

**POLITICAL REALITY OF LOCAL GOVERNMENT
SERVICE PROVISION IN THE
FREE STATE PROVINCE**

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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 DOCTOR 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.

Signature of Student

Date

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SUMMARY

The *Constitution of the Republic of South Africa*, No. 108 of 1996 (SA, 1996) brought about a new system of government comprised of the national, provincial and local government spheres. In terms of the *Constitution*, these spheres of government must establish effective, transparent and accountable government. Local government is specifically responsible for the provision of democratic and accountable government to local communities, and for ensuring that municipal services are rendered to the community.

As in the case of the national and provincial spheres of government, local government has a distinctive political nature and character. Councillors are elected to represent the voters who participate in municipal elections, as well as the relevant political parties, on municipal councils. The decisions of municipal councils are influenced by political considerations, as well as by the policy directives of the ruling party.

The *Constitution* also establishes and describes the various governmental bodies that exercise the powers of the state. These governmental bodies represent the state and can be classified in terms of three primary groups, namely legislative, executive and legal structures. In a *bona fide* democracy, the doctrine of separation of powers, also known as the *trias politica*, is of fundamental importance in order to prevent autocracy and ensure civil liberty.

The provision of viable municipal services is the most crucial reason for the existence of local government. The community has a legitimate expectation with regard to the provision of appropriate municipal services; and in terms of the *Municipal Systems Act*, No. 32 of 2000 (SA, 2000c) municipalities must supply basic municipal services in order to ensure an acceptable quality of life. However, inadequate levels of municipal service provision are encountered in South Africa in general, and in the Free State in particular. Such inadequate service provision has led to several violent community-protest actions in the country. These protests are an indication that municipal service provision does not meet the expectations of the communities.

Various factors tend to have a negative effect on local government in the Free State, including capacity shortages, such as the lack of professional and experienced staff; financial shortages; and the extensive quantity and complexity of local government legislation. Political challenges that influence local government service provision include factors such as the absence of the political will to provide services, political in-fighting within the ruling party, the selection criteria for the appointment of municipal employees, and political interference in municipal administration. It is also essential that the ruling party should put acceptable mechanisms in place to ensure that the public sector becomes an effective instrument for carrying out the ruling party's mandate, rather than allowing political interference to affect the day-to-day activities of government.

In order to meet the needs of the community with regard to service provision, it is essential that the three spheres of government should function as a coherent unit. Intergovernmental relations therefore play a central role in ensuring that the joint functions of government are effectively carried out. The national and provincial departments have a specific responsibility to support and strengthen local government capacity, and also to ensure the effective execution of municipal functions. However, various intergovernmental challenges need to be dealt with, namely ineffective co-ordination and integration, as well as the absence of the political will to promote intergovernmental relations.

Therefore, the aim of this study is to identify specific actions and strategies that can be implemented by the government in order to address the challenges that have a negative influence on local government service provision, with specific reference to the political challenges.

OPSOMMING

Die *Grondwet van die Republiek van Suid-Afrika*, Nr. 108 of 1996 (SA, 1996) het „n nuwe regeringstelsel bestaande uit die nasionale, provinsiale en plaaslike regeringsfere tot stand gebring. Hierdie regeringsfere moet in terme van die *Grondwet* effektiewe, deursigtige en verantwoordbare regering daarstel. Plaaslike regering is spesifiek verantwoordelik vir die voorsiening van demokratiese en verantwoordbare regering aan plaaslike gemeenskappe en om die voorsiening van munisipale dienste aan die gemeenskap te verseker.

Net soos die nasionale en provinsiale regeringsfere het plaaslike regering „n kenmerkende politieke aard en karakter. Raadslede word verkies om die kiesers en ook die politieke partye, wat aan munisipale verkiesings deelneem, in munisipale rade te verteenwoordig. Die besluite van munisipale rade word deur politieke oorwegings en die beleidsrigting van die regerende party beïnvloed.

Die *Grondwet* vestig en beskryf ook die verskeie regeringsliggame wat staatsmagte uitoefen. Hierdie regeringsliggame verteenwoordig die staat en kan in drie primêre groepe, naamlik wetgewende, uitvoerende en regterlike strukture geklassifiseer word. In „n *bona fide* demokrasie is die driedelingsleer, ook bekend as die *trias politica*, van wesenlike belang ten einde outokrasie te voorkom en om burgervryheid te verseker.

Die voorsiening van lewensvatbare munisipale dienste is die noodsaaklikste rede vir plaaslike regering se bestaan. Die gemeenskap het „n regmatige verwagting vir die voorsiening van geskikte munisipale dienste en in terme van die *Wet op Munisipale Stelsels*, Nr. 32 of 2000 (SA, 2000c) moet munisipaliteite basiese munisipale dienste voorsien om „n aanvaarbare lewensgehalte te verseker. Onvoldoende vlakke van munisipale dienslewering word egter in Suid-Afrika in die algemeen en die Vrystaat in die besonder aangetref. Hierdie onvoldoende dienslewering het tot verskeie geweldadige gemeenskapsprotesoptogte in die land aanleiding gegee wat „n aanduiding is dat munisipale dienslewering nie aan die gemeenskapsverwagtinge voldoen nie.

Verkeie faktore het „n negatiewe uitwerking op plaaslike regering in die Vrystaat, naamlik kapasiteitstekortkominge soos kundige personeel, finansiële tekortkominge en die groot hoeveelheid en kompleksiteit van plaaslike regeringswetgewing. Politieke uitdagings wat plaaslike regeringsdienslewering beïnvloed sluit faktore in soos die afwesigheid van die politieke wil om dienste te voorsien, politieke binnegevegte in die regerende party, die keuringskriteria vir die aanstelling van munisipale werknemers en die politieke inmenging in munisipale administrasie. Dit is ook noodsaaklik vir die regerende party om aanvaarbare meganismes daar te stel om te verseker dat die openbare sektor „n effektiewe instrument vir die uitvoering van die regerende party se mandaat word, eerder as wat daar met die daaglikse regeringswerkzaamhede ingemeng word.

Ten einde aan die diensleweringbehoefte van die gemeenskap te voldoen is dit noodsaaklik dat die drie regeringsfere as „n samehangende eenheid funksioneer. Interowerheidsverhoudinge is daarom die kern om te verseker dat die gesamentlike regeringsfunksies effektief uitgevoer word. Die nasionale en provinsiale departemente het „n spesifieke verantwoordelikheid om plaaslike regeringskapasiteit te ondersteun en te versterk en ook om die effektiewe uitvoering van munisipale funksies te verseker. Verskeie interowerheidsuitdagings is egter aanwesig, naamlik oneffektiewe koördinering en integrering en die afwesigheid van die politieke wil om interowerheidsverhoudinge te bevorder.

Die doel van hierdie studie is daarom om spesifieke aksies en strategieë te identifiseer wat die regering kan implementeer om die uitdagings wat plaaslike regeringsdienslewering negatief beïnvloed, met spesifieke verwysing na die politieke uitdagings, aan te spreek.

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POLITICAL REALITY OF LOCAL GOVERNMENT SERVICE PROVISION IN THE FREE STATE PROVINCE

CHAPTER 1

INTRODUCTION AND ORGANISATION OF RESEARCH

1.1 INTRODUCTION

The *White Paper on Local Government* (SA, 1998g) provided a long-term vision for the transformation of local government and set out a blueprint for a local government system. The local government elections of 2000 functionally established a new government sphere with the objective being to create a democratic local government structure geared at improving the quality of life of all South Africans. The eradication of poverty and inequality and the restoration of the dignity and safety of citizens are at the core of this objective (Department of Provincial and Local Government, 2004b:3).

Elcock (1994:115) stated that local government came into existence in the middle ages, subsequently developing in various forms in order to provide certain services to citizens. Gildenhuis and Knipe (2000:90) explained that the ultimate objective of government is to improve the quality of life of every citizen, which demands an environment that provides equal opportunities for all individuals to develop, maintain and enjoy life without threats and constraints from outside their personal and private environment. Gildenhuis and Knipe (2000:90) also pointed out that good governance can be defined as the attainment by government of its ultimate goal.

The legislative framework initiated by the *White Paper* aims at creating a basis for viable local government in South Africa, making individual municipalities responsible for ensuring appropriate service provision to meet the developmental needs of their communities.

The *Constitution of the Republic of South Africa*, No. 108 of 1996 (SA, 1996) established a new governmental structure constituted into three spheres, namely the national, provincial and local spheres of government. These spheres of government are distinctive, interdependent and interrelated in terms of section 40(1) of the *Constitution*. Bekink (2006:16) pointed out that local government within the new constitutional order has been afforded specific status and is protected as a distinctive sphere of government. Local government operates “closest” to the community of a specific area and is responsible for a wide variety of services that have a material effect on the lives of all people residing in its jurisdiction.

