accessed 23/11/2006). The occupation specification of the General Manager is to draft, maintain and regularly update all the policies and to render an effective and efficient managerial and control function to the strategic field of policy-making. As a result of the uniqueness of the Unit in the local government environment, interviews with two councillors, including the executive mayor, and two senior employees were conducted. To ensure contributions from respondents with different fields of expertise, interviews with more than one respondent of the Department of Provincial and Local Government and the Department of Local Government and Housing were conducted. Interviews with both a councillor and a senior employee of the Mangaung municipality were also conducted.

3.4 STRUCTURE OF THE INTERVIEWS

Interviews based on an arrangement of structured questions were conducted and the questions contained in the questionnaires (Addendum A) are formulated to focus on the applicable research question. With the exception of the interviews

with the officials of the Department of Provincial and Local Government all the interviews were tape recorded. The interviews with the national department were conducted telephonically and the completed questionnaires are available in electronic format.

The questions were formulated to determine whether municipalities comply with its legislative and executive authority to develop and adopt policies and to determine the reasons for the non-formulation of policies. Respondents were also requested to indicate whether municipalities are familiar with the legislation authorising them to develop and adopt policies and to identify which policies are earmarked for formulation and adoption.

3.5 DATA ANALYSIS AND INTERPRETATION

As alluded to in section 3.3 reports of appropriate structures of the Parliament of South Africa and the Free State Legislature were utilised to determine municipalities' compliance with legislation in policy-making. The results and the interpretation of the empirical survey are presented in sub-section 3.5.2 and 3.5.3. To be able to determine legislative compliance, the relevant legislative authorisations for policy-making should firstly be identified. This information is reflected in sub-section 3.5.1.

3.5.1 Legislative authorisation for policy-making

In terms of section 11 (3) of the *Municipal Systems Act* a municipality exercises its legislative or executive authority among others by developing and adopting policies, plans, strategies and programmes. In terms of section 11(3) (j) of the Act a municipality also exercises its legislative or executive authority by monitoring the affect and effectiveness of any services, policies, programmes or plans.

In terms of a number of other legislative provisions identified in this section municipalities are also authorised to formulate, adopt and implement specific

policies. Specific provisions in legislation authorising municipalities to develop, adopt and implement policies are identified in this section. Policy-making authorisation is not limited to the legislative provisions mentioned in this section. The provisions referred to in this section are merely highlighted to elucidate the policy-making obligation of local government.

The following provisions in the *Municipal Systems Act* as example refer to policies identified for development:

- Section 74(1) of the Act stipulates that a municipal council must adopt and implement a tariff policy on the levying of fees for municipal services provided by the municipality or by way of service provision agreements, and which complies with the provisions of this Act and with any other applicable legislation. Furthermore section 74(2) of the Act stipulates that a tariff policy must reflect that users of municipal services should be treated equitably in the application of tariffs; that the amount individual users pay for services should generally be in proportion to their use of that service; and that poor households must have access to at least basic services through—
 - “(i) tariffs that cover only operating and maintenance costs;
 - (ii) special tariffs or life line tariffs for low levels of use or consumption of services or for basic levels of service; or
 - (iii) any other direct or indirect method of subsidisation of tariffs for poor households.”
- In terms of section 86 of the Act a municipality must develop and adopt a policy framework for the establishment, management and regulation of an internal municipal service district. This policy framework must reflect at least the developmental needs and priorities of designated parts of the municipality that must be balanced against that of the entire municipality. It must also reflect the extent to which the establishment of one or more internal municipal service districts will promote the local economic development of the entire municipality and will contribute to enhancing the social, economic and spatial

integration of the municipality. The policy framework may also not entrench or further contribute to disparities in service provision.

- Section 95(a) of the Act stipulates that a municipality must, within its financial and administrative capacity establish a sound customer management system. This system must aim to create a positive and reciprocal relationship between persons liable for these payments and the municipality, and where applicable, a service provider. In terms of section 96 of the *Municipal Systems Act* a municipality must adopt, maintain and implement a credit control and debt collection policy which is consistent with its rates and tariff policies and complies with the provisions of this Act. In terms of section 97 of the Act a credit control and debt collection policy must provide for—
 - “(a) credit control procedures and mechanisms;
 - (b) debt collection procedures and mechanisms;
 - (c) provision for indigent debtors that is consistent with its rates and tariff policies and any national policy on indigents;
 - (d) realistic targets consistent with—
 - (i) general recognised accounting practices and collection ratios, and
 - (ii) the estimates of income set in the budget less an acceptable provision for bad debts;
 - (e) interest on arrears, where appropriate;
 - (f) extensions of time for payment of accounts;
 - (g) termination of services or the restriction of the provision of services when payments are in arrears;
 - (h) matters relating to unauthorised consumption of services, theft and damages.”
- Finally, Section 104(1)(l) of the Act provides that the Minister may make regulations or issue guidelines to provide for or regulate “the development and implementation of an indigent policy”.

The following provisions in the *Municipal Finance Management Act* also authorise municipalities to develop the identified policies:

- Section 62(1) of the Act states that the accounting officer of a municipality is responsible for managing the financial administration of the municipality, and must for this purpose take all reasonable steps to ensure that the municipality has and implements-
 - “(i) a tariff policy referred to in section 74 of the *Municipal Systems Act*;
 - (ii) a rates policy as may be required in terms of applicable national legislation;
 - (iii) a credit control and debt collection policy referred in section 96(b) of the *Municipal Systems Act*;
 - (iv) and a supply chain management policy in accordance with Chapter 11.”
- Section 111 of the Act provides that each municipality and each municipal entity must have and implement a supply chain management policy. In terms of section 112 of the Act the supply chain management policy of a municipality or municipal entity must be fair, equitable, transparent, competitive and cost-effective and comply with a prescribed regulatory framework for municipal supply chain management.

The *Occupational Health and Safety Act* also authorises employers, which includes local government, to develop policies. Section 7 of the Act stipulates that the chief inspector of the Department of Labour may direct any employer in writing and any category of employers by notice in the Government Gazette, to prepare a written policy concerning the protection of the health and safety of its employees at work. The policy must also include a description of the specific workplace and the arrangements for carrying out and reviewing that policy.

The *Employment Equity Act* refers to employment policies and section 5 of the Act stipulates that every employer must take steps to promote equal opportunity

in the workplace by eliminating unfair discrimination in any employment policy or practice.

Municipalities must also apply the norms and limiting factors contained in section 6(3) of the *Constitution* when developing language policies.

In terms of section 3(1) of the *Local Government: Municipal Property Rates Act* the council of a municipality must adopt a policy consistent with the Act on the levying of rates on rateable property in the municipality.

As motivated in this section, municipalities are authorised by a number of specific legislation to develop and adopt policies. The objective of developing and adopting suitable policies is to enable municipalities to be better equipped to achieve the local government objects as specified in section 152(1) of the *Constitution*. Municipalities will also be better prepared to provide services which are accessible, affordable and of a high quality.

3.5.2 Legislative compliance: Conclusions of legislative structures

It is significant to reflect on conclusions and recommendations made by the Parliamentary Select Committee on Local Government and Administration and the Provincial Public Accounts Committee of the Free State Legislature (PROPAC) to determine whether municipalities are exercising their legislative and executive authority to develop, adopt and implement policies.

(i) Parliamentary Select Committee on Local Government and Administration

The Parliamentary Select Committee on Local Government and Administration (Republic of South Africa. 2004. <http://www.pmg.org.za/docs/2003/comreports/041018sclocalreport.htm> - accessed 17/05/2006) (in this subsection referred to as the Committee) indicated

that there continues to be serious backlogs in service provision in many municipalities. Most municipalities are not even service providers of water or electricity. Many depend on Eskom Holdings Limited (Eskom) as their service provider for electricity, but in most instances agreements with Eskom have not been finalised. In other municipalities, there are still problems with the installation of functioning water meters; thus casting serious doubts about the delivery of free basic services. Furthermore, the Committee stated that it was not clear how indigent policies or registers are administered or how often they are updated. Many municipalities continue to encounter difficulties in updating their indigent registers; often the onus is left on individual community members to approach municipalities to provide the necessary information when their status or circumstances have changed. There is no profiling within municipalities, of what constitute indigents, to be able to determine the socio-economic status of communities and to improve decision-making or needs analysis to provide quality services to those who are in need.

The Committee also highlighted the fact that municipal financial management continues to pose a serious challenge for the local government sphere. Municipalities face a range of problems which includes proper billing, effective debt collection, and financial reporting and asset management. The credit worthiness of many municipalities is problematic and therefore they are not able to raise loans from banks. Allegations of corruption relating to the procurement or awarding of tenders within municipalities, were also made, and since many of the municipalities do not have anti-corruption policies, municipalities do not proactively or effectively attend to the allegations of corruption.

The Committee pointed out that municipalities across South Africa struggle with revenue collection. In many municipalities a significant number of households are indigent, which has the immediate result of reducing the revenue raising capacity of those municipalities, since the indigent cannot pay for services. The debt inherited by many municipalities following the demarcation process, is substantial. In most cases such debt has not yet been rescheduled or written off.

In terms of the Committee's analysis there is no uniform policy regarding credit control or collection of revenue and that many government departments are in arrears as far as the payment of services to municipalities is concerned. The Committee therefore made the following recommendations:

- That both national and provincial treasury should provide guidance to municipalities on the management of inherited debt. Negotiations on the writing off of debt must be conducted. Alternatives, such as selling the debt off to the private sector, must be employed.
- Municipalities must be assisted by the provincial government to develop growth and development strategies to ensure the economic development of the area, especially in areas where there are low levels of economic activity.
- A national indigent policy should be implemented. The holistic policy should synchronise the criteria used by municipalities to enable those members of the community, who qualify as indigent, to receive a range of services that may include a social grant and basic services.
- The financial years and processes of national, provincial and local government should be aligned to ensure that service provision projects are synchronised at all spheres of government.
- A national credit control policy must be finalised, which should accommodate the indigent.
- A national anti-corruption policy must be finalised to address the identified corruption taking place within government.
- The formula to determine the equitable share grant to municipalities should be reviewed on an ongoing basis and the criteria for the determination should support municipalities with limited financial resources.

The Committee (2004:20) also indicated that while many Municipalities pointed out that they had developed local economic development policies, many municipalities were encountering problems. These policies are often wish lists, with projects that are not properly planned and costed, aligned to their budgets

and Integrated Development Plans. There is a lack of uniform policy, project planning and access to financing or funding sources according to the Committee. Smaller municipalities do not have a broad economic base and these present particular challenges. Local economic development plans should take into account the resources available in a particular area, for instance, tourism and agriculture. The Committee therefore recommended that provincial governments need to provide more clarity on the nature of the local economic development programme, its initiatives, strategies and implementation framework.

As is observed from the above conclusions and recommendations, the Parliamentary Select Committee on Local Government and Administration (Republic of South Africa. 2004. <http://www.pmg.org.za/docs/2003/comreports/041018sclocalreport.htm> - accessed 17/05/2006) identified a number of essential policies that are not developed by municipalities as required. A holistic approach, recognised by all three spheres of government, to address the concern needs to be identified without delay. A deferment of the matter could have catastrophic consequences for municipalities in providing quality municipal services to the community.

(ii) Provincial Public Accounts Committee of the Free State Legislature

Since 2001 the Provincial Public Accounts Committee of the Free State Legislature (in this sub-section referred to as PROPAC) made a number of recommendations to ensure that municipal policies were developed and implemented at local government level. The following resolutions of PROPAC have been identified to illustrate that municipalities are characterised by low levels of legal compliance, especially as far as policy-making is concerned:

- Resolution no. 12/2001. Former Fauresmith Transitional Local Council (Kopanong Municipality).

In terms of the resolution the municipality had to draw up a tasks and responsibilities action plan to ensure the improvement of the municipality's

cash flow. This action plan had to include the implementation of an effective and sustainable credit control policy which had to take the municipality's indigent policy provisions into consideration.

- Resolution no. 14/2001. Former Bethulie Transitional Local Council (Kopanong Municipality).

PROPAC resolved that the municipality had to commence with an immediate process to implement and execute the municipality's credit control policy.

- Resolution no. 28/2001. Former Edenville Transitional Local Council (Ngwathe municipality).

It was resolved that the municipality should develop a policy to recover the outstanding debts of the municipality and to take adequate steps to write off debts.

- Resolution no. 46/2003. General Resolution: Local and district municipalities.

PROPAC took notice with great concern that in most local municipalities the average debtor's recovery periods are unacceptably high and that credit control policies are also not effective and in some instances did not comply with legal requirements. PROPAC recommended that the Department of Local Government and Housing should compile a standard policy to ensure compliance with legal requirements and that all municipalities should take active steps to reduce the debtors' number of days outstanding to an acceptable norm.

- Resolution no. 28/2005. Ngwathe local municipality.

It was resolved that the accounting officer of the municipality should ensure that all required policies are compiled and approved by the Council for implementation. Furthermore PROPAC resolved that a list of adopted policies and policies that still need to be adopted must be provided to PROPAC and the Office of the Auditor-General.

- Resolution no. 38/2005. Tokologo local municipality.

The Committee noted with concern that various policies and procedures had been submitted to the Council of the municipality, which had been referred back by the Council, without any reasons provided. PROPAC resolved that since the municipality could not continue functioning without a proper system

of internal control measures, the accounting officer immediately had to report the matter to the Department of Local Government and Housing for assistance.

- Resolution no. 41/2005. Lejweleputswa district municipality.
PROPAC expressed concern that despite the fact that the matter was reported in the Auditor General's report for the 2002/03 financial year, the accounting officer had not taken any steps to draw up a formal policy regarding the provision and writing off of bad debt. PROPAC instructed the accounting officer to immediately draw up, obtain approval for and implement a bad debt provision and writing off policy.
- Resolution no. 43/2005. Dihlabeng local municipality.
PROPAC resolved that the municipality should introduce a proper system for the regular declaration of conflict of interest by both councillors and employees. PROPAC also resolved that proper policies and procedures should be developed to ensure the successful implementation of the supply change management system as stipulated in Chapter 11 of the *Municipal Finance Management Act*.
- Resolution no. 56/2005. Policies issued in lieu of sound financial management.
PROPAC observed that most accounting officers of municipalities in the Free State gave evidence that various policies did not exist at their municipalities. This disturbing situation was either owing to policies not having been prepared, or policies not having been approved by the Council and implemented at the municipality. PROPAC expressed the concern that in the absence of policies, accounting officers of municipalities did not comply with the responsibilities allocated to them in terms of section 60(b) of the *Municipal Finance Management Act*, namely to provide guidance and advice on the compliance of the Act.

Furthermore, PROPAC resolved that accounting officers should ensure that:

- a) The policies are adopted and implemented as a matter of urgency and they had to report back to PROPAC on the implementation of and adherence to the policies.
- b) Policies on at least, but not limited to, the following issues must exist:
 - Asset and liability management;
 - revenue management;
 - expenditure management;
 - supply chain management;
 - capital project management; and
 - contract management.

The above mentioned resolutions of the Provincial Public Accounts Committee were adopted by the Free State Legislature (Weideman, 2005).

Based on the report of the Parliamentary Select Committee on Local Government and Administration and the resolutions of the Provincial Public Accounts Committee of the Free State Legislature the conclusion is made that municipalities are not developing policies adequately. Government must be particularly concerned about this situation as the non compliance with legislation will not ensure sustainable provision of services to communities in an environment of local government excellence (Matekane 2007:5).

3.5.3 Legislative compliance in policy-making: Results

To illustrate in what way municipalities are complying with their legislative authority to develop policies, as referred to in section 3.5.1 above, an “X” symbol is used in the table to illustrate a “yes” response from the specific respondent. The keys below are used in the tables in sub-sections 3.5.3, 3.5.4, 3.5.5, and 3.5.6 to describe the names of the government departments, organised local government association and municipalities.