In a Constitutional Court judgement (JOASA, 2007) on the certification of the *Constitution*, the Court remarked that what the new text of the *Constitution* sought to realise was “a structure for local government that, on the one hand, reveals a concern for the autonomy and integrity of local government and prescribes a hands-off relationship between local government and other levels of government and, on the other, acknowledges the requirement that higher levels of government monitor local government functioning and intervene where such functioning is deficient or defective in a manner that compromises this autonomy”.

According to Bekink (2006:63) the characteristics of local government are threefold:

- Local government is an identifiable juristic entity established within a specific area of jurisdiction by the community of that area.
- Local government provides a forum for local community participation in the matters of government and specifically on the local level.
- Local government is a local political institution empowered with executive and legislative powers and functions.

Bekink (2006:157) went on to write that one of the main ideals of the new local government dispensation is to create and ensure democratic elections within all local government areas of jurisdiction and to achieve representative and accountable local government. Councillors are elected by voters registered on the specific municipality's segment of the national common voters' roll to represent the voters in the respective wards directly in that municipality, and to represent the political parties that contested the election in that municipality proportionally. Local government thus has a distinctive political nature and character.

In *Fedsure Life Assurance vs. Greater JHB TMC* 1999 (1) SA 374 (CC) the Constitutional Court held that municipal councils are deliberative legislative bodies whose members are elected, and the legislative decisions taken by these councils are influenced by political considerations for which they are politically accountable to the electorate (Bekink, 2006:231).

Municipalities are governmental institutions with political office-bearers elected by the electorate. The governmental functions demand a great deal from the political office-bearers. Effective, economical and efficient performance of the political executive functions requires that the functionaries responsible must be able to meet specific requirements. If these requirements are not met, the general welfare of the population will be unsatisfactory and there will be misgovernment (Cloete, 1998:69).

Guided by the constitutional principle of co-operative government, the national, provincial and local governments must work together to achieve their often-overlapping goals. Key for local government is the provision of basic services, such as water and housing, enshrined in the Bill of Rights and common policies and programmes, with service provision needing to be co-ordinated between the different spheres of government. The principles of co-operative government as put forward by the *Constitution* places a strong emphasis on the necessity of all

spheres of government so as to ensure a sound and positive relationship amongst these spheres. This relationship is particularly influenced and controlled by the principles of the system of intergovernmental relations (Bekink, 2006:8).

Cloete (1998:57) explains that the word “government” refers to the individuals who have been appointed or elected to see to it that the laws passed by a legislature are implemented. In terms of chapter 7 of the *Constitution*, the legislative and executive authority of a municipality is vested in the municipal council. Cloete (1998:58) also explains that the principal function of a governmental institution, such as a municipal council, or a functionary of such institution, is policy-making. He defines policy-making as “the performance of a series of activities for obtaining an authoritative statement of one or more objectives to be reached by the government of the specific institution or functionary”. According to Thornhill and Hanekom (1995:55-56) public policies are usually made as a result of party-political considerations. Public institutions also have to achieve political aims, and for this reason each government department is under the command of a political office-bearer (Botes, Brynard, Fourie & Roux, 1992:193).

According to Sadie (2006:202) no democracy can function without political parties. The political reality is therefore identified as an instrument that has a considerable influence on local government service provision. The presence of political activities and the behaviour and actions of political role players are so significant in local government that a proper analysis of the local government political reality in the Free State Province needs to be conducted. The roles of the political actors in local government also need to be clarified (Sadie, 2006:203).

1.2 PROBLEM STATEMENT

Bekink (2006:42) pointed out that there are various challenges facing local government, including the rising demands on and expectations of service provision by local residents, coupled with inadequate financial management capabilities and poor staff-training programmes. There are numerous examples of service-provision protests, with police being called on to ensure the safety of residents and property – sometimes by firing rubber bullets on protesting residents (News24, 2011).

Another factor complicating local government service provision is political processes and influences. Pieterse and Van Donk (2008:70) pointed out that debates in municipal council meetings are conducted along party-political lines, and political party caucuses function heavily along “internal factional lines”. It appears, however, that political party infighting has had a seriously negative effect on municipal service provision at the Mangaung, Mantsopa and Naledi local municipalities (Kok, 2008a:1). At these municipalities, executive mayors, speakers and municipal managers have been removed and in some cases reinstated as a result of what appears to be political factionalism. A number of opposition political parties have argued that this state of affairs has had a seriously negative influence on municipal service provision (Gericke, 2008b:3).

1.3 MAIN OBJECTIVE / SECONDARY OBJECTIVES / EXPECTED OUTCOME

The main objective of this study is to assess the nature, extent and influence of the political reality on local government service provision in the Free State Province. The research emphasises specific factors in terms of the political environment that have a direct influence on local government service provision, stipulating relevant suggestions to improve service provision. The research also recognises the need for a balanced relationship between the local government

office-bearers and the political parties to ensure effective municipal service provision. The impact of the current political environment at the Mangaung, Mantsopa and Naledi local municipalities, and the effect of the alleged individual political struggles at these municipalities on municipal service provision, is also identified. In addition, the research was informed by the following complementary objectives:

- To identify the specific responsibilities of the three spheres of government in terms of the *Constitution* and other applicable legislation, including their roles within the context of co-operative government. In terms of section 40 of the *Constitution*, the three spheres of government are distinctive, interdependent and interrelated. It is therefore important that provinces take note of these principles when monitoring and supporting local government.
- To identify the roles of the Free State Department of Co-operative Governance, Traditional Affairs and Human Settlements and the Free State Legislature in enhancing local government service provision, with specific reference to decisions taken by the Free State Legislature's Provincial Public Accounts Committee.
- To establish the impact of the Free State Provincial Governments' regulatory authority on the executive authority of municipalities and thus the way in which it influences service provision in particular. In terms of section 155(7) of the *Constitution*, provincial governments have the legislative and executive authority to ensure that municipalities perform their functions.
- To establish whether a climate conducive to local government service delivery exists and to identify the challenges experienced by local government in providing municipal services.
- To identify and analyse local government challenges in implementing the plethora of local government legislation.
- To determine the extent of the political will – at provincial and local government level – to address the local government service provision challenges.

■ To analyse the need and necessity for the establishment of an independent provincial governance commission that can monitor and facilitate local government compliance with applicable legislation in an environment of internal political and administrative challenges.

1.4 METHODOLOGY

The qualitative research method is the most suitable for this research because the study is being conducted in a specific setting bound by the theme of the enquiry. The reason is that the researcher relied on interviews and the respondents' personal experiences that can be generalised to the larger population. The environment of the research field has therefore similar determinants with reference to local government service provision in the Free State in general.

In this regard, Denzin and Lincoln (2000:3) confirmed that qualitative research "...involves the studied use and collection of a variety of empirical materials" such as case studies, interviews, personal experiences and visual text that "...describe routine and problematic moments and meanings in individuals' lives". Denzin and Lincoln (2000:8) also stated that the word *qualitative* implies "...emphasis on the qualities of entities and on processes and meanings that are not experimentally examined or measured in terms of quantity, amount, intensity or frequency". Quantitative studies, on the other hand, accentuate the measurement and analysis of relationships between variables.

A further justification for this methodology is the fact that the emphasis falls on applicable processes and meanings in this specific research area. Experimental examination or measurement in terms of quantity, amount, intensity or frequency as such is therefore not under specific consideration, hence the utilisation of qualitative research determined by the nature and extent of the research problem, goal and objectives (Denzin & Lincoln, 2000:8).

The study was conducted at the Free State Provincial Government and identified municipalities. Research participants were selected from amongst political office-bearers and employees and yielded the relevant data to determine the sense of political leadership in general and its affect on local government service provision. This research method provided a particular insider perspective of people's experiences of local government and assists in gaining an appreciation of the respondents' views. This information formed the foundation for recommendations on how to enhance local government service provision in a balanced political environment.

A detailed literature study, mainly descriptive, served as the primary source of data collection in the local government milieu with the emphasis on the local government political environment. The research focuses on the political reality of local government service provision and particularly the impact of the political influences on service provision. The nature and impact of the Free State Provincial Government's constitutional responsibility to assist municipalities in improving municipal services are expanded on, and the challenges experienced by local government are also emphasised. 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 identified important participants contributes to the reliability and scientific quality of the research outcomes. The collection of data in this instance was based on in-depth, semi-structured interviews conducted with political office-bearers and employees of the Free State Provincial Government, as well as the municipal councillors and senior officials of the identified municipalities. The interviews took the form of two-way conversations with the researcher asking the formulated questions to collect the required data on, amongst other aspects, the ideas, beliefs, views and opinions of the role players. With the consent of the interviewees, the interviews were taped and transcribed accordingly.