DPLG = Department of Provincial and Local Government

DLGH = Department of Local Government and Housing

SALGA = South African Local Government Association

MDM = Motheo District Municipality

XDM = Xhariep District Municipality

MLM = Mangaung Local Municipality

Mant = Mantsopa Local Municipality

Mas = Masilonyana Local Municipality

Phum = Phumelela Local Municipality

Table 1.1 Observations on adequate policy-making

	DPLG	DLGH	SALGA	MDM	XDM	MLM	Mant	Mas	Phum
None of the respondents indicated that policies are developed adequately at local government level. It can be observed in the third row of this table that six of the nine institutions indicated that policies are not developed adequately at local government level.									
Respondents of three municipalities indicated that a number of policies required in terms of legislation have been developed, but that these municipalities are in the process of developing the required policies.				X		X	X		
Policies at local government level (or at the specific municipality) are not developed adequately in compliance with legislation.	X	X	X		X			X	X

As observed from Table 1.1 the majority of the respondents maintain that policies at local government level are not developed adequately. The respondents at the Mangaung local municipality indicated that most policies required in terms of legislation, for the proper functioning of the municipality, are in place and that there is an active effort at the municipality to ensure compliance. The respondents at the Motheo District Municipality and the Mantsopa Local Municipality indicated that although not all policies required in terms of legislation

may be in place at the respective municipalities, the municipalities have been very active in developing policies to ensure compliance. The determining reasons for the non-formulation of policies, as identified during the empirical research process, are indicated in sub-section 3.5.4 below.

3.5.4 Determining reasons for the inadequate policy-making

Based on the information contained in sub-section 3.5.2 and the research results illustrated in sub-section 3.5.3 it is noticeable that in most cases policies at local government level are inadequately developed. Determining the probable reasons for the inadequate development of policies at local government level the specific responses are indicated in the table below to provide a comprehensive assessment of the challenges that have a direct affect on policy-making.

Table 1.2 Observations on the reasons for inadequate policy-making

	DPLG	DLGH	SALGA	MDM	XDM	MLM	Mant	Mas	Phum
Local government in its current form is a new concept, therefore still at a developmental stage.				X					
Due to the many challenges facing local government policy-making is a reflective process and therefore a secondary priority.				X					
Policy formulation is effective, but policy adoption and implementation not equally effective.				X					
Municipalities lack the necessary capacity such as knowledgeable staff to develop policies and financial resources to appoint service providers for this purpose. Councillors do not always possess the capacity to drive and understand policy-making processes.	X	X	X	X	X	X	X	X	X
Transitional changes. Amalgamation of municipalities with specific reference to the consolidation of policy documents and the incorporation of new treasury practices in terms of legislation.								X	
A proper understanding of legislation is required. This capacity to interpret legislation does not always		X							

exist.								
The continuous appointment of new employees creates a challenge to reintroduce the applicable pieces of legislation at the municipalities.								
Whereas national and provincial departments dealing with the so-called local government legislation have assisted municipalities to have a better understanding of the legislation, other government departments simply regard legislation as the law and that municipalities therefore have to comply with the legislation. This trend has the effect that policies in terms of other legislation are not developed.		X						
Due to time pressures policies have to be developed in a short space of time, which has the effect that all consultation processes may not have been followed.						X		
Lack of political leadership to ensure that policies are developed, adopted and implemented.		X				X		

As detected from Table 1.2 all the respondents pointed out that the most significant reasons for the inadequate development of municipal policies are the lack of the necessary skills at both administrative (municipal employees) and political (municipal councillors) level to develop, adopt and implement policies. The respondents also provided other explanations presented in Table 1.2 as reasons for the inadequate policy-making. The factors influencing policy-making is reflected comprehensively in Chapter 4.

3.5.5 Conversance with legislation

As alluded to in sub-section 3.5.1 local government is authorised in terms of specific legislation to develop, adopt and implement policies. To ensure compliance with legislation municipalities need to be conversant with the applicable legislation. Table 1.3 indicates to what extent municipalities are conversant with legislation authorising them to develop policies.

Table 1.3 Observations on conversance with legislation

	DPLG	DLGH	SALGA	MDM	XDM	MLM	Mant	Mas	Phum
Local government (or the specific municipality) is familiar with all legislation authorising it to develop policies.						X	X		
Local government (or the municipality) is familiar with legislation but not sufficient to ensure that all relevant policies are developed.	X	X	X	X	X			X	X

Illustrated in Table 1.3 the respondents are conversant with legislation authorising them to develop policies. It was however indicated that municipalities may not be conversant enough to ensure that all policies are developed. The respondents of the municipalities with less expertise and capacity indicated that policies to ensure compliance with the *Municipal Finance Management Act* and labour legislation are prioritised by the municipalities for development. One respondent of the Department of Provincial and Local Government indicated that smaller or “rural” municipalities may not be familiar with legislation authorising it to develop policies.

3.5.6 Policies prioritised for formulation

As motivated in section 3.5.1 municipalities need to develop a range of policies to comply with legislation to ensure the proper performance of their functions. Table 1.4 reflects the criteria utilised by municipalities to identify which policies should be developed.

Table 1.4 Observations on policy prioritisation

	MDM	XDM	MLM	Mant	Mas	Phum
Policies to be developed are identified based on the relevant legislative provisions.	X	X	X		X	
Policy-making is problem based. If the need for a specific policy is identified, such policy is developed.	X		X			

The municipality identified policies for development which the municipality needed to refer to on a daily basis.				X		
Policies are identified for development if the municipality is made aware of the need by external bodies such as the Auditor General and the Public Accounts Committee. The municipality therefore does not act proactively to ensure policy-making.						X

Concluded from Table 1.4, 66% of the respondents indicated that the policies required for formulation are identified by the relevant legislative provisions authorising municipalities to develop such policies. It is also pointed out that the interviewed municipal councillors at the Motheo District Municipality and the Mangaung Local Municipality maintained that policies were developed when a need is identified and that policy-making was problem based. The respondent of the Mantsopa Local Municipality indicated that the policies identified for development at the municipality are those policies the specific municipality needed to refer to on a daily basis. The statement of the respondent of the Phumelela local municipality that policies are only developed once external bodies identify those policies illustrates that there exists no urgency at the municipality to ensure compliance with legislation.

None of the respondents were specific with regard to the policies that the municipalities identified for development. Respondents from four municipalities indicated that the specific policies were based on the relevant legislative provisions, and specifically to comply with the provisions of the *Municipal Finance Management Act* and the applicable labour legislation. The former operational manager of SALGA: Free State and currently managing director of Friday Management Solutions (Pty) Ltd, a private sector service provider which provides consultancy services to government, indicated that local government needs to develop specific policies to enable effective service rendering. The respondents indicated that they were in agreement with these identified policies on the following five aspects:

(a) Municipal Financial Management

- Accounting
- Bank account(s)
- Borrowing, including bridging finance (short-term debt), providing security for debt and internal advances
- Budgeting, including approval of proposed capital expenditure
- Capitalisation
- Debt collection and credit control, including determination of deposits
- Establishment and management of relief, charitable or trust funds
- Financial control and reporting, including audit committee
- Funds and reserves
- Grants-in-aid and donations
- Indigent support
- Insurance of assets, including self-insurance and risk management
- Investment and cash management
- Internal auditing
- Procurement/supply chain management
- Subsistence and travelling
- Tariffs, property rating and free basic services

(b) Municipal asset management

- Accidents involving municipal vehicles
- Damage to municipal property, including vehicles
- Disposal of capital assets
- Lease of municipal equipment
- Lease of municipal facilities
- Private telephone calls from official telephones
- Provision and use of information communications technology
- Provision of tools and equipment to employees
- Use of internet and electronic mail facilities
- Use of municipal vehicles

(c) Municipal human resources management and organisational structure

(i) Organisational structure

- Approval of organisational structure
- Creating/abolishing organisational units
- Creation/abolishing posts
- Designation of posts as permanent and fixed term
- Staff establishment

(ii) Human resources management

- Absenteeism and desertion
- Abuse of sick leave
- Appointment on probation
- Appointment, waiving of appointment requirements, volunteer workers and placement
- Cession of action
- Commuting and transportation
- Compulsory occupation of municipal residences and residential quarters
- Copyright and intellectual property right
- Deductions and stop-order facilities
- Discipline
- Dismissal for incapacity due to ill-health or injury
- Dismissal for poor work performance
- Dismissal for the operational requirements of the municipality
- Employee wellness
- Employees with disabilities
- Employment equity and affirmative action
- Grievances
- HIV/Aids in the workplace
- Indemnification of employees
- Job evaluation
- Leave

- Legal aid
- Mobile phones for work purposes
- Normative framework for and ethics of, human resources management
- Occupational health and safety, uniforms and protective clothing
- Participation in protest action
- Performance compensation and reward
- Picketing
- Pre-employment psychometric, medical and proficiency testing
- Private work
- Promotion, career and succession planning and rapid progression
- Recruitment, casual applications and replacement labour
- Relocation of new and current employees
- Remuneration, allowances and service benefits, including study assistance
- Retirement
- Selection
- Setting of educational, experience and other employment requirements (post specifications)
- Sexual and racial harassment, bullying and hate speech
- Smoking in the workplace/municipal buildings
- Stand-by duty
- Strikes and lock-out
- Suspension
- Training and development, including adult basic education and training (ABET)
- Transfer and spatial relocation of posts
- Working hours, overtime work and overtime pay
- Workplace relations and dispute resolution

(d) Governance, including corporate governance

- Attendance of conferences and similar events

- Attendance of internal meetings
- Committees
- Community participation
- Constituency meetings by councillors
- Decentralised cooperation/municipal international relations
- Delegation
- Information dissemination
- Intergovernmental relations
- Inter-municipal cooperation
- Language
- Municipal service partnerships
- Performance management
- Public hearings
- Representation in public and statutory bodies

(e) Development and service rendering

- Appointment of external service providers
- Development and maintenance of pavements and sidewalks
- Display of advertisements
- Erection of traffic and directional signs
- Local economic development
- Maintenance, upgrading and renewal/replacement of infrastructure and other assets
- Maintenance, upgrading and renewal/replacement of vehicles
- Publicity and marketing
- Service standards
- Social development
- Spatial and land-use planning, including site allocation

The identified large number of aspects that requires a specific policy emphasises the responsibility of local government to advance the process of policy-making. A

lack of policy-making will result in ineffective service rendering. To be able to develop these policies municipalities require the necessary administrative and political skills to ensure that the policies comply with relevant legislation and also meet the needs of the community.

3.6 MUNICIPAL POLICY-MAKING TO CONTEND WITH SERVICE RENDERING CHALLENGES

The *White Paper on Local Government* states, “Good basic services, apart from being a constitutional right, are essential to enable people to support family life, find employment, develop their skills or establish their own small business”. The major contribution that local government, therefore, can make to the development of the community and its environment is the provision of basic services to everyone, particularly those who currently have little or no access to services.

The basis of the current model of local government is established by the *Constitution* that promotes the concept of local government as an autonomous sphere. In terms of the *Constitution* local government must be developmental, that is, it must give priority to the basic needs of the community and promote socio-economic development. The objectives of local government as set out in section 152(1) of the *Constitution* are as follows:

- “(a) to provide democratic and accountable local 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.”

As alluded to in Chapter 1 there continues to be growing levels of discontent among the community with regard to the standard of the services that are

provided by municipalities and that the provision of “good basic services” as envisaged in the *White Paper* is not materialising. The development of policies by municipalities is of utmost importance to address the mammoth service rendering challenges facing local government. It is essential to identify those policy challenges and problems that require attention, specifically during the agenda-setting phase in the sequential policy-making process. Challenges that need to be addressed to ensure better quality service provision will be articulated in this section.

In terms of section 27 of the *Constitution* government must take reasonable legislative and other measures, within available resources, to ensure that all South Africans have access to adequate housing, health care, education, food, water and social security. Local government has been identified as playing a critical role in the realisation of government’s broad poverty eradication programme, its strategic objectives and targets. In his 2004 State of the Nation address President Thabo Mbeki also provided clear direction to municipalities on government’s targets for the provision of free basic services (Mbeki, T. 2004. <http://www.info.gov.za/speeches/2004/04052111151001.htm> - accessed 10/05/2006). He made the following commitments with respect to service provision targets:

- Within the next five years, all households must be provided with easy access to clean running water.
- By December 2004, 10 million South Africans will have clean and potable water.
- During 2004 more than 300 000 households would be provided with basic sanitation.
- Local government in conjunction with Eskom will, within the next eight years, ensure that each household has access to electricity.
- A programme to ensure easy access to clean water for all the households within five years will also help in the fight against cholera and other waterborne diseases.

As a critical participant local government will not address government's targets for the provision of free basic services if the concern expressed by PROPAC is not addressed. This concern is that in the absence of policies, accounting officers of municipalities do not comply with the responsibilities allocated to them.

The report of the Ministerial Advisory Committee on Local Government Transformation (Republic of South Africa, 2001. http://www.municipalities.co.za/Reports/MAC_verslag.doc - accessed

28/05/2006) identified the following challenges local government faces:

- The need to ensure accountable government at a local level and effective leadership and functional service rendering.
- To achieve and sustain financial and fiscal stability, building a long term fiscal base and managing the costs associated with amalgamation.
- Reconciling operational and information systems between amalgamating municipalities and the establishment of new organisational structures.
- Ensuring municipal service provision to all households, irrespective of income levels, and to all businesses. In this regard, municipalities also have to ensure continued provision of quality services to all consumers in order to promote local economic performance and payment for services.
- Managing the problems created by increases in bulk service costs that place pressure on municipalities.
- Managing the competing pressures on limited resources available for service provision, especially in the context of government's commitment to provide basic services free of charge to poor communities.
- The establishment of effective local government in South Africa's rural areas in the context of low revenues, weak institutions, poor service rendering and high levels of poverty.

Concluded from the report of the Ministerial Advisory Committee on Local Government Transformation, local government is faced with immense challenges to ensure the provision of an acceptable level of municipal services to the community. It is therefore of the utmost importance that municipalities should put

the necessary administrative and political systems in place to confirm that the process of policy-making is improved to ensure that local government meets these challenges.

There are also a number of other challenges local government faces. Bekink (2006:68-69) categorises certain service provision challenges. He indicates, among others, that addressing the huge backlogs in service infrastructure in almost all historically underdeveloped areas in South Africa remains a major municipal service provision challenge. Expenditure far in excess of the revenue that is currently available to municipalities is required to address these challenges. Furthermore, he notes that the transformation of the former decision making approaches and administrative systems in local government after the amalgamation of municipalities in 2000 and the promulgation of new legislation, to ensure sustainable provision of services to the broad community, also need to be addressed. Bekink (2006:69) also points out that other challenges facing municipalities are to address the poor creditworthiness of municipalities and the reforming of administrative capacity in most municipalities as some of the municipalities have little or no pre-existing institutional foundation to build on.

To ensure service provision excellence in local government the challenges documented in this section as examples, have to be calculated and be included in the agenda-setting of municipalities. By developing policies to specify the basic principles to be pursued in attaining specific goals, a municipality is embarking on a concrete legislative and executive method to address those challenges.

3.7 CONCLUSION

Local government is obliged to perform its functions and to exercise its powers in such a manner to achieve its objectives and to fulfil its developmental duties. Effective service provision is at the heart of the local government function and it makes this sphere of government the sphere closest to the people. As established in this research most municipalities are characterised by low levels of legal compliance especially when it relates to policy-making.

Although municipalities have legislative and executive powers to develop and adopt policies, municipal policies are not developed adequately. This research identified a number of factors contributing to municipalities' policy-making challenges. The most significant factor for the unsatisfactory development of policies at local government level is the lack of the necessary financial and human resource capacity. Another contributing factor is the plethora of national and provincial legislation that have a direct influence on local government. Municipalities have to be well acquainted and in compliance with all the legislative provisions to be able to perform their functions and to execute their powers.

The new local government system, and specifically the amalgamation of municipalities in South Africa since 2000, resulted in specific policy implementation challenges. These challenges include the consolidation of policy documents and the setting of parity principles with regard to employee benefits. In the process of executing the responsibility of providing effective municipal services, local government has neglected the responsibility of continuously developing, adopting and implementing policies. In addressing the policy-making responsibility some municipalities identified the critical policies that had to be developed in terms of legislation. Municipalities mainly concentrate on the development of policies in compliance with the *Municipal Finance Management Act* and applicable labour legislation, whilst other policies are neglected.

It is apparent that there are significant challenges that municipalities will have to overcome to perform its functions effectively. The appropriate fulfilment of the powers and functions of municipalities can only be enhanced by committed and capacitated municipalities, where the advancement of the policy-making process at local government level is prioritised to ensure that these challenges are addressed in line with established systems and procedures.

CHAPTER 4

FACTORS INFLUENCING POLICY-MAKING

4.1 INTRODUCTION

Analysing definitions of public policy indicate that policy-making is a consequence of certain public needs. Demands for policy-making in local

government originate from specific needs and related problems that have been identified and are then conveyed to the municipal political structure, namely the municipal council. Public policy is then a response to, among others environmental demands as a result of identified problems in the community. This requires appropriate action that needs an intervention from the government. Local government policy-makers therefore need to remain informed of the needs, demands and preferences in their municipal area and have to adjust the municipal policies accordingly.

There are a number of factors that influence local government policy-making that should be considered during the policy-making process. These factors raise obstacles and create challenges in ensuring effective local government policies. The factors also include those conditions and situations that create needs or dissatisfaction among the community and for which redress by governmental action is sought. According to Cloete and Wissink (2005:238) society is a vibrant entity with needs, demands and preferences that constantly change, develop and grow over time. Persistent demands by the public to improve the standard of municipal service rendering require policy change to meet the needs of the community.

Specific constraints that have a direct negative impact on policy-making are currently experienced in the South African local government dispensation (Bekink 2006:42). These factors relate to the implementation of the plethora of applicable legislation and the administrative challenges experienced as a result of the amalgamation of municipalities. Certain municipalities for example have to create uniformity where employee salaries and conditions of service differ due to the amalgamation of municipalities that occurred in 2000. The inadequate creation of municipal policies is a serious matter for concern as local government is regarded as the sphere of government that is most accessible by the public due to its legislative responsibility to provide services to the community on a daily basis.

The purpose of this Chapter is to identify certain factors that have a direct and significant influence on policy-making. In addition to these factors influencing policy-making, the reasons for policy change are also identified in this Chapter. Factors that affect policy-making negatively, identified in the empirical research, are also discussed in detail to determine the reasons for inadequate local government policy-making.

4.2 AIM OF EMPIRICAL RESEARCH

The aim in this section is to identify specific factors that influence municipal policies and also to analyse those factors that directly influence the policy-making process in general. For this purpose data were collected through structured interviews as indicated in section 3.3. This Chapter comprises a theoretical and empirical section for the purpose of analysing the appropriate data accordingly.

The questions were formulated to identify the following:

- The form of support local government receives from national and provincial government as well as the South African Local Government Association (SALGA).
- The role of service providers (consultants) in the local government policy-making process.
- The strategies required for effective policy-making.
- Possible methods and procedures to improve the process of policy-making at local government level.

4.3 THEORETICAL SURVEY

4.3.1 Internal and external factors influencing policy-making

There are a variety of internal and external factors that influence the process of policy-making on a daily basis. Municipal councillors and employees should continuously be prepared to take these factors into account in the policy-making process. Municipal policy-makers should be aware and also able to determine

how each factor influence municipal policies. These internal and external factors are analysed in the following paragraphs.

4.3.1.1 Internal factors

According to Botes *et al.* (1995:192) internal factors can be defined as “those factors present within the government institution which can exercise an active influence on policy-making.” Botes *et al.* (1995: 192-194) refer to facets such as conditions of establishment, political assignment, legality according to the state and administrative law, financial means, abilities of the personnel, physical facilities and the managerial style of the head of the department as examples of internal factors. For the purpose of this research the following factors that influence policy-making can be identified:

- **Conditions of establishment**

Government departments and municipalities are established with a view to achieving specific aims such as providing health services and municipal services to the community. Botes *et al.* (1995:192) state that these institutions may only lay down policy directions that fall within their scope of authority and that no government institution has the right to act outside its authority and to duplicate the work of another public institution. To substantiate the statement, reference is made to the *Constitution of the Republic of South Africa*. Section 200(1) of the *Constitution* for example, stipulates that the defence force must be structured and managed as a disciplined military force. Section 205(1) of the *Constitution* stipulates that the national police service must be structured to function in the national, provincial and, where appropriate, local spheres of government. Government departments and municipalities are only authorised to create public policies in respect of the responsibilities which are assigned to them.

- **Political assignment**

Public institutions are created to achieve political aims and for this reason each department is under the command of a political office bearer (Botes *et al.* 1995:193). At local government level an office bearer such as a mayor, executive mayor or councillor has a responsibility to see that his/her political assignment is achieved. Political heads of particular government departments, namely a Minister or a Member of the Executive Council, and municipalities (mayors and executive mayors) are responsible for making policies which are relevant to their areas of operation. Political functionaries should therefore ensure that all public policies comply with the relevant political obligation (Ismael *et al.* 1999:153).

- **Legality to the state and administrative law**

The policy of a public institution will always be tested on the legal principles of both the government and the administrative law. Botes *et al.* (1995:193) state that “all government actions require that the rights and freedoms of people should be dealt with in a responsible way and it is to be expected that where everyone is subject to the same destiny, no legal claim can be made against the state.” It is therefore important that this factor should be considered seriously when formulators and implementers draft public policies. If policies infringe on the rights and freedoms of people, government is in a position to suffer the consequences of legal action being taken by the affected employees, members of public, and organisations (Ismael *et al.* 1999:153).

- **Financial means**

No public institution can afford to set up ambitious policy programmes if there are insufficient funds available. Affordability of the desired results in the implementation of municipal policies plays a very important role in the policy-making process and financial resources are necessary to ensure the execution of policies. The amount of funds available will influence the formulation and implementation of public policies and will also have a serious affect on

addressing the identified priorities (Botes *et al.* 1995:193). Without the people power, skills, materials, equipment and funds to implement policies, the formulation and approval of policies are a futile exercise. To establish policies with insufficient financial resources is not only recklessness, it also raises expectations that cannot be met, and could lead to impulsive action by the affected beneficiaries.

In the context of financial resources, policy-making is not about making unlimited resources available to ensure that priorities are achieved, but also the use of creative initiatives to address the identified needs. Local government does not have sufficient financial resources to deal with all the identified community needs immediately (Craythorne, 1997:94). Municipalities need to manage their financial resources in accordance with the applicable legislation, financial procedures and regulations to ensure that the limited funds are spent prudently and to the benefit of the community.

- **Abilities of the personnel**

Botes *et al.* (1995:193) note that when a policy is established for the achievement of specific goals, it is necessary to take the number of available personnel members, as well as the capacity level of those personnel members, into consideration. If a policy requires an increase in the number of personnel, the financial means must also be addressed. The knowledge level, skills and abilities of personnel involved in policy-making will influence the standard and context of public policies.

- **Physical facilities**

Another factor to be considered in the policy-making process is the availability of physical facilities such as office space, grounds, warehouses and modes of transport. Section 4(1) of the *Adult Basic Education and Training Act, 2000* (Act No. 52 of 2000), for example, makes provision for facilities which could be

utilised as public centres to provide the specific education and training, and if those facilities are not available other public or private facilities could be made available. If a municipality does not have sufficient facilities available additional structures will have to be acquired which will have an additional financial implication. It follows that these need to be carefully considered in the policy-making process.

- **The management style of the head of department**

Policy-making is also influenced by the beliefs, views and preferences that heads of government departments develop at their workplace. According to Botes *et al.* (1995:193-194) the managerial style of the head of department will have a significant influence on the process of policy-making. The influence of public managers in the policy-making process also applies at local government level specifically with regard to the municipal managers and the managers identified in terms of section 56 of the *Municipal Systems Act*. A lenient manager might promote a relaxed policy-making function and create an atmosphere that would lead to the belief that deviations from the policy would not be controlled with the necessary strictness. On the other hand, a rigid manager with an oppressive or autocratic management style will not require much contribution from other employees. The managerial style of the public manager is essential in the policy-making process and will determine whether the developed policies are received with criticism by the affected parties.

4.3.1.2 External factors

Botes *et al.* (1995:194) describe external factors as those “factors that exist outside public institutions” and which may influence policy-making. These factors involve external circumstances that have to be considered in the policy-making process. The following characteristics of the external factors can be identified:

- **Changing environmental circumstances**

It is important to realise that the environmental circumstances of the community are continuously changing and that government should adhere to consequential needs to meet public requirements. When a catastrophe, such as adverse drought or floods, occurs in a specific geographical area an agricultural support policy for example, must be formulated, while where conflict among the community affect the safety and security of the public, a policy addressing issues of law and order would be required (Craythorne, 1997:94). Botes *et al.* (1995:194) note that changes in circumstances occur especially in the following areas:

- Unexpected crises, state of emergencies and threats of war may result in a generally accepted policy being set up to deal with the situation.
- Policy directions may change as a result of international demands.

Human needs, desires and demands change from day to day and from place to place. It can therefore be expected that the public need would influence the process of policy-making.

Policy-making to address changing environmental circumstances need to be well considered to ensure that community demands are met.

- **Policy directions of political parties**

According to Thornhill and Hanekom (1996:55-56) policies are usually established because of party-political considerations. The ruling party has the authority to make final pronouncements, but has to choose its policy direction very circumspectly so as not to become unpopular with its voters. In South Africa, for example, the African National Congress (ANC) was elected into power at the first democratic elections held on 27 and 28 April 1994. The policies of the ANC are primarily aimed at addressing equality among the racial

groups and the redistribution of the socio-economic resources to those who were previously disadvantaged. The ANC's mission therefore influences the content of all government policies.

- **Pressure groups, interest groups and mass demonstrations**

Botes *et al.* (1995:195) indicate that in order to inform the government in power of certain principles and opinions the community forms pressure groups to participate in mass demonstrations. Structures of civil society, which fall outside formal political structures, occasionally insist on being heard, and the elected municipal councils need to consider policy in a political environment which is not only influenced by political parties but also by the structures of civil society (Craythorne, 1997:89). It has become the custom to deliver memoranda to political office bearers during mass demonstrations and meetings. Certain structures of civil society consider the approach to form pressure groups and to protest in an organised manner as the most effective in influencing policy decisions.

- **Research and investigations by commissions and committees**

When the government in power is uncertain about the direction to be taken on a specific matter, a commission or committee may be appointed to investigate the issue and to make recommendations. In a situation where employees in a specific government department do not possess the necessary capacity to influence the policy-making process the process is likely to be influenced by specialists such as researchers and or commissions and committees (Botes *et al.* 1995:195). Public policy-making can be influenced by the explanation, prediction and findings which were made in research projects and investigations by commissions. These commissions or committees usually conduct in-depth research and they can make far-reaching recommendations. These recommendations could be accommodated in policies and municipal

policy-makers need to ensure that the recommendations address the identified needs in compliance with relevant legislation.

- **Personal views of public servants and political office bearers**

Botes *et al.* (1995:195) indicate that public managers are appointed on account of their special knowledge, experience and disposition, and it can be expected that these managers and the political office bearers exercise much influence on policies. Public servants and political office bearers have their own personal views which can influence public policy-making towards a direction which they consider the most appropriate. Craythorne (1997:93) notes that officials are not politically accountable and are employed to provide services and to carry out policies.

According to Botes *et al.* (1995:195) political office bearers are often not specialists in the specific position they were appointed, for example at a municipality with an executive mayoral system a councillor may be appointed by the executive mayor as a member of the mayoral committee. The responsibility to advise the executive mayor on aspects of finance, urban planning, social development and health issues may be assigned to the councillor despite the fact that such a councillor may not have the relevant knowledge on the particular subject. In this scenario the political office bearer has to rely on the knowledge and experience of the relevant municipal employees to enable him/her to advise the executive mayor accurately.

The public manager and the political office bearer have the opportunity to make an imprint on policies. The extent and nature of that influence on the policy-making process will depend on the honesty, integrity, training, skills and professionalism of the persons concerned in the local government environment.

4.3.2 Reasons that demand policy change

Municipalities need to remain familiar with the needs, demands and preferences of the community to adjust municipal policies accordingly and therefore to keep pace with the changes in those needs, demands and preferences. Policy-making is, among others, required to bring about change and policy change takes place throughout the complete local government policy-making process. The reasons that demand policy change include the following:

4.3.2.1 Changing environment

The policy environment is very dynamic, with continuous changes taking place. The forces in the social, political, cultural and technological environments exert pressure on policy-makers to bring about changes. Policy change is therefore a reaction to changing challenges or other identified defects in the status quo (Cloete & Wissink 2005:239). The socio-economic environment blends with the financial environment because, in formulating policy for the provision of public services, the municipal administrator must take into account what is affordable. In terms of the *Constitution* local government has been given an extended role. The role of local government has been extended beyond providing services, to include development. It thus follows that in policy planning and formulation, the municipal administrator should consider the socio-economic environment in dealing with this extended role (Craythorne 1997:90). Policy-makers, who ignore the influences of the specific environments or the general environments, run the risk of being outpaced by the new emerging policy realities if they do not change public policies to keep up with the changing reality around them. This reactive type of policy change is in the view of Cloete and Wissink (2005:239) not the only type of policy change that can occur. The most effective type of change is the so-called pre-emptive or proactive policy change in which policy-makers envisage environmental changes and decide to adapt their policies timely in order to plan for these events and that requires the dedicated commitment of all parties in local government.

4.3.2.2 Changing public opinion

Dror (1968:288) in Cloete and Wissink (2005:240) notes that public opinion shape and influence public policy. Changing principles, perceptions, points of view and patterns of behaviour, on the other hand, shape public opinion. The media is also a dominant force in influencing public opinion as it is constantly changing its position, editorial policy and client base. Local government cannot ignore the important impact of public opinion in identifying the needs of the community.

4.3.2.3 Changing demands requires action

Over time the government receive new demands from society and these demands exert pressure on the policy-makers to effect change. For example when high levels of unemployment are experienced, current labour policies may fall short of addressing critical labour issues, and demands on the government may shift from capital-intensive projects to more labour-intensive projects (Cloete & Wissink 2005:240). Communities are also increasingly putting pressure on local government to provide better quality municipal services. These changing demands may be the result of changing perceptions of the needs of the community.

Interest groups such as ratepayer associations represent a form of contact with the local population. Special interest groups may represent needs applicable to the entire municipality, or even the areas of several adjacent municipalities, or they may represent a specific need. Interest groups can also be of use to the municipal administrator because their activities focus attention on a need that might not have been considered.

A public need cannot be satisfied until it is understood and a solution is planned accordingly. Craythorne (1997:91) indicates that all public needs cannot be satisfied at once, and that needs have to be prioritised based on the significance it has for the community. It is also imperative to make a distinction between

public needs and public desires. Not everything that is desired is necessarily good, reasonable and attainable. However, if real public needs are overlooked it may lead to dissatisfaction. While no single municipality can prevent specific public needs from being overlooked, municipal administrators, by applying their professionalism and expertise, can bring public needs to the notice of the political decision makers (Craythorne, 1997:92).