The scope of the research includes politicians and senior employees of the Mangaung, Mantsopa and Naledi local municipalities. The intention was to investigate the political reality of local government service provision and the role of the provincial government in enhancing these services within these municipal areas.

In terms of the nature and extent of the research, these identified municipalities provide the most appropriate information for the study that can be generalised in terms of the Free State local government sphere. The research findings depicted the general circumstances in the Free State with reference to the political reality of municipal service provision. The dynamics of the roles of specific provincial and municipal office-bearers in ensuring sustainable local government service provision, determined the selection of participants. Elected councillors and senior managers from the Motheo district municipality and the Mangaung, Mantsopa and Naledi local municipalities were interviewed and the following participants were identified:

- Mayor – Mantsopa local municipality
- Speaker – Motheo district municipality
- Speaker – Naledi local municipality
- Members of the Mayoral Committee – Motheo district municipality and Mangaung local municipality
- Municipal councillors – Motheo district municipality and Mangaung, Mantsopa and Naledi local municipalities
- Municipal Managers – Motheo district municipality and Naledi local municipality
- Departmental heads of the Motheo district municipality and Mangaung, Mantsopa and Naledi local municipalities
- Senior managers of the Motheo district municipality and Mangaung, Mantsopa and Naledi local municipalities

In order to determine the level of support municipalities receive in ensuring effective local government service provision, the following senior role players in the Free State Provincial Government and the provincial Department of Co-operative Governance, Traditional Affairs and Human Settlements were identified:

- Members of the Executive Council (MECs)
- Head of Department: Co-operative Governance, Traditional Affairs and Human Settlements
- Acting Director: Municipal Policy Development and Advice

To determine the extent of the decisions of the Free State Legislature in enhancing local government service provision, the following participants were identified:

- Chairperson: Public Accounts Committee
- Members of the Provincial Legislature representing the opposition political parties

1.5 LIMITATIONS OF THE STUDY

There were a number of limitations to the methods used in this study. Firstly, the study focused on eliciting the views of political office-bearers and officials within the provincial and local government environments and did not investigate the opinions of the general public. This was done so as to develop an in-depth understanding of the extent of co-operation between the provincial and local spheres of government in the Free State Province, as perceived by the applicable officials.

Secondly, this study evaluated the political reality of local government service provision and co-operative government and intergovernmental relations in the Free State Province by utilising the Motheo district municipality and Mangaung, Mantsopa and Naledi local municipalities for purposes of the research. Although

the study was restricted to specific local government role players in the Free State, the generalisation of information is justifiable because of the generic nature and extent of the subject and the similar circumstances of municipalities in the region. The reason for this approach was to contextualise the general principles of municipal service provision and to research the extent to which these principles have been implemented in a specific municipal area. With this in mind, the ultimate aim was to evaluate a conducive local government political climate as one of the most critical actions to support excellence in local government. These four municipalities were specifically chosen for the research because the Motheo district municipality is suitably resourced, the Mangaung local municipality is regarded as the best-capacitated municipality in the province, while the Mantsopa and Naledi local municipalities are considered to be less capacitated. The Mantsopa municipality received the Vuna award for the best local municipality in South Africa in 2004, but experienced noticeable political challenges in 2007 and 2008, which had a serious impact on service provision.

1.6 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 constitutional obligation to ensure effective local government service provision and the identification of the unsuccessful execution of this obligation are the focus of this section. The reality of political factors that have an affect on local government service provision and the urgent need for appropriate actions to improve service provision explain the research topic in this chapter.

Chapter 2 – Context of the role of government spheres in ensuring effective service provision in a political environment

This chapter focuses on the theoretical foundation, concentrating on local government service provision, with the emphasis on the constitutional and legislative responsibilities of the three spheres of government. The features, characteristics and distinctiveness of local government in South Africa are expanded on, and the principles and values essential for local government are identified. The roles of provincial and local government within the context of co-operative government are also explained. The principle of separation of powers, with specific reference to the *trias politica* – which requires that governmental powers be divided into three categories – is also elaborated upon.

Chapter 3 – Challenges facing local government

This chapter aims to assess the reasons for ineffective service delivery and focuses on the challenges local government experience in meeting its core responsibility, namely the provision of municipal services. The research project also identifies and analyses local government challenges in implementing the plethora of local government legislation.

Chapter 4 – Local politics and effective service provision

Chapter 4 expands on the question of whether a political climate conducive to local government service delivery exists. This section provides a historical overview of the governing political party in the Free State Province. Specific policies of the governing political party that are alleged to have a negative impact on effective local government service provision are identified and analysed. The alleged individual political struggles in the Motheo district municipality and the Mangaung, Mantsopa and Naledi local municipalities are also expanded on as a possible reason for the ineffective service provision.

Chapter 5 – Intergovernmental relations in municipal service provision in the Free State Province

Chapter 5 provides an overview of the establishment and objectives of co-operative government in South Africa. Intergovernmental relations may occur through different channels, and these channels are identified and elaborated upon in this chapter. This section focuses on the measures that the Free State Provincial Legislature's Public Accounts Committee (PROPAC) and the Department of Co-operative Governance, Traditional Affairs and Human Settlements have put in place to promote and ensure effective local government service provision. Specific reference is made to the decisions taken by PROPAC and the extent of the support that the Department of Co-operative Governance, Traditional Affairs and Human Settlements provides to municipalities. The meaningfulness of the proposed establishment of an independent provincial governance commission to monitor local government's compliance with legislation, to facilitate and address so-called internal political and administrative challenges by making the relevant recommendations, is also evaluated.

Chapter 6 – Conclusion and recommendations

This chapter summarises the specific factors that have a direct influence on the effort to ensure effective local government service provision, with specific reference to the political realities in the Free State Province. The chapter stipulates relevant suggestions to improve and promote local government service provision excellence in the Free State Province. Key interventions that could be applied by provincial and local government to prevent the deconstructive influences on local government service provision are also recommended. The chapter further reflects on the need for and necessity of the establishment of an independent provincial governance commission that can monitor and facilitate local government compliance with applicable legislation in an environment of internal political and administrative challenges.

CHAPTER 2

CONTEXT OF THE ROLE OF GOVERNMENT SPHERES IN ENSURING EFFECTIVE SERVICE PROVISION IN A POLITICAL ENVIRONMENT

2.1 INTRODUCTION

The *Constitution* is in practice the major yardstick for all government actions in South Africa. The importance of the *Constitution* against this reality is emphasised in section 2 of the *Constitution*, which recognises the *Constitution* as the highest law and that all laws, actions and institutions exercising government power are subject to the *Constitution*. In *Executive Council of the Western Cape Legislature vs. President of the Republic of South Africa* 1995 4 SA 877 (CC) the court declared that it is of fundamental importance to establish respect for the principle that the *Constitution* is supreme (Malherbe, 2006:64). The *Constitution* creates and explains the various government bodies that operate and exercise the state powers. It also allocates state powers to the relevant government bodies and determines how these powers should be exercised. The *Constitution* also protects individual rights and freedoms, and guards against excessive and abusive state powers (Bekink, 2006:3).

Cloete (1998:7) explained that public institutions represent the state and that these institutions have been classified into three primary groups, namely legislative, executive and judicial structures. In South Africa the government has also been divided into three spheres, that is the national, provincial and local spheres of government. To bring the South African government dispensation into context, this chapter briefly describes the functions, powers and responsibilities of the public institutions resorting under the different spheres of government.

Government has a constitutional obligation to ensure effective service delivery. In this regard, Gildenhuys and Knipe (2000:91) stated that governance will be of high quality when government achieves its eventual goal of creating a good

quality of life for all citizens. Effective service provision at the most favourable cost is the basic principle of government in a true democracy. To be effective in service provision, however, government needs to be committed to achieving the constitutional demands.

The exercising of the powers and therefore the performing of the functions of each of the three spheres of government must be done in a manner that does not infringe on the geographical, functional or institutional integrity of government in another sphere (Zybrands, 2006:133). It is also essential that there is a separation of powers between the legislative, executive and judiciary, with appropriate monitoring measures to ensure accountability, responsiveness and openness (Venter & Mtimkulu, 2006:47). The exercising of powers by the three spheres of government – and the separation of powers between the different government institutions – is therefore analysed in this chapter.

Gildenhuys and Knipe (2000:44) emphasised that in order to ensure a good quality of life for all citizens, adequate indispensable public services and facilities of high quality should be provided efficiently and effectively by government. Emphasis should be placed on positive relationships between the different spheres of government, as well as clearly demarcated levels of responsibilities.

It is therefore most important in a proper democracy to recognise and respect the different roles and work environments of political office-bearers and public servants and to acknowledge the fact that each group has a demarcated field of work with appreciable responsibilities. There are limits and boundaries in a democracy where the authority and responsibility of political office-bearers ends and where that of public servants begins.

2.2 CONSTITUTIONAL CONTEXT OF GOVERNMENT SPHERES IN SOUTH AFRICA

It is the fundamental goal of any democratic government to create a good quality of life for every citizen. According to Gildenhuis and Knipe (2000:90) governments must identify specific objectives, concrete targets, services and strategies through which they can realise this definitive goal. Gildenhuis and Knipe (2000:90-91) also stated that the development of a good quality of life for all citizens will only be possible where adequate essential public services and amenities, of the best possible quality and quantity, are efficiently and effectively provided in a sustainable and reliable manner.

The *Constitution* is an essential instrument used to identify the specific responsibilities of government. In this regard Bekink (2006:1) argued that there is a general constitutional obligation that all requirements and duties identified in the *Constitution* must be fulfilled. The *Constitution* rests on the foundations firmly dug by the will of the people of South Africa, expressed and formulated by their representatives through a negotiated settlement (Meyer, 1998:4).

Section 2 of the *Constitution* states that the *Constitution* is the supreme law of the Republic of South Africa and that law or conduct inconsistent with it is invalid. Gildenhuis and Knipe (2000:92) pointed out that a constitution is a “body of fundamental rules” according to which a specific government operates and that constitutional rules establish and regulate the basic framework of government. These constitutional rules prescribe the matters for which government is responsible, the specific government institutions entrusted with specific responsibilities, and the procedures to be followed by government institutions.

In terms of its basic framework, the government of the Republic of South Africa has been constituted into three spheres, namely the national, provincial and local spheres, which are distinctive, interdependent and interrelated (Bekink, 2006:1).

Meyer (1998:6) explained that the word “sphere” not only emphasises the new relationship of government co-operation as stipulated in the *Constitution*, but introduces a new constitutional era of intergovernmental relationships and systems of control applicable to each sphere of government.

All democracies and most established states have constitutions that illustrate the general principles for ruling the people of a specific country. The constitution determines the authority and functions of government and organises the common affairs of a country. It also determines the common affairs and how these should be managed by government. These common affairs are manifested in the general goals, objectives and functions of government (Gildenhuys & Knipe, 2000:90). Against this backdrop, the constitutional context of the three spheres of the South African government is analysed in the subsequent sections of this chapter.

2.2.1 National sphere of government

The functions performed by public institutions can be divided into three categories, namely legislative, executive and judicial (Cloete, 1998:8). To execute these functions, the under-mentioned institutions have been created:

2.2.1.1 Legislative institutions

Parliament

In terms of section 42(1) of the *Constitution*, Parliament consists of the National Assembly and the National Council of Provinces. Section 46 of the *Constitution* stipulates that the National Assembly consists of no fewer than 350 and no more than 400 women and men elected on the basis of a national common voters’ roll with a system of proportional representation. The National Council of Provinces is composed of ten delegates from each of the nine provinces in South Africa. In

terms of section 60(2) of the *Constitution*, the ten delegates are four special delegates consisting of the premier of the province and three other delegates. The other six delegates are appointed in accordance with the principle of proportional representation by the political parties in the provincial legislature. The National Assembly and the National Council of Provinces function separately or jointly in accordance with their own rules and orders, and the functions of Parliament are as follows (Cloete, 1998:12):

Functions of Parliament

The legislative authority of the national sphere of government is vested in Parliament (section 43 of the *Constitution*). In terms of section 44 of the *Constitution*, the national legislative authority as vested in Parliament confers on the National Assembly the power to amend the *Constitution*. The National Assembly may further pass legislation with regard to any matter, including a matter within a functional area listed in schedule 4 of the *Constitution*, and with particular exclusions a matter within a functional area listed in schedule 5 of the *Constitution*. Any of its legislative powers, except the power to amend the *Constitution*, may also be assigned to any legislative body in another sphere of government.

The National Council of Provinces has the power, in terms of section 44 of the *Constitution*, to participate in amending the *Constitution*. It may pass legislation with regard to any matter within a functional area listed in schedule 4 of the *Constitution* and any other matter required by the *Constitution* to be passed. Furthermore, the National Council of Provinces has the power to consider any other legislation passed by the National Assembly.

Parliament may also intervene by passing legislation with regard to a matter falling within a functional area listed in schedule 5 of the *Constitution* when it is necessary to maintain national security, to maintain economic unity, to maintain

essential national standards, to establish minimum standards required for the rendering of services, or to prevent a province taking unreasonable action that is prejudicial to the interests of another province or to the country as a whole.

When exercising its legislative authority, Parliament is bound only by the *Constitution* and must act in accordance with, and within the limits of, the *Constitution* (section 44(4) of the *Constitution*).

The most important function of Parliament is therefore to make laws for the Republic of South Africa. Other functions include holding the executive accountable, fulfilling judicial functions with regard to its own activities, and considering petitions from members of the public (Taljaard & Venter, 2006:19). Taljaard and Venter (2006:37) also pointed out that no state power can be exercised without the enabling legislation of Parliament, and that there can be no democracy if there is no functioning Parliament. An operational Parliament is therefore required for any democracy, including the South African democratic system.

2.2.1.2 Executive institutions

The executive institutions in all spheres of government can be divided into the political executive institutions consisting of the political office-bearers, and the administrative executive institutions consisting of public servants (Cloete, 1998:18). The roles and responsibilities of the different functionaries are clearly identified in the *Constitution* and other applicable legislation. Interference or intervention on the terrain of other government institutions and functionaries may therefore only occur in accordance with the *Constitution* and relevant legislation. The nature and extent of these two executive institutions include the following aspects:

Political-executive institutions

Political executive institutions are governmental institutions headed by political functionaries. The governmental functions performed by these institutions and functionaries are regarded as political functions, which consist primarily of the incorporation of political and administrative considerations to ensure effective government and public administration and to promote the wellbeing of the public (Cloete, 1998:22). The political executive institutions and functionaries in the national sphere of government include the following:

President

The formal structure of the executive as identified in the *Constitution* is hierarchical and is comprised of the president, deputy president, Cabinet ministers, and deputy ministers (Venter & Mtimkulu, 2006:47). Section 85(1) of the *Constitution* stipulates that the executive authority of the Republic of South Africa is vested in the president. The president exercises the executive authority, together with the members of Cabinet, by implementing national legislation, except where the *Constitution* or an Act of Parliament provides otherwise. The executive authority is also involved in developing and implementing national policy, co-ordinating the functions of state departments and administrations, preparing and initiating legislation, and performing any other executive function provided for in the *Constitution* or in national legislation.

As head of state and head of the national executive, the president has statutory powers to assent to, sign and promulgate bills passed by Parliament and to refer bills back to Parliament in the event of reservations about the constitutionality of a bill. The president also confers honours, convenes meetings of Cabinet, appoints commissions of inquiry, and appoints and accredits diplomatic personnel (Venter & Mtimkulu, 2006:42). Furthermore, the president appoints the deputy president, ministers, deputy ministers, judges of the South African courts

(section 174 of the *Constitution*), the public protector, the auditor-general, and members of the Human Rights Commission, the Commission for Gender Equality, and the Electoral Commission (section 193 of the *Constitution*).

As head of the National Executive, the president plays a decisive role in the government and administration of South Africa (Cloete, 1998:19) and is bound to act in a manner that is responsible and accountable. As head of a country that observes democratic principles and where constitutional supremacy applies, it is essential that the president's duties are executed in accordance with the constitutional framework.

Deputy President, Ministers and Deputy Ministers

In terms of section 91 of the *Constitution*, the president appoints the deputy president from amongst the members of the National Assembly, with the incumbent being required to assist the president in the execution of his or her duties. According to Venter and Mtimkulu (2006:44) the deputy president is a Cabinet member just like any other and collectively shares in Cabinet's responsibilities to Parliament. The deputy president also serves as acting president when the incumbent is absent or unable to fulfil the required duties, or at times of a vacancy in the office of president.

Section 91 of the *Constitution* states that the president may select any number of ministers from among the members of the National Assembly, but may not select more than two ministers from outside the Assembly. Cloete (1998:20) explained that the president assigns powers and functions to the ministers and that normally every minister will be a political functionary of one or more state departments. There may be ministers without portfolio in Cabinet who will be required to deal with specific matters of national concern. The Minister entrusted with the responsibility of local government is the Minister for Co-operative Governance and Traditional Affairs. Cloete and Thornhill (2005:38) pointed out

that other state departments could also be involved in matters of concern to municipalities, namely the state departments responsible for environmental affairs, finance, health, water, and human settlements.