4.3.2.4 Change in the resource base

Hogwood and Gunn (1984:252) in Cloete and Wissink (2005:240) state that the availability of resources for addressing challenges also changes. Craythorne (1997:90) points out that if economic development is done correctly it will lead to the creation of wealth by encouraging investment in factories, shops and industries, thereby creating employment for residents and increasing the general prosperity in a municipal area. The general prosperity of the municipal area will have a positive influence on the payment for municipal services.

Cloete and Wissink (2005:240) explain that managers in government departments and municipalities are familiar with the strict fiscal discipline, required by the National Treasury and that these managers have learnt how to reprioritise needs and improve performance budgeting. The changes in the availability of resources will determine in what way policies need to be changed to address the needs and demands of society.

4.3.2.5 Changing nature of institutions

Cloete and Wissink (2005:240) note that during the 21st century institutions around the world will be less bureaucratic, less formal and move to smaller and more efficient units. Institutions are rationalising and redefining their core business.

An example of the redefining of the new responsibilities of local government structures is the role of district municipalities. The regional services councils established in terms of the *Regional Services Councils Act*, 1985 (Act No. 109 of 1985) and their successors in law, the district councils established in terms of *Local Government Transition Act*, 1993 (Act No. 209 of 1993), were disestablished in December 2000 and district municipalities were established in accordance with the *Municipal Structures Act*. These municipalities have the functions and powers assigned to them in terms of section 84 of the *Municipal Structures Act*. To be able to comply with the legislative provisions regarding the changed responsibilities of structures such as district municipalities, municipalities need to amend their policies accordingly.

4.3.2.6 Changes in political leadership

Craythorne (1997:88-89) indicates that the political environment is largely influenced by the ideology supporting the policies of political parties. The political environment is dynamic and constantly fluctuating because the ruling political party is continually in contact with opposition parties, its own constituents, the constituents of opposition parties and interest groups such as organised labour, each with its own agenda, needs and demands for attention. The dynamism of the political environment can be such that even the political party in power cannot always perform its policies in exactly the way in which party congress adopted it. It is also necessary in the political environment to become aware of the nature of society and how it is changing. A substantial element of policy planning can become irrelevant if policy is not continually adjusted to the changing nature of society. In local government, the political environment will, as a general rule, be smaller and more intense, because local government is closer to the people.

The most radical policy change occurs when one political party is replaced by another as the ruling party. The nature of parliamentary democracies dictates regular elections. Subsequent to these elections the new political leadership present themselves by announcing policy changes. When President Thabo

Mbeki took over the reins from former President Nelson Mandela in June 1999 he announced a “policy of delivery”, which meant that the government would start to give effect to implementing policies (Cloete & Wissink 2005:241). According to Dye (1992:346) conflict between political parties occurs most frequently over issues involving social welfare programmes, housing and urban development, medical care, anti-poverty programmes and the regulation of business and labour. At the ANC national conference that was held in December 2007 at Polokwane, Limpopo Province, a new national ANC leadership was elected. The election of this new leadership has already lead to a vote of no confidence being passed in the Rustenburg executive mayor who was allegedly a supporter of the previous ANC national leadership. The newly elected ANC treasurer-general Mathews Phosa also warned that ANC mayors who refused to take instructions from the party would be removed from their positions (Omarjee 2008:2).

4.3.2.7 Changes in service rendering strategies

There has been a change in the traditional view that government should be the main provider of goods and services. Alternative service rendering strategies have been legislated to ensure greater involvement in the facilitation of services. Section 120 of the *Municipal Finance Management Act*, for example, provides authority to municipalities to enter into public-private partnership agreements which must comply with the regulatory framework for public-private partnerships. Section 86B of the *Municipal Systems Act* makes provision for the establishment of municipal entities such as private companies, service utilities and multi-jurisdictional service utilities. Municipalities may establish these entities as a mechanism to assist it in the performance of any of the functions and powers as identified in section 8 of the *Municipal Systems Act*. The changes in service rendering strategies, as laid down in legislation, will also have an affect on municipal policies and should not be neglected.

4.3.3 Constraints on policy change

Cloete and Wissink (2005:245) state that policy-makers frequently do not accept the need for policy change, even in the face of a developing crisis. This can be defined as a lack of crisis perception in the minds of policy-makers. The following reasons, for this tendency, can be mentioned:

4.3.3.1 Ideological, rational and/or emotional resistance

Anderson (2006:274) points out that government employees may be reluctant to require the evaluation of policies as it may have a disturbing effect within a government institution. Furthermore, Anderson (2006:274) explains that the evaluation of policies implies change and that “organisational inertia” may be an obstacle, along with overt forms of resistance, in implementing policy change.

According to Cloete and Wissink (2005:246) people by their character, do not like change and will be doubtful about anything that intimidates the *status quo*. A policy comes into being because of some prior intellectual communication. Any attempt to change an existing policy will have to overcome the ideological, rational or emotional arguments that are the driving force behind resistance to change. This implies that resistance based on ideological or rational grounds must be countered primarily by more persuasive intellectual arguments, supplemented by persuasive emotional arguments supporting change. If resistance is therefore experienced at municipal level in changing policies, which were developed in a previous political dispensation for example, credible persuasion of municipal councillors and employees to implement those changes is required.

4.3.3.2 Lack of support

Cloete and Wissink (2005:247) explain that resistance usually results in negative attitudes, decisions and actions. Major policy change in government will be very difficult to achieve without the administrative and political support of both senior management and political office-bearers. Attempts to initiate policy change without political support may have serious implications for future working

relationships between the public administrators and the political office-bearers. In the same way, it is difficult to imagine a political office-bearer, such as a councillor, succeeding with policy change without the active support of the senior staff members, who could discourage the effective implementation of the policy. Anderson (2006:274) agrees with this statement and adds that staff members may even discourage and criticise policy change.

It is equally important to mobilise the support of the public where their active support for a specific policy is required. If a policy change needs the active support of the public, it is bound to fail if such support cannot be obtained. The installation of pre-paid water and electricity meters at the residences of the community, for example, will not succeed if the support of the community is not mobilised and it may even result in the damaging of the equipment.

4.3.3.3 Legal challenges

Craythorne (1997:93) states that the laws passed and controls imposed by the national and provincial governments will affect the local government policy-making process. According to Craythorne (1997:93) excessive control and regulation of local government may reduce the ability of a municipality to create its own policies. Cloete and Wissink (2005:247) point out that any significant policy change must first be mandated politically and then enacted. Due to the fact that the legislative process is a complicated and time-consuming one, participants will make minor adjustments to applicable policies rather than major changes necessitating legislative change.

The possibility exists that the complexities of legislative changes could be used as an excuse not to effect changes to policy. In a local government environment the comprehensive legislative procedures and community participation process identified in section 12 of the *Municipal Systems Act* may be seen as obstacles in bringing about legislative change. In respect of policy-making *per se* section 16(1) of the Act stipulates that a municipality must encourage and create

conditions for the local community to participate in the affairs of the municipality including “strategic decisions relating to the provision of municipal services”.

4.3.3.4 Financial challenges

Ismael *et al.* (1999:151-153) point out that financial feasibility is necessary to support all policies and that it would be irresponsible for a municipality to adopt a specific policy without first determining whether sufficient funds are available to implement such policy. The availability of funds will therefore have an influence on formulation and implementation. Financial implications are however sometimes used as an excuse not to change policies.

Downs (1967:22) in Cloete and Wissink (2005:249) points out that consumers can also put pressure on governments not to terminate a policy, for example where a policy allocates specific benefits to the community. An example of such a benefit, in a local government milieu, is the subsidisation of basic service charges to municipal indigent households within the financial capacity of a municipality and determined in such a municipality’s indigent support policy. If a municipality does not have the financial resources to support such a policy, the municipality may have difficulty in providing sustainable services to the community.

Effective policy change will be extremely difficult to achieve successfully as a result of the presence of specific constraints in the policy transformation process. These constraints have been identified at specific municipalities in the Free State as reflected in the following empirical survey.

4.4 EMPIRICAL SURVEY

4.4.1 Negative influence of specific factors on policy-making: Data analysis and interpretation

In determining these negative factors interviews by way of structured questions were conducted. The Tables in this Chapter are a compilation of the different responses and an “X” symbol is used to indicate the specific respondent and their specific response. The keys applied in section 3.5.3, to describe the respondents, are also utilised in this Chapter.

Table 2.1 Negative factors influencing policy-making

	DPLG	DLGH	SALGA	MDM	XDM	MLM	Mant	Mas	Phum
The lack of the necessary skills and capacity to develop, adopt and implement policies.	X	X	X	X	X		X	X	X
Municipalities are still experiencing problems addressing establishment issues, which has an impact on the municipalities’ ability to develop policies.	X							X	
Political influence – There is a disjuncture between the political component (councillors) and the municipalities’ administration. Councillors and municipal employees regard policies as a restricting method that shuts out others from access. Policies are supposed to be an enabling tool to assist with the operations of the municipality.		X		X					
Due to the fact that local government’s emphasis is on service delivery and backlog eradication, mundane attention was given to policy-making.	X			X					
Local government has been inundated with numerous legislation. The extent of the obligation to comply with legislation is quite comprehensive.		X							
Municipal employees do not take the initiative to develop policies. There exists the practice that municipal employees would rather approach service providers (consultants) to identify and develop all relevant policies.		X							
The municipality is experiencing financial constraints which have an impact on developing well informed policies and appointing knowledgeable consultants to			X		X		X		X

develop those policies.									
The policy-making process is a concern. Policy formulation is effective but the adoption of the policies causes a delay in the implementation of the policies.			X						
Municipal councillors and employees regard policies as a restricting method that shuts out others from access to specific municipal operations.			X						
The implementation of policies, after it has been approved, is a concern. Lack of the necessary skills to implement policies is still experienced.			X						
Political influence – The municipal councillors should play a more prominent role in the policy-making process as they have a mandate from the community, as elected councillors, as far as addressing socio-economic matters are concerned.			X						
The interpretation of legislation by councillors and employees is a concern as they have not been sufficiently capacitated (trained) with regard to the purpose and implications of specific legislation.									X
The resistance of employees to develop new policies to comply with new legislative provisions and practices.					X				
Some consultants are not familiar with the local government environment and do not customise the policies they develop to the needs of the municipality. For example consultants assisting with the formulation of policies on human resources are not always familiar with South African Local Government Bargaining Council (SALGBC) collective agreements.					X				
The councillors of the municipality do not possess the political will to ensure the implementation of policies. The municipality, for instance, adopted a policy to regulate the activities of hawkers but the policy is not being implemented, which is creating serious challenges as far as the hawkers in the Central Business District are concerned.					X				
Because of the large number of employees appointed in senior managerial positions the municipality has insufficient funds to appoint employees in middle managerial positions to					X				

identify and develop policies.									
Lack of political support as far as policy-making is concerned. Councillors do not regard substantial amounts of money spent on policy - making as "money well spent".						X			
The administrative will to develop policies does not always exist. Municipal employees do not like to create additional responsibilities for them and by identifying and developing policies they would be creating additional responsibilities.						X			
Some councillors and employees may be dishonest as they would first consider their individual interest, and the possible benefits they may receive, should a specific policy be adopted and implemented.							X		
Difficulties experienced after the amalgamation of municipalities. The incorporation of new treasury practices. When changes in practices had to be accommodated it created implementation problems.							X		

As detected from Table 2.1 the respondents are of the opinion that the lack of skills and the necessary human resources and financial capacity at local government level are the most significant factors influencing municipal policy-making negatively. The respondents of the Mangaung Local Municipality were the only persons who did not identify capacity constraints as a factor in this regard. As alluded to in section 3.3 the Mangaung municipality is classified as a high capacity municipality, which explains the response.

The lack of human resources capacity at local government level especially, will not only have an impact on policy-making but also on all other aspects of municipal administration. The respondent from the Phumelela Local Municipality supports this statement, namely that in order to be pro-active in preventing fraud and to ensure prudent financial management relevant policies should be in place to ensure continuous financial management control procedures. The situation at smaller municipalities challenged with personnel shortages, serve as an example. Employees in the finance sections of these municipalities are also responsible for the financial administration, but at larger municipalities these kind

of functions are the responsibility of different personnel. This state of affairs exposes employees to the likelihood of committing financial mismanagement if the relevant policies, to ensure financial management control procedures, are not in place.

The diversity of the responses illustrates the challenges that local government in the Free State faces with regard to the advancement of policy-making. The fifteen respondents indicated a considerable number of factors which influence local government policy-making negatively. This situation should unquestionably also affect service provision at local government level negatively, which makes the achievement of local government excellence quite difficult.

4.4.2 Support from other spheres of government and SALGA: Data analysis and interpretation

To determine whether municipalities receive support from national and provincial government, as far as policy-making is concerned, it is also important to determine what additional forms of support are provided to municipalities by the other spheres of government. To illustrate the support from national and provincial government to local government in an environment of co-operative governance, the following responses are indicated in Table 2.2.

Table 2.2 Support to municipalities

	DPLG	DLGH	MDM	XDM	MLM	Mant	Mas	Phum
Monitoring and evaluation of the performance and legislative compliance of municipalities is still a new practice and it will take time to emerge at all levels of government.	X							
Support processes to local government in the form of Project Consolidate have been initiated.	X			X				X
To support the implementation of the plethora of legislation that has been enacted	X							

DPLG is assisting by means of initiating programmes to support the implementation of integrated development plans, performance management systems and property rates and ward committees.							
Local government is consulted during the applicable enactment of the legislation process. After legislation has been passed a number of workshops and training sessions are arranged to familiarise municipalities with the legislation.	X	X				X	
Provincial Government employees have visited municipalities to guide them on the implementation of the MFMA. Compliance with legislation is monitored and mandatory reports are required from municipalities.	X						
National and Provincial government have been effective in the monitoring process and a plethora of reports have to be submitted to these departments. Support to effectively execute the municipality's functions has not been received.		X					
Support in the form of financial grants is provided.		X	X	X	X	X	X
Politicians and officials of national and provincial government appear not to comprehend the challenges facing local government.		X					
The only government department that can be applauded for the support and assistance provided to local government is the National Treasury (assistance as far as the implementation of the MFMA is concerned).				X	X		
Provincial government has intervened in the municipality in terms of section 139 of the Constitution.							X

The most significant support to local government from national and provincial government in Table 2.2 is of a financial nature. The research further indicated that national and provincial government, especially the National Treasury, has been very active in familiarising municipalities with the appropriate legislation and to ensure compliance.

It is also essential to determine what support municipalities receive from national and provincial government, as well as the South African Local Government Association (SALGA) as far as policy-making in particular is concerned. According to the official website of SALGA they provide assistance to municipalities in the formulation of policies and play an essential role in a variety of areas related to local government transformation (South African Local Government Association. 2006. <http://www.salga.net/home.asp?pid=674> - accessed 16/05/2006). Tables 2.3 and 2.4 indicate the responses with regard to support municipalities receive in policy-making from national/provincial government and SALGA respectively.

Table 2.3 Support from national and provincial government in policy-making

	DPLG	DLGH	MDM	XDM	MLM	Mant	Mas	Phum
National departments develop national policies and legislation and monitor the implementation of the legislation. Through structures such as MINMEC (a meeting of the Minister for Provincial and Local Government and the Provincial Local Government Members of the Executive Council) local government compliance with legislation is monitored. The monitoring also includes municipalities' authority to develop, adopt and implement policies.	X							
The Provincial Department of Local Government and Housing is in the process of developing pro forma by-laws for municipalities. The Department is also continuously monitoring the implementation of critical policies at local government level.		X						
Direct support is given to poor performing municipalities in the form of Project Consolidate. The support also includes assistance in policy-making.		X						
Annual monitoring to ensure legislative compliance is performed. The support to		X						

municipalities is determined by the specifically identified municipal needs.							
National and provincial governments have performed its monitoring role, in requesting information, effectively. Municipalities regularly submit reports to national and provincial departments.			X	X	X	X	X
The national and provincial governments have not provided timely practical support and assistance to municipalities as far as policy making is concerned. Only when municipalities fail to execute legislative responsibilities the other spheres of government will provide assistance. This support is provided in the form of Project Consolidate.			X	X	X	X	X
Policy-making support was provided to the municipality during the section 139 intervention process at the specific municipality.							X

It was determined during the research that the National and Provincial Treasury provided every municipality with a model supply chain management policy (Addendum B). Municipalities were requested by the Provincial Treasury to formulate a supply chain management policy, as required by section 111 of the *Municipal Finance Management Act*, based on the model policy. The respondents of the municipalities indicated that the municipalities made use of the model policy and that the municipalities also welcomed this approach. The respondents explained that smaller municipalities do not possess the relevant skills to develop technical and complex policies and that a process of availing model policies to municipalities would assist with the advancement of the policy making process at local government level. Municipalities will be able to adapt model policies according to the needs of the specific municipality and to submit well researched policy recommendations to the municipal council for consideration. The respondents indicated that the approach to make model policies available to municipalities would also bring about local government policy uniformity and would ensure compliance with legislation.

As detected from Table 2.3 the national and provincial governments have not provided timeous practical support and assistance to municipalities as far as

policy-making is concerned. Only in the event of municipalities failing to execute legislative responsibilities, the other spheres of government provide relevant assistance. The support is provided in the form of Project Consolidate, which constitutes a programme to organise intergovernmental groups who will work at municipal level to address practical problems at the specifically identified municipalities. The support includes assistance in the formulation of policies.

With the exception of the National and Provincial Treasury, who initiated the development of a model policy, unsatisfactory assistance is provided to municipalities as far as policy-making is concerned. A more timeous approach from national and provincial government, to ensure effective policy-making and policy implementation at local government level, will assist in ensuring that municipalities have the legislative device to perform their functions effectively.

The assumption from Table 2.4 is that SALGA provides assistance to municipalities as far as the creation of policies is concerned. It however appears that, similar to the approach of national and provincial government, SALGA is not practical in suggesting assistance or providing assistance in the formulation of model policies to ensure compliance with legislation. Assistance in policy-making is only provided on request of a municipality or when serious service delivery problems occur.

Table 2.4 Support from SALGA in policy-making

	SALGA	MDM	XDM	MLM	Mant	Mas	Phum
SALGA currently assists municipalities in developing by-laws.	X						
SALGA assisted municipalities immediately	X						

after the 2000 local government elections to address the amalgamation challenges of municipalities and specifically with regard to the integration of the different municipal policies.							
The municipality has not received any form of assistance from SALGA in the making of policies.		X	X	X	X		
SALGA invited municipalities to workshops and work groups were established to develop policies. The process however ended with the establishment of work groups.					X		
The municipality received limited support from SALGA. At the request of the municipality SALGA assisted the municipality by providing pro forma human resource management policies.						X	X

This situation in Table 2.4 is disconcerting since the *Constitution* envisages the important role of organised local government in South Africa. According to the official website of SALGA its role in the South African local government dispensation comprises the following:

- To enhance the role of provincial local government associations as provincial representatives and consultative bodies on local government.
- To transform local government to enable it to fulfil its developmental role.
- To raise the profile of local government.
- To be recognised by national and provincial governments to be the national representative of local government and consultative body in respect of all matters concerning local government.
- To ensure full participation of women in local government.
- To regulate the relationship between the members and the employers within the meaning of section 213 of the *Labour Relations Act*.
- To provide legal assistance to its member in its discretion in connection with matters, which affect employee relations.

To be able to promote the interest of local government and to ensure that it performs its constitutional obligations and legislative duties, SALGA needs to

perform a more “visible” and leading role in ensuring effective local government policy-making.

4.4.3 Strategies for policy-making: Data analysis and interpretation

In determining effective methods and procedures to enhance the policy-making process the respondents had to indicate what strategies are required for this purpose at local government level. Methods and procedures to improve the policy-making process are also reflected in the responses, indicated in Tables 2.5 and 2.6.

Table 2.5 Strategies for effective policy-making

	DPLG	DLGH	SALGA	MDM	XDM	MLM	Mant	Mas	Phum
Policy –makers need to understand the context of local government and the challenges facing a specific municipality.	X	X							
Policy-makers need to have the skills to interpret legislation and legal drafting skills.	X	X	X	X	X	X	X	X	X
Policy-making is a specialised area and municipalities need to invest in capacity building.				X	X			X	
National and Provincial government and SALGA should play a more critical role in the policy-making process by identifying critical policies.				X					X
Implementation of municipal policies is a challenge and need proper planning.				X		X			
Councillors need to understand the policy-making process and differentiate between technical aspects (legal considerations) and political direction.				X		X	X		

The respondents of all the institutions agreed that policy-making is a specialised field and that the necessary skills and expertise are needed. These skills and expertise include the ability to interpret legislation to ensure legislative

compliance in the formulation of policies. To ensure legal compliance in the formulation of policies the skills of municipal councillors and employees need to be developed on a continual basis. The importance and need for capacity building in this regard is analysed in Chapter 5.

Table 2.6 Methods and procedures to improve policy-making

	DPLG	DLGH	SALGA	MDM	XDM	MLM	Mant	Mas	Phum
The establishment of an intergovernmental relations forum where policies are identified and pro active steps are taken to ensure that the policies are formulated, adopted and implemented.	X		X	X			X		X
Government departments and SALGA must initiate a clear programme to assist municipalities with policy-making.		X				X	X		X
The relevant government departments must provide financial support to municipalities to ensure that policies are developed.		X			X				
Municipalities should ensure that persons with the relevant skills and expertise are appointed.			X						
Rare policy-making skills should be centralised. Municipalities should have a specific unit initiating, formulating and ensuring implementation of policies.				X				X	
By utilising the public media. Policies should be published on municipalities' websites for reference purposes and benchmarking.				X				X	
District municipalities should provide support to local municipalities in formulating policies					X	X			
The payment of performance bonuses to municipal employees should be determined based on their compliance, formulation and implementation of policies.						X			

In Table 2.6 respondents are in agreement that not enough cooperation exists between the different spheres of government to ensure legislative compliance. An approach where SALGA coordinates a programme to ensure that all spheres

of government provide the necessary assistance to ensure municipal legislative compliance should assist in improving policy-making at local government level. Another method to achieve effective policy-making is the establishment of a centralised unit at district or local municipality level for the formulation of policies, analysed in Chapter 5.

4.5 CONCLUSION

The policy-making process requires from municipal councillors and employees to be aware of the wide range of factors impacting on the need for new policies. Those factors that may have a direct influence on the making of policies and that indicate that current policies need to be changed. Policies will only be created adequately and current policies will only be reviewed and amended if policy-makers become aware of the potential challenges that could delay the making, review and amendment of such policies.

Internal and external factors influence local government policy-making to a significant extent. Internal factors have been defined as those factors present within the government institution which can exercise an active influence on policy-making. External factors, on the other hand, are those factors that exist outside the municipality and its base of control, including factors such as changing environmental circumstances, policy directions of political parties and pressure groups, interest groups and mass demonstrations.

Municipal policies should continuously be tested against changing circumstances to determine whether the policies still meet the requirements. Reference was made to the reasons for policy change and the constraints on policy change to illustrate the need for continuous policy review and amendment.

The research also identified specific factors negatively influencing policy-making in the Free State local government. These factors include the lack of the necessary human resource capacity, which includes the relevant skills among

municipal councillors and employees. Furthermore, the new local government dispensation, and the fact that municipalities are still dealing with the establishment problems arising from the amalgamation of municipalities after the December 2000 local government elections, has been identified as municipal challenges.

Empirical results indicated that because municipalities prioritised the actual delivery of services and service backlog eradication, local government policy-making was mundanely addressed. Insufficient policy-making created the predicament that where no policies on the provision of services and the execution of financial administration existed, municipalities did not perform these responsibilities in compliance with relevant legislation. The plethora of legislation applicable to local government, and the fact that every applicable Act in essence compels municipalities to develop specific policies, does not only create additional municipal responsibilities, it also requires specialised skills to ensure legislative compliance.

Municipal employees' resistance to change, political influence and the absence of administrative motivation and political support are further factors that influence local government policy-making negatively. Policy documents are still viewed by some municipal councillors as mere documents and not as deliverables which will address the needs of the community.

The limited support the Department of Provincial and Local Government, the Department of Local Government and Housing, as well as SALGA, are providing to municipalities in the formulation of policies has been identified as a key challenge. Municipalities are characterised by low levels of legislative compliance, especially as far as policy-making is concerned. The reality is that the national and provincial government as well as SALGA, did not adequately provide assistance to ensure the appropriate establishment of policies. This fact has a serious negative affect on local government policy-making.

The lack of the relevant skills capacity to formulate policies has been identified as probably the main factor resulting in inadequate policy-making at local government level. The value and importance of capacity building as an instrument to improve and advance local government policy-making, is evaluated in Chapter 5.

CHAPTER 5

CAPACITY BUILDING REQUIREMENTS FOR POLICY-MAKING

5.1 INTRODUCTION

One of the key objectives of the current South African local government dispensation is to create a system of sustainable municipal service delivery. Municipalities will not be able to provide for the basic needs of the community if such municipalities are deficient in the sustained and effective delivery of municipal services. Furthermore, no municipality will be able to function appropriately or achieve its overall objectives and fulfil its responsibilities without a dedicated and properly trained municipal personnel complement. As alluded to in Chapters 3 and 4, the lack of capacity at local government level can, however, be identified as probably the most significant factor that has a direct negative influence on policy-making.

Municipal capacity is defined as the ability of a municipal council to undertake the necessary functions of governance and service provision in a responsible and sustainable manner consistent with the processes of democratic governance (Republic of South Africa. 1998. http://dplg.gov.za/documents/greenpaper/gp_msp/ms05.htm - accessed 30/11/2006).

The Parliamentary Select Committee on Local Government and Administration also reported that capacity is a pre-condition for the proper functioning of local government and for municipalities to discharge their constitutional and legislative mandates of quality service rendering. The capacity constraints and institutional weaknesses of municipalities obstruct the ability of municipalities to deliver sustainable municipal services (Republic of South Africa. 2004. <http://www.pmg.org.za/docs/2003/comreports/041018sclocalreport.htm> - accessed 17/05/2006).

In his speech at the SALGA national conference President Thabo Mbeki (2007) mentioned that capacity constraints at local government level were identified at the 2004 SALGA national conference as a special focus area. President Mbeki also mentioned that by the implementation of Project Consolidate municipalities that needed special attention to ensure that they performed their duties and responsibilities were identified. Human and financial resources were made available to focus on improving the capacity of these municipalities.

At the same SALGA national conference the Minister for the Public Service and Administration (2007), explained that excellence in performance within the three spheres of government, underpinned by the availability of capacity, attracting and retaining the right capacity, has become a central concern and is of significant importance. The Minister mentioned that skills capacity is one of the “critical success factors” for achieving the goals of a developmental state and, in the absence thereof, the overall effectiveness of government service provision becomes compromised.

The existing local government dispensation has been put into practice to serve much larger populations while facing overwhelming services and infrastructure backlogs. Municipalities are therefore faced with the task of improving not only the quantity but also the quality of basic services being delivered to their communities. If the performance of municipal participants is not managed and controlled and if the internal capacity of municipal structures are not continuously strengthened, local government will hardly be able to fulfil and comply with its overall constitutional objectives and duties.

To ensure effective local government policy-making, municipal functionaries need to display appropriate policy analysis skills and the ability to manage policy challenges, especially those challenges that occur in an environment of adversity. These skills will not only contribute towards creating municipal policies in compliance with legislation but it will also assist in rendering sustainable municipal services and as such ensuring local government excellence. The aim

of this Chapter is to identify in what way local government capacity building can be exploited to ensure effective policy-making.

5.2 EMPIRICAL RESEARCH

Local government capacity building for policy-making is a process where municipalities develop the ability of both councillors and employees in this regard. With the aim of determining in what way capacity building can contribute in ensuring effective local government policy-making, structured interviews similar to those in Chapter 3 were conducted.

The aim of the research in this Chapter is the following:

- To determine what measures have been implemented to ensure that the identified capacity constraints at local government level are being addressed.
- To evaluate the meaningfulness of establishing a centralised policy-making unit at individual municipalities, with specific reference to the Policy and Research Unit of the Motheo District Municipality.
- To determine to what extent municipalities utilise service providers such as consultants in the policy-making process.

To analyse the appropriate data this Chapter comprises of a theoretical and empirical section.

5.3. THEORETICAL SURVEY

5.3.1 Role of other spheres of government in capacity building

The *Constitution* requires a strong commitment of all three spheres of government to establish co-operation among such spheres. The spheres of government are constitutionally mandated to observe and adhere to the principles and parameters specified in the *Constitution*. Bekink (2006:103) points out that the spheres of government must co-operate with one another in mutual

interest, trust and good faith and must promote good relations through, support, information sharing and consultation. The significance of the role of the national and provincial governments, in local government capacity building, is identified in this section to emphasise their role in ensuring effective and appropriate local government policy-making. To be able to determine the capacity building role of the national and provincial governments, the manner in which the spheres of government relate in an environment of cooperative government, is also identified.

Section 40(1) of the *Constitution* stipulates that government is constituted as national, provincial and local spheres of government that are distinctive, interdependent and interrelated. Local government therefore operates in an environment of co-operation and the nature and extent of the particular roles of the three spheres results in the existence of intergovernmental relations. To determine the extent of the co-operation between the three spheres of government, the concepts of distinctive, interdependent and interrelation are analysed as follows:

- Distinctive

The distinctiveness of each sphere relates to the degree of legislative and executive autonomy entrenched in the *Constitution* (Republic of South Africa. 1999. <http://www.thedplg.gov.za/subwebsites/idpmanual/audit1.pdf> - accessed 06/04/2006). Section 40(2) of the *Constitution* stipulates that all spheres of government must observe and adhere to the principles in Chapter 3 of the *Constitution* and must conduct their activities within the parameters that Chapter 3 provides. Each sphere has distinctive legislative and executive competencies. As an illustration of distinctiveness reference can be made to Schedule 5 of the *Constitution* where it expressly deals with the functional areas of exclusive provincial legislative competence.

- Interdependent

Interdependency relates to the degree to which one sphere depends on the other for the proper fulfilment of its constitutional obligations and functions (Republic of South Africa. 1999. <http://www.thedplg.gov.za/subwebsites/idpmanual/audit1.pdf> - accessed 06/04/2006). There are two interrelated aspects to this dependency. First, the provincial and local spheres have an entitlement in terms of the *Constitution* to assistance from the national and provincial governments respectively, to be able to fulfil their constitutional obligations. Secondly, national and provincial spheres have the duty to oversee the provincial and local spheres respectively to ensure that they fulfil their constitutional obligations. This responsibility entails both the monitoring of the other sphere and intervening when a dependent sphere fails to fulfil its functions.

- Interrelation

In terms of Section 41(h) of the *Constitution* all spheres of government and all organs of state within each sphere must co-operate with one another in mutual trust and good faith. The interrelatedness of the spheres is the duty of each sphere of government to “co-operate with one another in mutual trust and good faith”. Based on the distinctiveness of each sphere, the relationship of each sphere of government is of relative equality (Republic of South Africa. 1999. <http://www.thedplg.gov.za/subwebsites/idpmanual/audit1.pdf> - accessed 06/04/2006).