Section 93 of the *Constitution* also stipulates that the president may appoint any number of deputy ministers from amongst the members of the National Assembly, but that no more than two deputy ministers may come from outside the Assembly. Since no specific provision is made in the *Constitution* for the powers and functions of deputy ministers, the responsibilities of the deputy ministers will be determined by the roles devised for them by the ministers to whom they are assigned (Cloete, 1998:20).

Executive institutions execute the policy that has been adopted by the legislative institutions and which is embodied in the legislation that serves as the framework for implementing policy (Du Toit, Knipe, Van Niekerk, Van der Waldt & Doyle, 2002:74). In this regard, the political executive institutions in the national sphere of government execute the policy adopted by Parliament. It should be the objective of this political executive to construct an environment where the needs, wishes and expectations of the community are supported to the greatest degree with the available resources. The constitutional controls that have been placed on the powers of the executive institutions and political incumbents are imperative in ensuring political and executive accountability in a democracy.

Administrative-executive institutions

It is impossible for the national executive institutions to implement government policies without the required administrative support. Administrative-executive institutions in the national sphere of government are expected to implement policies to ensure that government goals are achieved. The relationship between the political-executive and administrative-executive institutions in the development of policies is significant, as it determines the quality and nature of

the services provided by government. Public servants in particular have a duty to serve the government of the day and, in so doing, execute the will of the people. The following categories of administrative-executive institutions have been established in South Africa on the level of the national sphere of government:

Control institutions

The *Constitution* provides for a number of control measures and institutions which, according to Cloete (1998:23), will bind and supervise the activities of the administrative-executive institutions. These institutions include the Public Protector, the Human Rights Commission, the Auditor-General, and the Public Service Commission. Cloete (1998:25) explained that the control institutions will always be subject to the control and supervisory functions of the legislative institutions and the political-executive office-bearers. The supervision and control of these institutions is not meant to be purely in response to transgressions, but should also set and implement acceptable standards of conduct and performance.

Control institutions monitor and oversee the actions of the legislative, political-executive and administrative-executive institutions. The auditor-general, for example, would not only audit the financial statements of Parliament and scrutinise the compliance with legislative provision in ensuring acceptable financial management, but would also supervise and report on the actions of the public institutions in all three spheres of government.

Control institutions perform an essential role in monitoring and evaluating the operations of political-executive and administrative-executive institutions. This monitoring and evaluation function is not limited to the political-executive and administrative-executive institutions in the national sphere of government, but rather applies to all three spheres of government.

State departments

Administrative infrastructure – such as state departments – is required to implement the policies of government and to ensure precision in service provision to the public. Cloete and Thornhill (2005:23) indicated that there are usually about 30 state departments in South Africa. Currently there are 37 national departments in South Africa (SA, 2009).

State departments prepare bills and estimates of expenditure for approval by the Cabinet and the ministers for submission to Parliament. The state departments also perform activities such as the implementation of government policies as authorised by the specific acts of Parliament and the estimates approved by Parliament (Du Toit *et al.* 2002:76).

The state departments are the traditional administrative-executive institutions in the national sphere of government that provide factual information and advice for the Cabinet and ministers to allow them to take policy decisions. The entire government, which includes the public-administrative machinery, is in the service of the public. The welfare of the public should therefore be the dominant consideration when any service is provided to the community.

State corporations

State corporations are significant executive institutions administered by national legislation. These corporations differ from state departments in that a corporation does not function under the direct supervision of a minister and is headed by a board of directors (Cloete, 1998:28).

The financial management of a state corporation is also not subject to the direct supervision of the Department of Finance, and the personnel relationships of the corporations are not controlled by the Department of Public Service and

Administration or the Public Service Commission. Furthermore, state corporations may appoint their own auditors (Cloete, 1998:28).

The South African Reserve Bank, the Electricity Supply Commission, the South African Broadcasting Corporation and the Atomic Energy Corporation of South Africa are all examples of state corporations. In terms of government's current privatisation approach, the railways and postal services have been assigned to a number of public companies with the state as the only shareholder (Cloete, 1998:28).

Although the supervision measures applicable to state departments, such as compliance with the *Public Service Act*, No. 103 of 1994 (SA, 1994) and direct supervision of the Department of Finance, do not apply to state corporations, these corporations have essential indispensable responsibilities as administrative-executive institutions in the national sphere of government.

Research institutions

South Africa is well known for the high-quality research being conducted by the research institutions established by government. Research institutions are administrative-executive institutions that have been established by acts of Parliament.

These institutions are largely financed by public funds and administered by boards of directors appointed by the president. They are also audited by the auditor-general and are required to submit reports to Parliament on their activities (Cloete & Thornhill, 2005:23).

The Council for Scientific and Industrial Research (CSIR), the Human Sciences Research Council (HSRC), the Agricultural Research Council (ARC) and the

Water Research Commission (WRC) are examples of the research institutions that have been established by the national sphere of government.

Universities and universities of technology

Universities and universities of technology are administrative-executive institutions established in terms of legislation passed by Parliament. These institutions have been assigned specific responsibilities to be executed within the prescribed and demarcated authority determined in the relevant legislation.

Universities and universities of technology receive the majority of their income from the state and are allowed to manage their affairs, but they must observe the education policies prescribed by government in terms of the applicable legislation (Cloete, 1998:30).

Miscellaneous control boards and regulatory councils

There are a number of miscellaneous control boards and regulatory councils that serve as administrative-executive institutions appointed by government and administered by national legislation. These institutions include the Competition Board, the Independent Broadcasting Authority, the International Air Services Council, and the South African Council for Space Affairs.

Specific roles and responsibilities have been assigned to these boards and councils in terms of the relevant legislation. Their functions are to exercise control over matters that may be regarded as linked to the welfare of the community. Trading or production activities could, for example, damage the general welfare if not supervised, and it is the responsibility of these control and regulatory institutions to ensure such supervision (Cloete, 1998:30).

2.2.1.3 The Judiciary

In a democracy, the judiciary is required to promote democratic values and to test all actions of the other organs of state. The principle of constitutional supremacy has ensured the independence of the judiciary in the South African democratic political system and has emphasised the separation of powers between the legislative, executive and judicial institutions (Malherbe, 2006:64).

Section 165 of the *Constitution* stipulates that the judicial authority of the Republic of South Africa is vested in the courts and that the courts are independent and subject only to the *Constitution* and the law, which they must apply impartially and without fear, favour or prejudice. The *Constitution* further stipulates that no person or organ of the state may interfere with the functioning of the courts. Organs of state must also assist and protect the courts so as to ensure their independence, impartiality, dignity, accessibility and effectiveness. The orders and decisions issued by the courts are binding on all persons and organs of state to which they apply.

Du Plessis (1990) in Venter and Landsberg (2006:62) pointed out that the Judiciary is the official referee of society, with the responsibility to resolve disputes by determining the law and how it should be applied to every dispute. Malherbe (2006:63) explained that in the application of the rule of law, the courts also have a limited law-making function. The courts mainly make laws by their interpretation and application of existing rules of law, whereas the Legislature makes laws by amending or replacing existing laws and by enacting new laws (Rautenbach & Malherbe, 1996 in Venter & Landsberg, 2006:63).

It is the function of the Judiciary to uphold the *Constitution* and to give effect to its underlying principles in a democratic society where the powers of state organs are noticeably separated. The separation of powers between the legislative,

executive and judicial institutions, also known as the *trias politica*, is reflected in paragraph 2.5 of this chapter.

2.2.2 Provincial sphere of government

In terms of section 103(1) of the *Constitution*, South Africa consists of the following provinces: Eastern Cape, Free State, Gauteng, KwaZulu-Natal, Mpumalanga, Northern Cape, Limpopo, North West, and Western Cape. The *Constitution* provides that provinces have legislative and executive authority, which is vested in the provincial legislature and the premier respectively. These two authority spheres have been structured by the *Constitution* to implement the principle of division of powers, and clearly demarcated roles and responsibilities have been assigned to the provinces in terms of the principle of division of powers.

2.2.2.1 Provincial legislative power

In terms of section 104(1) of the *Constitution*, the legislative authority of a province is vested in its provincial legislature, which has the power to pass a constitution for the province or to amend any constitution passed in terms of the relevant section of the *Constitution* of the Republic of South Africa. The provincial legislature may furthermore pass provincial legislation on the functional areas listed in schedules 4 and 5 of the *Constitution* and also any matter outside those functional areas that has been expressly assigned to the province by national legislation. Legislation may also be passed on any matter for which a provision of the *Constitution* envisages the enactment of provincial legislation.