With the requirement of co-operation between the three spheres of government in mind, the role of the national and provincial levels in capacity building at local level can be addressed. Section 154 (1) of the *Constitution* states that the national government and provincial governments, in terms of legislative and other measures, must support and strengthen the capacity of municipalities to manage their own affairs, to exercise their powers and to perform their functions.

In identifying the key institutional development and capacity-building roles of provincial governments the *White Paper on Local Government* refers to section 155(6) of the *Constitution*, which stipulates that provincial governments must promote the development of local government capacity in order to perform their own functions and manage their own affairs. Training and capacity-building are an integral part of institutional development. In terms of the *White Paper on Local Government* provincial governments has a critical coordinating and strategic function, both with respect to developing a framework for municipal capacity building in the province, and ensuring that capacity building takes place. In addition to this coordinating function, provincial governments can in terms of the *White Paper on Local Government* build municipal capacity in a number of ways, such as facilitating or funding training programmes, providing technical assistance and mentorship, arranging exchange programmes, providing assistance with municipal integrated development plans, facilitating shared learning between municipalities, and even the secondment of staff where appropriate.

Capacity building obligations are also determined in the *Municipal Systems Act*. In terms of section 10 A of the Act appropriate steps to ensure sufficient funding, and “such capacity building initiatives as may be needed”, for the performance of an assigned function or power by the municipality must be taken in the following circumstances:

- if the assignment of the function or power imposes a duty on the municipality;
- if the specific duty, referred to above, falls outside the functional areas listed in Part B of Schedule 4 or Part B of Schedule 5 to the *Constitution* or is not incidental to any of those functional areas; and
- in the event that the performance of that duty has financial implications for the municipality.

Mokwena (2006) note that capacity building can be seen as the main purpose of rendering support to local government. He adds that the co-operation of the other spheres of government in local government capacity building can take place

through the training of staff and councillors, by the provision of material and technical support systems, by means of methods of skills transfers and the sharing of resources.

The constitutional provision that the national government and provincial governments must support and strengthen the capacity of municipalities to manage their own affairs, to exercise their powers and to perform their functions also applies to local government's obligation to develop, adopt and implement policies. A programme to improve the municipal policy-making capacity will contribute positively in ensuring the establishment of appropriate policies.

5.3.2 Role of local government in capacity building

In terms of section 68(1) of the *Municipal Systems Act* a municipality must develop its human resource capacity to a level that enables it to perform its functions and exercise its powers in an economical, effective, efficient and accountable way and for this purpose it must comply with the *Skills Development Act* and the *Skills Development Levies Act, 1999* (Act No. 28 of 1999).

Section 83(3) of the *Municipal Structures Act* places an obligation on district municipalities to build the capacity of local municipalities to perform their functions and exercise their powers where such capacity is lacking. The Act also makes provision for co-operation between district and local municipalities where capacity is lacking. Section 88(1) of the Act stipulates that:

- “(1) A district municipality and the local municipalities within that area of the district municipality must co-operate with one another by assisting and supporting each other.
- (2)(a) A district municipality on request by a local municipality within its area may provide financial, technical and administrative support services to that local municipality to the extent that that district municipality has the capacity to provide those support services.

- (b) A local municipality on request of a district municipality in whose area that local municipality falls may provide financial, technical and administrative support services to that district municipality to the extent that that local municipality has the capacity to provide those support services.
 - (c) A local municipality may provide financial, technical or administrative support services to another local municipality within the area of the same district municipality to the extent that it has the capacity to provide those support services, if the district municipality or that local municipality so requests.
- (3) The MEC for local government in a province must assist a district municipality to provide support services to a local municipality.”

With regard to the role of the SALGA the *White Paper on Local Government* notes that the *Constitution* allows for the recognition of national and provincial organisations representing municipalities and that a national organisation, SALGA, and nine provincial associations have been established. The *White Paper* also states that SALGA has a key role to play, not only as an employer in the South African Local Government Bargaining Council, but also in building capacity in the area of labour relations among its membership, and maintaining open and constructive relationships with organised labour.

Bekink (2006:492) states that the South African local government dispensation has created strict legal demands on municipalities to comply and fulfil certain duties and responsibilities. Without sufficient capacity, municipalities will not be able to fulfil such duties and responsibilities. It is of significant importance that local government and the other two spheres of government ensure that local government capacity is sufficient to ensure compliance with its constitutional and legislative obligations, and particularly its obligation to develop, adopt and implement policies.

According to Bekink (2006:493) capacity building should be a very important objective for all municipalities, as it will ensure that services are delivered as is

legally required and that more powers can be assigned to local government. Bekink (2006:493) adds that capacity building should be done on the political, financial and administrative levels and it should ensure that it responds to municipal needs and is acceptable and aimed at people.

5.3.3 Role and tasks of policy analysts

In analysing how capacity building will contribute to successful municipal policy-making it is essential to ascertain what policy analysis entails and what the role and tasks of policy analysts are. According to Cloete and Wissink (2005:265) the emphasis of policy analysis, as an academic discipline, is to equip staff members professionally with an advanced ability to manage public policy challenges, particularly those challenges and concerns that arise under conditions of adversity.

Rosenbloom and Goldman (1989:319) state that policy analysis considers the extent to which a policy achieves its objectives. Policy analysis also assesses how the policy implementation process contributes to the achievement of such objectives. Fox *et al.* (1991:213) state that the analysis of policy refers to the tasks of policy analysts in analysing the policy substance and how the policy as a choice or decision was developed and accepted or formally promulgated. According to Gordon *et al.* (1977:27) in Fox *et al.* (1991:213) the task of policy analysis involves generating information on public policy issues to solve the problems related to these issues and includes the following three activities. Firstly, policy issue analysis which is the structuring of policy issues. Secondly, the advocacy of policy alternatives which involves various modes of information search and research activity. Thirdly, the policy outcome analysis that includes the monitoring and evaluation activity.

Proper policy analysis requires specific knowledge levels, skills and abilities of the personnel involved in policy making to direct the standard and context of public policies. Fox *et al.* (1991:211) state that government policy analysts are

public management specialists who are analytically skilled and trained in a variety of disciplines which provide the abilities needed to structure and solve public problems in their particular policy areas. Behn (1985:428-432) in Fox *et al.* (1991:211) maintains that capacitated policy analysts must be able to:

- Identify the contradictory values that affect a policy option and develop creative alternatives.
- Specify the uncertainty that exists about the possible future consequences of various policy actions.
- Develop outcome measures or appropriate surrogate measures so that actions can be evaluated and redesigned.
- Build the strategies for political adoption and organisational implementation.

A policy analyst therefore also requires qualities such as intellectual honesty, political creativity and the respect for a diversity of values to ensure the creation of local government policy. Cloete and Wissink (2005:271) state that the standard that usually disqualifies most policy analysts is the inability to present all the information required for effective policy-making clearly, concisely and convincingly.

House (1982:7) in Fox *et al.* (1991:212) confirms that the role of policy analysts has expanded over the years, bringing more information and new analytical techniques to the policy process. Policy analysis commonly became an approach and a methodology for designing and identifying more attractive options in respect of multifaceted policy issues that provides assistance for promoting public policy-making.

The existence of various roles and tasks aimed at the creation of policies and policy analysis is an accepted fact, which emphasises the complex nature of policy-making as a specialised field in government in general and local government in particular. The role and tasks of policy analysts also apply to municipal personnel members who are tasked with the policy formulation,

implementation and evaluation responsibilities. The policy-making role of local government employees is discussed comprehensively in section 5.3.4.

5.3.4 Policy-making role of local government employees

The *Municipal Systems Act* provides for the administering of affairs, where municipalities must strive to achieve the objectives of local government as set out in section 152 of the *Constitution*. Furthermore the *Municipal Systems Act* determines that municipalities must, within their administrative and financial capacity, establish and organise their administrations in a manner that would enable municipalities to comply with administrative and financial requirements. These requirements include municipalities' responsiveness to the needs of the local community and the performance of the municipalities' functions through operationally effective administrations.

It is required from a municipality to appoint employees based on the employees' administrative, functional or technical expertise and according to Ismael *et al.* (1999:161) local government employees prepare policy proposals and also advise municipal councillors regarding appropriate policy positions. According to Cloete and Wissink (2005:290) educated and trained local government employees have a "higher profile" than their colleagues with less knowledge and skills. The policy-making ability of employees therefore influences the degree to which local government employees are involved in policy-making and analysis.

As elaborated in Chapter 2 municipal policies are adopted by the municipal council concerned, with a supporting vote of a majority of the councillors. Hanekom (1987:27) in Fox *et al.* (1991:38-39) explains that local government employees direct the fact-finding analysis and recommendation side of policy-making and as policy formulators these employees practically control the policy formulation process. These employees have the task to create a policy document or to formulate policy proposals or to advise the municipal council on policy matters related to the specific challenge. To be able to attain these tasks he/she

has to articulate values and needs in society in order to generate the relevant policy information.

Fox *et al.* (1991:36) also state that local government employees have internal and external policy-making roles. Internal policies refer to those policies that guide the internal operation of the municipalities and focuses on inter-governmental coordination and administrative processes. External policies on the other hand refer to the broad goals of the specific municipality and include policies on community, environmental, health and transport needs.

Apart from their policy-making role, employees also have other managerial and administrative responsibilities in the field of planning, organising, personnel provision and utilisation, budgeting, devising work procedures and control. Lynn (1980:5) in Cloete and Wissink (2005:289) explains that the emergence of policy analysis reflects the growing demands placed on local government employees by the complexity of the matters they face.

The growing burdens placed on local government activities by the complexity of the diverse challenges they face, necessitate the urgent need for capacity building to manage local government policy-making. Organised capacity building to empower personnel for effective policy-making, will ultimately contribute to the delivery of sustainable municipal services.

5.3.5 Knowledge, skills and prerequisites for policy-making

Local government has to comply with strict legal demands to ensure the execution of its duties and responsibilities and sufficient capacity is required to ensure municipal compliance with constitutional and legislative obligations. Cloete (1993:153) explains that even with the most appropriate educational qualifications employees still need to be capacitated in their distinctive work environment. Municipalities are continuously experiencing different challenges and it is only through purposeful capacity building that it will be possible for local

government employees to adjust to change in the most advantageous manner. According to Bekink (2006:493) capacity building is regarded as an essential instrument available to municipalities to ensure service provision and the overall accomplishment of municipal duties and responsibilities.

Cloete and Wissink (2005:265) state that it is automatically assumed that policy analysts, in a local government environment, are equipped with a certain level of knowledge and skills that supports and determines the effectiveness of their performance. The acknowledgement of the existence of the local government personnel who formulate municipal policies is by no means an assurance of the efficiency of policy-making process. Policy-making is an activity that needs special consideration, just as other local government processes such as organising, staffing, budgeting and control need attention owing to the pressures of operating within time constraints and deadlines.

The need for a basic set of common policy skills and knowledge is unavoidable. House (1982:233-240) in Cloete and Wissink (2005:268) identifies the following expertise necessary in the policy-making process:

- *Communication skills:* Local government employees have to be able to communicate their findings and recommendations to the policy stakeholders at the relevant municipality. This will necessitate knowledge of how to write clearly and precisely and also oral skills for briefings and hearings in which the person involved has to present and motivate policy proposals. Such skills are usually not found in policy programmes and either has to be addressed by relevant training and language courses.
- *Management skills:* Municipal employees often find themselves in situations where they have to do tasks more reminiscent of a manager than a technician. Here they need skills to write and evaluate proposals, address personnel matters, and to prepare and control budgets.
- *Problem-solving skills:* Municipal personnel should not only be able to analyse the problems in their environment, but should also be able to comprehend and comment on the work of their subordinates and those stakeholders who

are adversaries of the policy proposals they make. Information, insights and opinions that have a bearing on the policy problem should be thoroughly pursued. Novelty and creativity are two of the most desirable or preferred characteristics in policy-making, and could be instilled or developed through training of the people in question.

- *Political understanding:* Political sensitivity is about accepting the realities of the limitations on policy-making resulting from political rationality, as there are always constraints due to limits, confines of place, and lack of information and other resources. It is required from policy-makers to be sensitive to political dynamics when performing their tasks.
- *Implementation skills:* The practical realities of implementing policy options demand skillful actions. There is always the possibility that the policy proposals could be rejected in the beginning of the policy-making process, without even reaching the political arena.
- *Team-building and operational skills:* Persons involved in policy-making have to master the art of team-building and must be effective in arranging meetings, work and information sessions, preparing outlines and the setting of crucial goals and dates. Many of the issues in local government are complex and problem solving requires first and foremost a cooperative team effort rather than just individual cooperation.
- *Assessment and evaluation skills:* The capacities municipal employees are expected to have are not only reserved for problem-solving, but it also requires the ability to assess and evaluate existing and continuous government programmes. The basic analytical and cognitive processes of problem-solving is important but special skills are further required for monitoring and evaluating appropriate research information. For this purpose the people in question should be proficient in utilising the tools and instruments for proper measurements.

It is evident that different levels of knowledge and skills are required to ensure effective policy-making, which includes relevant academic and practical capabilities (Cloete & Wissink, 2005:265). Local government is characterised by

a range of capacity constraints, especially as far as policy-making is concerned. These constraints can only be addressed effectively if municipalities establish the necessary capacity building mechanisms and approaches.

5.3.6 Capacity building in policy-making

To be able to provide sustainable municipal services and to ensure successful local government policy-making, the capacity building of municipal employees is imperative. Bekink (2006:490) defines capacity building as “a process of developing the ability for improved performance within municipalities”. Cloete (1995:157) states that capacity building should be undertaken to satisfy specific needs and not because it is “deemed fashionable”. The first step is to determine as accurately as possible the capacity building needs of the municipality.

The *Skills Development Act* introduces learnership programmes for skills development involving a combination of institutional and workplace learning. Skills development, which requires substantial financial resources is largely financed in terms of the *Skills Development Levies Act*. To ensure quality capacity building programmes the *South African Qualifications Authority Act*, 1995 (Act No.58 of 1995) has established the South African Qualifications Authority, which must oversee the implementation of a national qualifications framework (NQF). This framework is based on learning outcomes, which are measured by the ability of a learner to convert the training into work performance.

Porter (1980:229-250) in Cloete and Wissink (2005:305-306) indicates that there are three specific issues in policy-making that various American presidents identified as very important and should be included in capacity building actions. It can be of significant value to local authorities in South Africa if the following aspects can be included in capacity building programmes to strengthen the knowledge and expertise of all those role players in policy-making:

- *Adhocracy.* Adhocracy refers to personnel that reach consensus by responding in an ad hoc fashion to the frequently changing local government priorities. Adhocracy minimises the dependence on regular or normal patterns of policy advice and relies instead on the local government policy managers for applicable information. The policy manager then determines the level, use and thrust of the policy advice, or he/she will rely on an expert for this task. These experts will often consult widely, but are solely responsible for organising the information that will be given to the policy manager.
- *Centralised management.* In prevailing circumstances policy advisers close to the policy manager play the major role to filter the ideas, proposals and recommendations of the community, municipal councillors and employees. In this case municipal participants develop their own view on matters, and utilise every possible means to access information at that particular stage.
- *Multiple advocacy.* Unlike the idea of centralised management, multiple advocacy is designed to expose the local government policy-makers to contending arguments and different viewpoints. This action contrasts with the idea of having viewpoints filtered by centralised local government policy managers and these viewpoints are then presented collectively and in the presence of other policy promoters to permit open debates and interaction between the various persons involved.

This dissertation focuses on the evolutionary process of policy-making in the public sector in general and the environment of local government in particular. Municipal policy-makers should enhance their skills and expertise and it is required from them to implement innovative ideas and new knowledge on aspects such as adhocracy, centralised management and multiple advocacy.

5.4 EMPIRICAL SURVEY

5.4.1 Involvement in capacity building: Data analysis and interpretation

The lack of relevant skills and capacity for effective policy-making was evaluated in Chapters 3 and 4. Here it is essential to expose the methods and involvement of institutions and individuals to determine ways and means to enhance capacity building in policy-making. The empirical analysis of the capacity building role of national and provincial government, SALGA and local government reflect the respondents' viewpoint on the identified imperfections in relation to the creation, adoption and implementation of policies and the urgent need to improve capacity building. The Tables in this Chapter are a compilation of the different responses and an "X" is used to illustrate their views in the corresponding column. The same keys used in section 3.5.3 apply here to identify the respondents.

Table 3.1 Institutions involved and methods in capacity building

	DPLG	DLGH	SALGA	MDM	XDM	MLM	Mant	Mas	Phum
The implementation of support initiative Project Consolidate to deepen the thrust and impact of existing policies and programmes can address the identified capacity problems.	X	X							
The department has arranged training seminars for municipalities on the ideal situation for properly functioning municipalities.		X							
The Department provides assistance to municipalities, as far as policy-making is concerned, on the request of a municipality.		X							
Regular training seminars are arranged to assist municipalities with policy-making.			X						
Municipal policy-making is a complex task and a specialised area. The municipality established a centralised policy-making unit to concentrate on policy-making.				X					
A number of capacity building initiatives have been implemented at the municipality as part of Project Consolidate.					X				

The municipality has developed a training and development strategy for the municipality, but no specific strategy has been implemented to address policy-making capacity <i>per se</i> .						X			
Assistance in the form of a financial grant was provided by the Development Bank of Southern Africa, which resulted in the appointment of service providers to assist with the policy-making process.							X		
The municipality is considering approaching the district municipality to provide policy formulation assistance to the municipality.								X	
The municipality's expectation is that the municipality will be sufficiently capacitated after the conclusion of the Section 139 intervention.									X

As detected from Table 3.1, the national and provincial governments have made an effort to comply with section 154(1) of the *Constitution* to support and strengthen the capacity of local government to manage their own affairs and to ensure that local government exercises its powers and performs its functions. The analysis indicates that there is not a specific, coordinated and dedicated approach to address skills development as far as policy-making is concerned and that municipalities have to identify various methods to ensure effective policy-making. In certain instances centralised policy-making units have been established and service providers have been appointed to address the capacity constraints at individual municipalities. Municipalities also approach their district municipality for assistance in addressing the policy-making capacity challenges. A more coordinated and dedicated capacity building approach, by all three spheres of government and SALGA, is however suggested to ensure that municipal councillors and employees possess the relevant policy-making knowledge and skills.

5.4.2 Policy-making activities

In this section, the policy-making environment of the municipalities in question is analysed to determine which municipal department or individual is responsible for this task. Furthermore, the respondents were requested to identify whether there

was a need for a centralised structure for policy-making at the specific municipality. Respondents were also asked to explain to what extent municipalities utilised service providers such as consultants in the policy-making process. With this information available, strategies can be developed for effective capacity building in policy-making in terms of all the contemporary activities and structures presently implemented. The responses of the respondents are illustrated in the Table below.

Table 3.2 Policy initiating responsibility

	MDM	XDM	MLM	Mant	Mas	Phum
The municipality has a Policy and Research Unit who initiates policy-making processes at the municipality, which is headed by a General Manager.	X					
The municipal line function departments initiate the policy-making process at the individual municipalities.		X	X	X	X	
Consultants provide policy-making assistance, if so required by the municipality.						X

As alluded to in Chapter 3 the Motheo District Municipality established a Policy and Research Unit to draft, maintain and regularly update all the municipality's policies and to render an effective and efficient managerial and control function in this field. The Motheo District Municipality is the only municipality where policy-making is regarded as a specialised function. The Mangaung and Mantsopa local municipalities indicated that after the formulation of policies, the policies are submitted to the Legal Division and the municipality's Manager: Corporate Services, respectively, to ensure the legal compliance of the policies.

Table 3.3 The need for a centralised policy-making structure

	MDM	XDM	MLM	Mant	Mas	Phum
The creation of such a structure is strongly recommended. Policy-making at the municipality has shown a drastic improvement after the establishment of the Policy and Research Unit.	X					
The need for such a structure is supported to ensure legislative compliance and implementation of municipal policies.		X	X		X	X
A centralised structure is supported. Smaller municipalities will however not be able to afford such a structure.				X		

As detected from Table 3.3, respondents support the establishment of centralised policy-making units and indicated that such a structure will ensure legislative compliance. Not only will policies be formulated and submitted to the municipal council for consideration, but the implementation of such policies will also be monitored by such a unit. It was however explained by the Municipal Manager of the Mantsopa local municipality that not all municipalities will have the financial sources for such units.

The respondent of the Phumelela local municipality emphasised that policy-making includes the interpretation of legislation and that not all municipal employees are adequately trained to perform this duty. He also indicated that a specialised policy-making structure would improve the process. The respondent of the Mangaung local municipality explained that certain municipal employees are in a “comfort zone” and that they are reluctant to deviate from standing practices. Specialised structures responsible for the establishment of policies in compliance with legislation can ably assist in the replacement of outdated practices.

Table 3.4 Consultants as policy service providers

	MD	XDM	MLM	Mant	Mas	Phum
Consultants are frequently appointed as service providers to assist with the municipal policy-making process.		X	X		X	X
The municipality never appointed consultants directly. The municipality approached another institution to fund infrastructural development in the municipality and this institution appointed consultants to provide municipal policy-making assistance.				X		
The municipality has not appointed consultants to provide policy-making assistance since the establishment of the Policy and Research Unit at the municipality.	X					

It is apparent that the appointment of service providers, such as consultants, plays a dominant role in the establishment of policies at most of the municipalities. Where municipalities lack policy-making capacity they appoint these service providers to provide assistance in the policy-making process. With the exception of the Motheo district municipality and the Mantsopa local municipality, municipalities prefer to seek specialist guidance in the policy-making process. Municipalities receiving support from other spheres of government in terms of Project Consolidate or where the provincial government intervened in terms of section 139 of the *Constitution* to ensure the fulfilment of the municipality's executive obligations indicated that the provincial government appointed consultants to provide assistance in this regard.

As alluded to in Chapter 4, the respondents have identified the lack of the necessary skills and capacity to develop, adopt and implement policies, as a key factor influencing policy-making negatively at local government level. However, the Policy and Research Unit of the Motheo district municipality display advanced policy analysing skills and the ability to manage policy challenges, while other municipalities have resorted to the appointment of service providers for expert

advice. A respondent of the Mangaung Local Municipality indicated that consultants take financial advantage of municipalities from time to time and that policies, formulated by consultants, are not always customised to address the specific needs of the municipalities.

5.5 CONCLUSION

Local government is characterised by low levels of administrative capacity in that there is a large variation between the capacity required to operate and maintain municipal services and the capacity available within local government. Many municipalities are also still grappling to ensure legislative compliance as a result of administrative and management capacity limitations.

In order to demonstrate credible improvements in service provision, local government which is regarded as the primary vehicle for service delivery, should empower its councillors and employees through capacity building initiatives to ensure ongoing skills development. Effective capacity-building and training programmes are indispensable to the successful implementation of the local government system and to significant advances in service provision, development and democracy.

Policy-making has become a vital and specialised role of the local government manager. The empirically results however identified that municipalities do not have the necessary capacity to ensure continuous and effective policy-making due to the complex nature of policy-making and the difficulty of the interpretation of comprehensive legislation.

National, provincial and local governments all have the constitutional and legislative obligation to ensure that the capacity of local government is strengthened and there have been intensive efforts to ensure the fulfillment of the local government's executive obligations, especially by means of the implementation of Project Consolidate and the intervention into the affairs of

municipalities in terms of section 139 of the *Constitution*. Municipal councillors and officials also participated in capacity-building and training courses and programmes, but not enough has been done as the research results clearly indicated.

There is an urgent need for improved and more effective coordination and co-operation within a commonly accepted framework for all the local government capacity-building and training participants to ensure that the necessary knowledge is acquired for successful policy analysis. Strategies to ensure continuous and effective policy-making at local government level such as establishing centralised policy-making units, assistance from the other spheres of government and horizontal cooperation between municipalities are urgently required to address the escalating challenges.

CHAPTER 6

CONCLUSION AND RECOMMENDATIONS

6.1 CONCLUSION

In terms of the *Constitution* and the *Municipal Systems Act* a municipality exercises its legislative or executive authority by among others, developing and adopting policies. A plethora of significant legislation has been implemented in line with the *White Paper on Local Government* which has a decisive impact on local government policy. In terms of these and other legislative provisions municipalities are authorised to formulate, adopt and implement specific policies with the view to render specific services to the community in the Free State Province in particular and the rest of South Africa in general.

The research results indicate the general dissatisfaction with the quality of service rendering in the country. There is a disparity between the expectations of the community and local government's actual service rendering output. Consumers are confronted by, for example, defective water and electricity meters that do not work, water and electricity bills that are incorrect, refuse dumps created in residential areas, electricity and water cut-offs that are not always explained and the general deterioration of roads and parks. It is important that local government establishes standards for service provision and create mechanisms to ensure the constant improvement of municipal services in South Africa.

One of the reasons for the identified ineffective service provision is the fact that policies are not developed adequately at local government level. The majority responses of the research supported the reports and resolutions of the Parliamentary Select Committee on Local Government and Administration and the Provincial Public Accounts Committee of the Free State Legislature which identified the non-compliance with legislation as far as policy-making is

concerned. Furthermore, it was identified that the main reasons for the inadequate local government policy-making are the lack of the necessary skills at both administrative (municipal employees) and political (municipal councillors) level to develop, adopt and implement policies. The research determined that although municipalities may be conversant with local government legislation it may not be sufficient to ensure effective policy-making. It was also determined that smaller municipalities mainly prioritised the formulation of policies in compliance with the *Municipal Finance Management Act* and that other policies were actually disregarded. Although the majority of the respondents indicated that legislation determined which policies individual municipalities should formulate, it was also pointed out that municipal policies were only created when a specific need for policy-making was identified. These circumstances create the impression that there is no urgency to ensure that all applicable municipal policies are established to achieve sustainable service provision at local government level.

To be able to achieve effective service rendering a large number of aspects that require a specific policy was also identified. Some of these policies require specialised contributions, for example a service standards policy requires the inputs of engineers and technicians. Municipalities also need the necessary administrative and political skills to ensure that the policies comply with relevant legislation. The research results indicated that local government faces huge challenges in this regard. Establishing policies in terms of basic principles to achieve specific goals, empowers a municipality to address those challenges as required from legislative and executive directives.

There is a variety of internal and external factors that influence the process of local government policy-making. A diversity of responses reflecting the factors that influence local government policy-making negatively was identified. These factors confirm that local government still faces comprehensive challenges in the milieu of policy-making, and include the following:

- Shortage of skills and the necessary human resources capacity and financial resources at local government level.
- The plethora of legislation at local government level pose challenges for the implementation of this comprehensive legislation and its specific requirements.
- Municipalities prioritised actual service rendering and actual backlog eradication and regarded policy-making then as a secondary responsibility.
- Councillors and employees view policies as a restricting method that confines others from access to specific municipal operations and not as mechanism to achieve the required service excellence.
- The necessary skills for effective policy implementation are still missing and directly influence the aim of service excellence.
- Employees display a general resistance to formulate policies according to legislative provisions and practices.
- Service providers appointed by individual municipalities are not familiar with the local government environment and do not customise the policies they formulate to the needs of the municipality.
- The administrative will to develop policies does not always exist because some municipal employees are reluctant to accept additional responsibilities.
- It appears that some councillors and employees may be dishonest in their approach in the formulation and adoption of municipal policies. It was identified that they rather consider personal interest and the possible benefits they may receive, instead of the interests of the community.
- The amalgamation of municipalities created certain difficulties during the incorporation of new treasury practices. When changes in practices take place it creates certain implementation problems. Since the 2000 local government elections, municipalities are experiencing difficulties in addressing the challenges that influence policy-making. It can be generally ascribed to incompetence in this environment.

- Lack of political support as far as policy-making is concerned. Some councillors tend to regard substantial amounts of money spent on policy-making as a waste of time and resources.

The findings of the research are supported by the conclusion of Bekink (2006:41) who identifies the current financial constraints, the new administrative challenges and the legislative complexity of the new local government system as some of the most significant challenges facing local government.

The amalgamation processes of municipalities in South Africa also lead to drastic administrative changes that demand successful implementation of new actions. Bekink (2006:42) points out that municipalities still experience poor co-ordination of activities between internal departments and have employed untrained workers. These factors also contribute to the inefficiency that occurs in municipal service delivery. The comprehensive and new local government responsibilities now require a change in attitudes, proper approaches and effective capacity building of municipal councillors and employees.

To understand and to cope with the complexity of the vast number of new municipal legislation, the necessary skills are required. For this purpose it is of the utmost importance that capacity building receives the highest priority. This will enable the effective formulation, approval and implementation of appropriate municipal policies.

Problems that occur in the policy-making process at local government level mainly contribute to the ineffective execution of duties and acceptance of responsibilities and finally ineffective service rendering. All three spheres of government have specific responsibilities in ensuring that municipalities possess the necessary capacity to execute their duties and responsibilities. In terms of the *Constitution* national government and provincial governments have to support and strengthen the capacity of municipalities and this responsibility must not be neglected. In terms of the *Municipal Systems Act* municipalities also have to

develop human resource capacity to enable them to perform its functions and exercise its powers in an economical, effective, efficient and accountable way.

Different levels of knowledge and skills, which include the relevant academic and practical capabilities, are required to ensure effective policy-making. These levels include communication skills, management skills, problem-solving skills, political understanding, team-building and operational skills, implementation skills and assessment and evaluation skills. Specific approaches to address policy-making capacity and the extent of capacity building in this environment were identified. To ensure effective capacity building the following methods have been implemented by the relevant spheres of government and SALGA and a more dedicated approach are required from them:

- The implementation of the national and provincial governments' support initiative Project Consolidate to address the identified capacity problems.
- Training seminars for municipalities have been arranged by national and provincial government departments to assist municipalities with policy-making.
- To address the complex and specialised area of policy-making the Motheo district municipality for example established a centralised unit to concentrate on policy-making.
- Assistance in the form of financial grants is utilised for the appointment of service providers to assist with the policy-making process.

The research found that insufficient support in policy-making and capacity building is received from national and provincial government and from SALGA. This situation indicates that the other spheres of government are to a certain extent not complying with their constitutional and legislative obligations and therefore indirectly contributes to the poor service provision at local level.

With the exception of the policy unit of the Motheo District Municipality, the line function departments of the other municipalities implicated in the research are

responsible for initiating the policy-making process. The research results also indicated that external service providers are appointed at a large number of municipalities to formulate specific policies when required, with mixed success. These service providers include external consultants to support municipalities with insufficient policy-making capacity.

In terms of Project Consolidate or where the provincial government intervened in terms of section 139 of the *Constitution* service providers are appointed by the provincial government to ensure that municipalities can fulfil their executive obligations including their policy-making functions.

In ensuring sustainable local government service delivery in terms of effective policy-making, municipalities need to empower councillors and employees through capacity building initiatives. Capacity-building and training programmes are essential to ensure significant progress in service provision. Similarly effective local government policy-making will only be achieved if policy-makers at municipal level are endowed with appropriate policy-making skills.