A provincial legislature consists of no more than 80 and no fewer than 30 members elected in accordance with the system of proportional representation of voters, and in terms of the research field, the Free State has 30 members (Independent Electoral Commission, 2009). Besdziek (2006:108) stated that in

exercising the legislative powers that are accorded to it by the *Constitution*, the provincial legislature may consider, amend, reject or pass any tabled bill. The *Constitution* also assigns “functional integrity” to the legislature, which includes the election of the speaker, how it dispenses its internal arrangements and rules, as well as its committee structures and the proceedings of its plenary (Besdziek, 2006:110). Cloete (1998:33) explained that every bill passed by a provincial legislature must be referred to the Constitutional Court for a decision as to its constitutionality, and the premier of a province may only assent to and sign a bill after it has been certified by the Constitutional Court.

Section 118(1)(a) of the *Constitution* provides that a provincial legislature must facilitate public involvement in the legislative and other processes of the legislature and its committees. Furthermore, provinces are also empowered to order public input where necessary, and a provincial legislature or any of its committees may summon any person or institution to appear before it to give evidence or documentation on any matter. It is also the function of the provincial legislature to exercise oversight, in terms of section 114 of the *Constitution*, over the provincial executive authority, including the implementation of legislation, as well as any provincial organ of state.

All three spheres of government have specific roles to play in implementing the development initiatives of government. Through its existing legislative authority, provincial government can give ultimate expression in fulfilling its development role. In applying the democratic principles and implementing the principle of division of powers, it is imperative, however, that the different authority spheres exercise their responsibilities within the prescribed legislative framework.

2.2.2.2 Provincial executive power

Provincial executive institutions fulfil a very important role in converting the national development agenda of government into provincial development

programmes that will benefit the community. Although provinces do not have their own judicial institutions, the provincial executive institutions can be classified into two groups, namely political-executive institutions and administrative-executive institutions.

Political-executive institutions

In terms of section 125 of the *Constitution*, the executive authority of a province is vested in the premier of that province. The premier appoints the members of the executive council for the province from amongst the members of the provincial legislature (Cloete & Thornhill, 2005:38). The executive council is responsible for developing and implementing provincial policy, the legislation that is passed in a province, and national legislation that applies to the competencies listed in schedules 4 and 5 of the *Constitution*. The executive council furthermore assumes responsibility for administering national legislation, outside of the above schedules, but for which administration has been assigned to the province. It is also responsible for co-ordinating and overseeing the functioning of the province's administrative departments.

Besdziek (2006:113) explained that the preparation of provincial legislation and policy is usually done in conjunction with the appropriate provincial department and that senior administrators are in a position to identify the need for legislation and can provide the detail that is required for effective legislation. The premier then has the power to assent to and sign bills, to refer back to the legislature any bills that do not meet the constitutional criteria, and to refer a bill directly to the Constitutional Court for a decision on its constitutionality.

Section 139 of the *Constitution* provides that if a municipality should fail to fulfil an executive obligation in terms of the *Constitution* or legislation, the relevant provincial authority may intervene by taking appropriate steps to ensure fulfilment. Cloete and Thornhill (2005:39) stated that the provincial government

may even assume responsibility for the particular obligation in accordance with the requirements of the *Constitution*. However, the correct procedures as identified in the *Constitution* need to be followed in such a case.

In terms of section 125(3) of the *Constitution*, the executive competency of a province is limited by the extent to which that province can effectively exercise its responsibilities. The *Constitution* insists that national government assists provinces, by legislative and other means, to develop the administrative capacity required for the effective exercising of executive power.

Administrative-executive institutions

The *Public Service Act* stipulates that all nine provinces must have their own provincial administration, which is headed by a director-general. Cloete (1998:34) pointed out that every province also has to devise an appropriate provincial administrative system.

The members of the Executive Council, appointed by the premier and to whom powers and functions have been assigned, are the political functionaries of the provincial departments. There are currently 10 provincial departments in the Free State Provincial Government, namely Agriculture; Education; Health; Co-operative Governance, Traditional Affairs and Human Settlements; Public Works and Rural Development; Police, Roads and Transport; Social Development; Sport, Arts, Culture and Recreation; Economic Development, Tourism and Environmental Affairs; and Treasury (FSPG, 2009).

As participants in a government structure that is overwhelmingly focused on addressing service provision disparities and underdevelopment, the provincial executive authority plays a vital role in ensuring the reconstruction and development of the country on a provincial level. The execution of provincial

responsibilities, within the prescribed legislative framework and allocated powers, is therefore of significant importance.

2.2.3 Local sphere of government

The establishment of local government as a distinctive sphere of government has given it a specific interest as an instrument of government service provision. Reddy (1999:9) in Van der Waldt (2007:3) defined local government as the level of government established to bring it to the general public and to give the public a sense of participation in the political processes affecting their lives. According to Bekink (2006:41) local government in South Africa has been given a new appearance within the constitutional arrangement and the status of a distinctive sphere of government. Section 151 of the *Constitution* provides the following with respect to the status of municipalities:

- i) The local sphere of government consists of municipalities, which must be established for the whole of the South African territory;
- ii) The executive and legislative authority of a municipality is vested in its municipal council;
- iii) A municipality has the right to govern, on its own initiative, the local government affairs of its community, subject to national and provincial legislation, as provided for in the *Constitution*;
- iv) The national or provincial government may not compromise or impede a municipality's ability or right to exercise its powers or perform its functions.

Local government is therefore an essential part of the South African constitutional structures with specific legislative and executive authority. It has the right to govern its own affairs, and neither national nor provincial government may obstruct local government's efforts to manage its own affairs, without applying the relevant constitutional provisions.

Meyer (1998:7) stated that the character of local government can be explained as a local area and a local community formed and kept together by common interests, whether rural, urban or regional. It allows for participation by the local community in the government of its local affairs, also identified as “grassroots democracy”. It is furthermore a local political unit endowed with executive and legislative powers of government as the third sphere of government, and powers of taxation to control, regulate and develop local affairs and to render local services in a system of co-operative government.

Craythorne (2006:7) pointed out that local government is therefore not, as in the past, a “creation of statute”, but rather an integral part of the government by virtue of being entrenched in the *Constitution*. Bekink (2006:13) explained that the current constitutional dispensation has enhanced the status and autonomy of all local government institutions and that government institutions are not separated from one another, but are compelled to function within a broader system of co-operative government. The enhanced status of local government gives it distinctive autonomy, and intergovernmental relations and co-operation must therefore be guided by the *Constitution*.

In terms of the *Constitution*, local government has, within the existing broader government structure, executive powers and the right to administer its own affairs. It therefore has its own legislative, executive and administrative institutions that are categorised in the subsequent sections.

2.2.3.1 Local government legislative institutions

Notwithstanding the fact that the responsibilities of local government have been determined in terms of the *Constitution* and other legislation, local government still has specific legislative authority.

Each municipality is headed by a municipal council consisting of the members elected by the voters of a specific area of jurisdiction. In terms of section 160 of the *Constitution*, the municipal council makes decisions about the exercising of all the powers and the performing of all the functions of the municipality. The municipal council elects a chairperson and may also elect an executive committee and other committees. It may also employ personnel that are necessary for the effective performance of its functions.

The *Constitution* also provides that a municipal council may not delegate the passing of bylaws, the approval of budgets, the imposition of rates and other taxes, levies and duties, and the raising of loans to any other structure or employee of the municipality. These functions are reserved powers of the municipal council and no other institution or individual may therefore make any decision in respect of such functions.

Once a municipal council has been elected, a special council meeting is convened to elect the office-bearers, including the speaker who is also chairperson of the municipal council. Zybrands (2006:139) explained that in South Africa the speaker has no executive authority, because he/she is “first among equals”. This means that the speaker is directly elected by fellow councillors and not by the public. Although a speaker has the right to vote at council meetings, he/she is expected to preside over such meetings objectively and independently. The responsibilities of the speaker have also been specifically provided for in the applicable legislation.

The *Municipal Structures Act*, No. 117 of 1998 (SA, 1998c) requires that each municipality must have a municipal council that meets at least quarterly. Bekink (2006:168) pointed out that when a municipality has established its municipal council, the council is obliged to strive within its capacity to achieve the local government objectives set out in the *Constitution*. It is also mandatory, in terms of section 19(3) of the *Municipal Structures Act*, for all municipal councils to

develop mechanisms to consult with the community and community organisations in performing their functions and exercising their powers. The significance of a democracy and democratic principles is therefore manifested in this specific legislative provision.

Municipal councils must always exercise control over their political-executive institutions, functionaries and administrative institutions (Cloete, 1998:36). These institutions all perform an essential role in the local sphere of government in ensuring the provision of the required municipal services.

2.2.3.2 Local government executive institutions

Local government executive institutions can be classified into two groups, namely political-executive institutions and administrative-executive institutions. These institutions have specific responsibilities that have been identified in the *Constitution* and other legislation to ensure that adequate local government services are provided to the community. The local government executive institutions have the following characteristics:

Political-executive institutions

In terms of section 155 of the *Constitution* there are three categories of municipalities, namely the category A or metropolitan municipality that has exclusive municipal executive and legislative authority in its area; the category B or local municipality that shares municipal executive and legislative authority in its area with a category C municipality; and the category C or district municipality that has municipal executive and legislative authority in an area that includes more than one municipality. The municipalities under investigation in this research are Category B and C municipalities.

The *Municipal Structures Act* identifies the types of municipalities that may be established within each category, namely the collective executive system that allows for the exercising of executive authority through an executive committee in which the executive leadership of the municipality is collectively vested; the mayoral executive system that allows for the exercising of executive authority through an executive mayor in whom the executive leadership of the municipality is vested and who is assisted by a mayoral committee; the plenary executive system that limits the exercising of executive authority to the municipal council itself; the subcouncil participatory system that allows for delegated powers to be exercised by subcouncils established for parts of the municipality; and lastly the ward participatory system that allows for matters of local concern to wards to be dealt with by committees established for those wards. The types of municipalities identified in this research are the mayoral executive system (Motheo district municipality and Mangaung local municipality), a collective executive system combined with a ward participatory system (Mantsopa local municipality) and the Naledi local municipality has a plenary executive system combined with a ward participatory system (Hohne, 2011).

Depending on the type of municipality, as determined by the member of the executive council of the province responsible for local government affairs, the relevant office-bearers are then elected by the municipal council in terms of the *Municipal Structures Act*. The powers and functions of the executive mayor, the mayor and the executive committee are as follows:

Executive mayor

A significant participant in the current local government political-executive system is the executive mayor, who has specific powers and functions as set out in section 56 of the *Municipal Structures Act*. These powers and functions correspond with those of the executive committee as contained in Section 44 of the *Municipal Structures Act*. As far as this research is concerned the Motheo

district municipality and Mangaung local municipality have executive mayors (Hohne, 2011). The executive mayor, like the speaker, is elected by the municipal council and not the electorate. If a municipal council has more than nine members, the executive mayor must appoint a mayoral committee from amongst the councillors to assist the executive mayor. The executive mayor may also, in terms of section 60 of the *Municipal Structures Act*, delegate responsibilities and powers to the respective members. The role of the executive mayor is totally different from that of the mayor, who is chairperson of the executive committee (van der Waldt, 2007:57).

Mayor

Municipalities of a certain type may establish an executive committee, with a member of that committee being elected by the municipal council to serve as mayor of the municipality (Van der Waldt, 2007:71). One of the municipalities under investigation, the Mantsopa local municipality, is such a municipality (Hohne, 2011). In terms of section 49 of the *Municipal Structures Act*, the mayor of a municipality presides over meetings of the executive committee, performs certain ceremonial functions, and exercises the powers delegated to him/her by the municipal council or the executive committee. The responsibilities of the mayor, as with any other political incumbent, are specific, and intrusion by any other institution or incumbent is not permitted.

Executive committee

The executive committee is another local government political executive institution with legislatively identified responsibilities. Section 43 of the *Municipal Structures Act* stipulates that in the case of a specific type of municipality, the municipal council may establish an executive committee. An executive committee must be composed in such a way that the political parties and interests represented in the municipal council are also represented in the committee. The

functions and powers of the executive committee are listed in section 44 of the *Municipal Structures Act* and include the power to identify the needs of the municipality and to recommend to the municipal council suitable strategies, programmes and services to address priority needs.

2.2.3.3 Administrative institutions

As mentioned above, the *Constitution* stipulates that a municipal council employs personnel that are necessary for the effective performance of its functions. Section 82 of the *Municipal Structures Act* obliges a municipal council to appoint a municipal manager who is the head of administration and also the accounting officer for the municipality. Section 56 of the *Municipal Systems Act*, No. 32 of 2000 (SA, 2000c) also provides for the appointment of managers directly accountable to the municipal manager.

The administrative activities of municipalities are usually undertaken by departments and divisions, and the functions are allocated to those departments and divisions on the basis of specialisation. Health and engineering functions will therefore be allocated to the health department and the engineering department respectively (Du Toit *et al.*, 2002:79).

Local government is a distinct sphere of government in its own right and is no longer a mere function of either the national or provincial government. This is due to the constitutional confirmation that the South African government is constituted in the form of national, provincial and local spheres (Bekink, 2006:89). The *Constitution* places a strong emphasis on the necessity of all spheres of government to ensure sound and positive interrelationships amongst one another. The three spheres of government are required to observe and adhere to certain principles that govern the system of co-operative government.

2.3 RESPONSIBILITY OF GOVERNMENT TO ENSURE EFFECTIVE SERVICE PROVISION

All South African citizens have a legitimate expectation for the provision of appropriate and sufficient services by government. Indeed, section 41(1) of the *Constitution* states that all spheres of government must provide “effective, transparent, accountable and coherent government”. To realise its goals and objectives, government has to perform a variety of functions with the aim of realising the general goal of creating a high quality of life for each and every citizen (Gildenhuys & Knipe, 2000:48). Gildenhuys and Knipe (2000:62) also pointed out that public services should be non-apportionable, non-exclusive and inexhaustible.

The South African Concise Oxford Dictionary (DSAE, 2002:370) defines the term “effective” as “producing a desired or intended result”. Fox and Meyer (1995:41) in Van der Waldt (2007:150) defined “effectiveness” as “a condition in which an institution, using a limited amount of resources, is able to accomplish specific objectives”. In this regard Van der Waldt and Du Toit (1997:68) referred to the “management by excellence” approach, which emphasises a set of basic characteristics to be pursued by government in order to achieve its goals effectively. These characteristics refer to, amongst other things, 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 include productivity, creativity, development and quality.

Gildenhuys and Knipe (2000:6) explained that the rights of citizens and the basic principles on which they are based should be contained and protected in a constitution. In this regard, chapter 10 of the *Constitution* states that every sphere of government, including local government, must be governed by the

democratic values and principles enshrined in the *Constitution*. In clarifying what is implied with effective service provision, the principles of chapter 10 of the *Constitution* can act as a regulatory and normative framework for local government. Section 195(1) of the *Constitution* stipulates that public administration must be governed by specific principles and the democratic values enshrined in the *Constitution*. These principles include promoting and maintaining a high standard of professional ethics, and promoting the efficient, economic and effective use of resources. Public administration must be accountable and development-oriented, and services must be provided impartially, fairly, equitably and without bias. Another principle is that the needs of the citizens must be responded to, and the public must be encouraged to participate in policy-making. The fostering of transparency by providing the public with timely, accessible and accurate information is also identified in the *Constitution*. Furthermore, good human resource management and career-development practices, to maximise human potential, must be cultivated. Finally, 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.

Since this research mainly focuses on local government service provision, the service provision responsibilities of national and provincial government are only briefly explained, while detailed consideration is given to local government service provision so as to put this relationship into perspective.

2.3.1 National and provincial government service provision responsibilities

The main functional areas of concurrent national and provincial legislative competence are listed in schedules 4 and 5 of the *Constitution*. Schedule 4 provides a list of functional areas that the provinces exercise concurrently with

the national government. Part A of schedule 5 lists the provincial government's specific competences. With regard to the part-B functional areas in schedules 4 and 5, provinces have only limited supervisory authority. Provision is also made in section 44(i)(a)(iii) of the *Constitution* for the national government to assign further competencies to provinces.

Provincial governments have extensive supervisory powers over local government in the following areas:

- Along with the national government, the legislative and executive authority to establish municipalities;
- Along with the national government, the power to regulate how municipalities exercise their functions listed in schedules 4B and 5B of the *Constitution*;
- Extensive monitoring powers;
- Along with the national government, the duty to support local government; and
- Extensive intervention powers in municipalities.

Section 155(7) of the *Constitution* stipulates that both the national and provincial governments have the legislative and executive authority to ensure the effective performance by municipalities of their functions listed in schedules 4 and 5 of the *Constitution* and to regulate municipalities in exercising their executive authority. The limits of provincial regulation are emphasised in section 151(4) of the *Constitution*, which stipulates that the provincial government may not compromise or impede local government's ability or right to perform its functions or exercise its powers. This provision is concerned with the way in which provincial power is exercised, and not with the issue of whether or not a certain power exists. In terms of section 155(6)(a) of the *Constitution*, provinces must monitor local government to ensure that it remains within the legislative framework when exercising its powers and functions. National government may

intervene in a matter falling within a functional area listed in schedule 5 of the *Constitution* by passing legislation in accordance with section 76(1) of the *Constitution*.

The *Constitution* embodies the principles of co-operative government, based on the belief that government is more effective, efficient and responsive to community needs when the individuals and organs responsible for exercising state power act in a collaborative and co-operative way.