Local government policies result in the setting of standards and a minimum level of uniformity in the implementation of local government objectives. Policies also provide an action framework in dealing with potentially sensitive issues, promoting the transparency and accountability of service providers and enable sustainable service rendering. Shortage of policies that direct municipal activities will unfortunately result in inconsistencies in addressing specific constitutional and legislative obligations and municipalities will be unable to achieve local government excellence in the provision of services.

6.2 RECOMMENDATIONS

Anderson (2006:6) defines policy as “a relatively stable, purposive course of action followed by an actor or set of actors in dealing with a problem or matter of concern.” Against this background a number of predicaments such as service

rendering standards and municipality amalgamation challenges face local government and it really needs a purposive cause of action from local government in South Africa. In analysing the definition in terms of the content of the research it is evident that the relevant municipal policies need to be in place to address these predicaments.

The most apparent reason for the inadequate and ineffective local government policy-making action at the researched municipalities is the undeniable lack of financial and human resource capacity. Government urgently needs to prioritise policy-making capacity building at local government level to ensure that service rendering standards do not deteriorate even more. Innovative approaches to be able to address this predicament local government is facing, need to be considered and implemented. The following four major recommendations on how to improve local government policy-making are founded in the results of this research:

- i) National and provincial governments need to comply comprehensively with its constitutional obligation to support and strengthen the capacity of municipalities in the management of their own affairs. Local government operates in an environment of cooperative government and has an entitlement in terms of the *Constitution* to appropriate assistance from the national and provincial governments in this regard. The SALGA also has an important responsibility as far as capacity improvement at local government is concerned. It is recommended, therefore, that national and provincial governments initiate and participate in the following actions to improve policy-making at local government level:
 - That a series of continuous and coordinated policy-making workshops and training sessions for municipal councillors and employees be initiated by the national and provincial governments and SALGA. These workshops and training sessions should be arranged at different venues in the various

provinces to capacitate the stakeholders on the following municipal policy-making aspects:

- The concept of public policy and the sequential pattern of actions that must be pursued to ensure quality local government policy-making.
 - Local government's legislative obligation to formulate, adopt and implement policies.
 - Conversance with all the legislative provisions authorising municipalities to formulate, adopt and implement specific policies and as such ensuring legislative compliance.
 - Sensitivity and awareness of the factors that have an influence on local government policy-making and need to be considered in the policy-making process.
 - Knowledge of policy implementation time limits to ensure legislative compliance and to be in accordance with the objectives of national and provincial government.
- ii) *Pro forma* policies as examples should be made available to municipalities by the national and provincial governments and SALGA to increase knowledge and experience in this regard as an attempt to address the capacity constraints at local government level. Municipalities can then adapt the *pro forma* policies to the specific needs of the municipalities. A database of *pro forma* policies should also be published on the websites of the national and provincial governments and that of SALGA. This database could serve as a reference point for municipal councillors, employees and the public alike.
- iii) Assistance to municipalities in the adaption process of policies to ensure legislative compliance can be provided. Continuous monitoring by national and provincial government of the implementation of municipal policies, with reference to section 154 (2) of the *Constitution* is also suggested. The measures entrenched in the *Constitution* to ensure effective local government

therefore needs to be implemented to address service provision and legislative compliance challenges.

iv) The following approaches and actions can be developed and implemented by local government to improve the policy-making process for service excellence:

- Municipalities must develop their human resource capacity in compliance with the *Municipal Systems Act* and the *Skills Development Levies Act*. Municipalities need to conduct thorough skills audits and establish training and development programmes to ensure effective policy-making. These programmes will differ from municipality to municipality depending on the level of the skills shortage.
- Municipalities should identify capacity building, in general, and policy-making capacity building, in particular, as key objectives in their Integrated Development Plans. This will address capacity building actions at individual municipalities at a permanent basis.
- The *Municipal Structures Act* refers to co-operation between municipalities *inter se*. It is stipulated that district municipalities and local municipalities must co-operate with one another through assistance and support. A district municipality can provide financial, technical or administrative support to a local municipality on request and it is recommended that district municipalities provide policy-making support to local municipalities. In this instance district municipalities can formulate policies in terms of extensive research and consultation at the specific local municipality. Draft policies can then be submitted to the local municipal council for consideration.
- When municipalities can afford the establishment of specialised policy-making units, similar to the Policy and Research Unit of the Motheo district municipality, such units have to be established. This approach is in line with the *centralised management* capacity approach referred to in Chapter 5. The purpose of the unit of the Motheo district municipality is to

formulate, maintain and regularly update all the policies of the municipality. The establishment of these units at district municipalities can drastically improve policy-making and the responsibilities of such units can then be expanded to support local municipalities in the formulation of applicable policies. Furthermore, it is recommended that a senior manager with the relevant academic and practical knowledge should be appointed in a policy-making unit. At least three other employees should also be appointed in the unit to identify the policy-making needs of the municipalities in the district. The employees then review municipal policies by monitoring amendments to legislation and liaising with national and provincial government departments, SALGA and all other relevant stakeholders. The unit should be under direct supervision of the Municipal Manager of the specific district municipality to be able to ensure uncomplicated access to all the departments of the municipality and authoritative communication with other municipalities in the district.

- Due to local government capacity constraints the appointment of appropriate and qualified service providers such as consultants can be a short term solution to the problem. To ensure the provision of the best possible policy-making practices it is recommended that the reputation and past performance of the consultants should be scrutinised. This will ensure that only service providers with the relevant knowledge and experience are appointed.

To achieve service excellence municipalities need to comply with specific constitutional obligations. Section 195 of the *Constitution* outlines the democratic principles every sphere of government must adhere to. If municipalities are committed in embracing these principles excellence in local government service rendering can prevail. To enhance sustainable service rendering municipalities need to develop applicable mechanisms to address service delivery standards. These mechanisms can only be accomplished by effective and continuous local government policy-making. The implementation of the recommendations identified above can provide the necessary and appropriate foundation for an

environment where effective policy-making at local government level in South Africa can be achieved.

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ADDENDUM A

QUESTIONNAIRE

NATIONAL AND PROVINCIAL DEPARTMENTS

(Responsible for Local Government Affairs)

POLICY DEVELOPMENT FOR LOCAL GOVERNMENT EXCELLENCE

1. In terms of section 11(3)(a) of the Municipal Systems Act, 2000, a municipality exercises its legislative and executive authority by developing and adopting policies. According to media reports and resolutions of the Provincial Public Accounts Committee of the Free State Province, municipalities, in many instances, are not complying with this provision as policies are not developed adequately or not developed at all. What in your opinion are the determining reasons for the non-development of policies?

.....
.....

2. Municipalities are also obliged, in terms of legislation such as the Municipal Finance Management Act, 2003, the Employment Equity Act, 1998, the Occupational Health and Safety Act, 1993, and other legislation, to develop and adopt policies. These policies are not always adequately developed. Do you think every municipality is familiar with the relevant legislation obligating them to develop and adopt policies?

.....
.....

3. In terms of section 155(7) of the Constitution of the Republic of South Africa, 1996, national government, subject to its constitutional legislative authority, and the provincial governments have the legislative and executive authority to

guide and direct municipalities to execute their functions effectively. What is the nature and extent of the monitoring and support approach of national/provincial government and how does it influence the policy development activities of municipalities in the environment of co-operative governance?

.....
.....

4. With reference to question 3 above, did national and provincial government implement any measures to monitor the effective execution of municipal functions, with specific reference to the development, adoption and implementation of policies?

.....
.....

5. Local government has an entitlement to assistance from national and provincial departments. Does your department provide any assistance to municipalities to ensure that policies are developed, adopted and implemented at local government level? For example, does your department provide guidance on the contents and context of policies and does your department indicate to municipalities that the development, adoption and implementation of specific policies, in your view, would be important for the proper functioning of municipalities?

.....
.....

6. What procedures/methods are followed in your department to assist municipalities in the development of policies?

.....
.....

7. The National and Provincial Treasury provided all municipalities in 2005 with a model policy on Supply Chain Management. Municipalities were requested to develop a supply chain management policy based on the model policy. Did your department ever provide applicable model policies to municipalities to empower them to develop adopt and implement policies?

.....
.....

8. What in your opinion are the factors influencing the development of on municipal policies negatively?

.....
.....

9. Do municipalities, especially the smaller municipalities, possess the necessary capacity to develop, adopt and implement policies? If the answer to this question is “No”, did your department implement measures to address the identified capacity problems?

.....
.....

10. What in your opinion is the expertise required from policy-makers for effective policy development at local government level and do you think that policy-makers on local government level possess the necessary expertise?

.....
.....

11. Identify possible methods and procedures to improve the process of policy development at local government level.

.....
.....

RESPONDENT

QUESTIONNAIRE
SALGA

POLICY DEVELOPMENT FOR LOCAL GOVERNMENT EXCELLENCE

1. In terms of section 11(3)(a) of the Municipal Systems Act, 2000, a municipality exercises its legislative and executive authority by developing and adopting policies. According to media reports and resolutions of the Provincial Public Accounts Committee of the Free State Province, municipalities, in many instances, are not complying with this provision as policies are not developed adequately or not developed at all. What in your opinion are the determining reasons be for the non development of policies?

.....
.....

2. Municipalities are also obliged, in terms of legislation such as the Municipal Finance Management Act, 2003, the Employment Equity Act, 1998, the Occupational Health and Safety Act, 1993, and other legislation, to develop policies. These policies are not adequately developed. Do you think municipalities are familiar with all relevant legislation obligating them to develop policies?

.....
.....

3. According to the SALGA website, SALGA provides assistance to municipalities for policy development. What does the assistance entail?

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.....

4. Did SALGA inform municipalities of their assistance in policy development and how effective is their assistance?

.....
.....

5. With reference to question 3 above, do municipalities frequently utilise SALGA's assistance in the development of policies? If not, identify the most important reasons?

.....
.....

6. The Constitution envisages an important role for organised local government, with a unique focus on developmental service delivery. As such SALGA plays a pivotal role in a variety of areas related to local government transformation. What measures have SALGA implemented to ensure that municipalities develop and implement all the policies they are supposed to adopt in terms of legislation?

.....
.....

7. The National and Provincial Treasury provided all municipalities in 2005 with a model policy on Supply Chain Management. Municipalities were requested to develop a supply chain management policy based on the model policy. Did SALGA ever provide model policies to municipalities in order to empower them to develop and implement policies?

.....
.....

8. What in your opinion are the factors influencing the development of municipal policies negatively?

.....
.....

9. Do municipalities, especially the smaller municipalities, possess the necessary capacity to develop, adopt and implement policies? If the answer to the question is “No”, did SALGA suggest specific actions to address the identified capacity problems?

.....
.....

10. What in your opinion is the expertise required from policy-makers for effective policy development at local government level and do you think that policy-makers on local government level possess the necessary expertise?

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.....

11. Identify possible methods and procedures to improve the process of policy development at local government level.

.....
.....

RESPONDENT

**QUESTIONNAIRE
MUNICIPALITIES**

POLICY DEVELOPMENT FOR LOCAL GOVERNMENT EXCELLENCE

1. In terms of section 11(3)(a) of the Municipal Systems Act, 2000, a municipality exercises its legislative and executive authority by developing and adopting policies. According to media reports and resolutions of the Provincial Public Accounts Committee of the Free State Province, municipalities, in some instances, are not complying with this provision as policies are not developed adequately, or not at all. Do you think that policies are being developed adequately at your municipality? If so explain the reasons why?

.....
.....

2. Municipalities are also obliged, in terms of legislation such as the Municipal Finance Management Act, 2003, the Employment Equity Act, 1998, the Occupational Health and Safety Act, 1993, and many other legislation, to develop policies. These policies are in some instances not adequately developed, or not developed at all. In terms of the above mentioned legislation, which policies did your municipality identify for development and adoption?

.....
.....

3. In terms of section 155(7) of the Constitution of the Republic of South Africa, 1996, national government, subject to its constitutional legislative authority, and the provincial governments have the legislative and executive authority to guide and direct municipalities to execute their functions effectively to see to the effective performance by municipalities of their functions. In what way has

your municipality received support from national/provincial government to ensure the effective execution of your functions?

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4. If your municipality received support from national/provincial government, did national and provincial government implement any measures to ensure that your municipality perform its executive and legislative powers to develop, adopt and implemented policies?

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5. In terms of the Constitution all spheres of government are interdependent and therefore local government has an entitlement to assistance from national and provincial departments. Does your municipality on request receive any assistance from national or provincial government to ensure that policies are developed appropriately?

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.....

6. How does your municipality prioritise the policies which have to be developed?

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.....

7. Is there a specific department or employee in your municipality with the responsibility to initiate the policy development process, of the identified policies?

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.....

8. Do you think there is a need for a centralised structure for policy development at individual municipalities?

.....
.....

9. The National and Provincial Treasury provided all municipalities in 2005 with a model policy on Supply Chain Management. Municipalities were requested to develop a supply chain management policy based on the model policy. Did your municipality utilise the model policy?

.....
.....

10. Do you think there is a need for the national and provincial governments to continue with the approach to make model policies available to municipalities?

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.....

11. According to the SALGA website, SALGA provides assistance to municipalities for policy development. Did your municipality ever utilise this service of SALGA?

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.....

12. Which policies did you request SALGA to assist in and what was the outcome?

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.....

13. To ensure that policies are developed, did your municipality ever outsource this function?

.....
.....

14. What role do service providers, consultants for instance, play in the development of policies at your municipality?

.....
.....

15. What in your opinion are the factors influencing the development on municipal policies negatively?

.....
.....

16. Does your municipality possess the necessary capacity to develop, adopt and implement policies? If the answer to the question is “No”, did your municipality implement measures to address the identified capacity problems?

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.....

17. What in your opinion is required for effective policy development at local government level?

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.....

18. Identify possible methods and procedures to improve the process of policy development at local government level.

.....
.....

RESPONDENT

FREE STATE PROVINCE



To All Municipal Managers

SUPPLY CHAIN MANAGEMENT (SCM) – MFMA no. 56 of 2003

1. Reference is made to the above.
2. Section 111 of the MFMA no. 56 of 2003, makes provision that each municipality and municipal entity must have and implement a supply chain management policy. Attached is a copy of the model policy for SCM to assist municipalities in the compilation of their SCM policy. (See attached Annexure A)
3. Section 114 (1) of the MFMA no. 56 of 2003 makes provision for the Accounting Officer of a municipality and municipal entity to report to Provincial Treasury the reasons for deviation from the supply chain management policy. (See attached Annexure B)
4. The following information must also be submitted to Provincial Treasury on the 10th of each month:
 - Unsolicited bids (Annexure C)
 - Approval of tenders not recommended (Annexure D)
 - Gifts (Annexure E)
 - Free Services (Annexure F)
 - Donations (Annexure G)
 - Sponsorship (Annexure H)
5. It will be appreciated if the first reports can be submitted on the 10th of September 2005. **Please take note that "NIL" returns must also be declared and forwarded to Provincial Treasury.**

Reference:

MFMA 4/0506

Enquiries:

M. Botha

Telephone:

051 – 405 5312

Facsimile:

051 – 405 5063

E-mail:

botham@treasury.fs.gov.za

Fax: 051-448 1758
 Tel: 051-403 3065/66
 E-mail: barlow@treasury.fs.gov.za
 Private Bag X20537, Bloemfontein 9300
 Provincial Government Building, 55 Elizabeth Street, Bloemfontein



6. Attached, also find a form regarding general information (Annexure I) that must be completed and submitted on the following dates each year:
 - 10 October
 - 10 January
 - 10 April
 - 10 July
7. The SITA regulations will be finalized at the end of August and posted on the National Treasury website for your convenience.
8. Your co-operation is highly appreciated.

F.P. Mloi
Acting Chief Executive Officer
23 AUGUST 2005

cc: Chief Financial Officer