Notwithstanding the responsibilities of national and provincial government, local government remains the sphere of government that provides the services that have a direct impact on the daily activities of the community. Municipalities must analyse how they function and relate to the public, and scrutinising their service provision responsibilities is essential.

2.3.2 Local government service provision responsibilities

Local government has the responsibility to ensure that all citizens receive the necessary services to satisfy their basic needs (Van der Waldt, 2007:7). Similar to the national and provincial spheres of government, local government powers and functions are constitutionally entrenched and protected (Bekink, 2006:213). Bekink (2006:214) also explained that the constitutional objectives of local government protect the basic underlying principle of local government existence. These objectives and duties provide for a set of obligations that must be achieved, depending on the capacity of the specific municipality.

Craythorne (2006:153) pointed out that municipal services are of fundamental importance to the growth, development and stability of a municipality. He also explained that sections 152 and 153 of the *Constitution* set out the objectives of local government and the developmental duties of municipalities respectively. Section 152(1)(b) of the *Constitution*, read with section 195(1)(d) of the

Constitution, requires that municipalities must provide services in a sustainable manner and that municipal administrations must provide services impartially, fairly, equitably and without bias. Craythorne (2006:135-154) also pointed out that the constitutional position of services goes far beyond a specific function such as electricity or water provision. In terms of the *Constitution*, a municipal service must be considered against the needs of a community, with no-one being excluded and the service being provided in an effective and efficient manner.

Zybrands (2006:144) emphasised the point that local government provides services to satisfy the needs of the community. With regard to the provision in the *Constitution* that municipal services should be provided in a sustainable manner, Zybrands (2006:144) pointed out that sustainability implies that services should be affordable and must address the real needs of the community. Moreover, such services should be uninterrupted and not easily removed.

Section 156(1)(a) of the *Constitution* provides that a municipality has authority over the local government matters listed in schedules 4B and 5B. A municipality also has the right to exercise any power concerning a matter reasonably necessary for the effective performance of its functions in terms of schedules 4B and 5B. Any other appropriate activity can also be assigned to a municipality by national and provincial legislation.

In his state-of-the-nation address, then-President Thabo Mbeki (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*, namely “people first”. He emphasised that the system of co-operative governance had to be respected, and within this context local government should be empowered to discharge its development and service-rendering obligations.

Section 19(2) of the *Municipal Structures Act* stipulates that a municipal council must annually review the needs of the community, its priorities in meeting those needs, its processes for involving the community, its organisational and provisional mechanisms for meeting the community's needs, and its overall performance in achieving the objectives. These provisions constitute a further foundation of the effort 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 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 that community have access to at least the minimum level of basic municipal services. Section 73(2) of the *Municipal Systems Act* identifies specific principles for municipal services that, if neglected, will prevent effective local government service provision. Municipal services should be equitable and accessible and be provided in a manner that is conducive to the prudent, economic, efficient and effective use of available resources and the improvement of standards of quality over time. Municipal services should also be financially and environmentally sustainable and should be regularly reviewed with a view to upgrading, extending and improving services.

Local government must achieve specific constitutional objectives to be able to meet specific constitutional demands. The existing legislative framework requires accessible and affordable service provision of a high quality that incorporates the values of accountability and sustainability. Compliance with the constitutional demands on service rendering is required to achieve effective local government service provision. A feature of local government in South Africa which, according to Bekink (2006:63), should never be underestimated is the fact that municipalities are local political institutions and part of the political structure of the

state. The extent to which these political considerations affect local government service provision is analysed in chapter 4.

2.4 FEATURES, CHARACTERISTICS AND DISTINCTIVENESS OF LOCAL GOVERNMENT IN SOUTH AFRICA

The Latin notion *pro bono publico*, which means “for the public good”, suggests that the state, and therefore also local government, should provide goods and services in the interest of the community and for the public good (Van der Walddt, 2007:8). Zybrands (2006:133) explained that the local sphere of government is the “closest to the constituents” and has to render a wide range of services that directly affect the lives of the community.

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 municipality, 47 district municipality and 6 metropolitan municipalities established local government as a fully fledged sphere of government alongside national and provincial government. One district municipality was however disestablished in 2005 and there are currently 283 municipalities (Department of Co-operative Governance and Traditional Affairs, 2009a). Since 1994, government has engaged in a systematic and pervasive overhaul of all previous local government policy and legislation (SA, 2001).

The final control and management of local authorities prior to the implementation of the 1996 *Constitution* resorted under the upper government institutions, namely the national and provincial governments (Bekink, 2006:27). Apart from this lack of autonomy, local authorities were also racially divided, which ultimately resulted in a political uprising and radical transformation (Klingemann, 2006:119). The vision and framework of the current local government system, as determined in the relevant legislation, was originally established by the *White Paper on Local*

Government (SA, 1998g), which served as the founding platform of the local government restructuring. In compliance with the *Constitution*, it is the objective of local government legislation to ensure service provision, the eradication of poverty, and the “improvement of social and economic living conditions for all” (Bekink, 2006:27).

Reddy (1999:10) in Van der Waldt (2007:4) identified the following key characteristics of local government in general, which also apply to local government in South Africa:

- *Locality*, which is the geographical area in which a sense of community consciousness is apparent.
- *Legal personality*, which is the constitutional arrangements, legislation and regulations that define the powers of local government.
- *Autonomy*, which is the ability of local government to make binding decisions and policy choices within a legally stipulated framework, and to allocate resources and provide services specific to the local environment.
- *Governmental powers*, which is the authority to carry out formal governmental functions such as revenue collection, resource allocation, and the making of political choices.
- *Participation*, which is the way in which community representatives are elected or appointed to serve the community, and the way in which the community has the opportunity to participate in government affairs.

As previously mentioned in this chapter, section 151 of the *Constitution* provides that the local sphere of government consists of municipalities and that neither the national nor the provincial government may compromise or impede a municipality’s ability or right to exercise its powers or perform its functions. Section 151 (3) of the *Constitution* also gives municipalities the right to govern on their own initiative, subject to national and provincial legislation, as provided for in the *Constitution*. Craythorne (2006:7) explained that this clause implies that all

national and provincial legislation is subject to the principle of constitutional legality. No provincial legislature may therefore enact arbitrary legislation to dictate to a municipality.

The objectives of local government, as stipulated in section 152 of the *Constitution*, are:

- To provide democratic and accountable government to local communities;
- To ensure the provision of services to the community;
- To promote economic and social development;
- To promote a healthy and safe environment; and
- To encourage the involvement of the community in local government matters.

Bekink (2006:68) explained that the essence of these objectives is in confirming the constitutional commitment to a democratic state and accountable government, to ensure the sustainable provision of services to the public, to encourage social and economic upliftment and development, to create a safe and healthy environment, and to revitalise public participation and involvement. By achieving these objectives, local government will not only meet the needs and expectations of the community, it will also ensure that the developmental needs of those South Africans who for decades were excluded from quality service provision, are adequately addressed. An indisputable democracy, where the government serves the interests of all people, will then be realised.

The *Municipal Systems Act* has two relevant definitions to clarify the services to be provided by municipalities (Craythorne, 2006:158). The first is basic municipal services, which are those services necessary to ensure an acceptable and reasonable quality of life and which, if not provided, would endanger public health and safety. The second is municipal services provided in terms of the municipality's powers and functions, to or for the benefit of the local community, irrespective of whether:

- Such a service is provided by the municipality through an integral mechanism or by engaging an external mechanism; and

- Fees, charges or tariffs are levied in respect of such a service.

Nealer (2007:148) defined service provision as the provision of public activities, benefits or satisfactions, with such services relating to the provision of both tangible public goods and intangible services. Ismael, Bayat and Meyer (1998:11) stated that the provisions of the *Constitution* that influence local government are aimed at ensuring good governance, service provision and a better quality of life for all.

As already indicated in this chapter, local government does not exist in isolation from other spheres of government. Bekink (2006:10) pointed out that in light of the constitutional confirmation that government is constituted as national, provincial and local spheres, local government is indisputably part of the overall governmental structure. All spheres of government must observe and adhere to the principles of co-operative government and intergovernmental relations as stipulated in the *Constitution* (Craythorne, 2006:15). Craythorne (2006:15) went on to point out that the Constitutional Court has ruled that the provisions of the *Constitution* are designed to “ensure that in fields of common endeavour the different spheres of government will co-operate with one another to secure the implementation of legislation in which they have a common interest”. Intergovernmental relations are dealt with more comprehensively in chapter 5.

The legal nature of a municipality is explained in section 2 of the *Municipal Systems Act*, which stipulates that a municipality is an organ of state within the local sphere of government exercising legislative and executive authority within a demarcated area. A municipality consists of the political structures and administration of a municipality and the community. In terms of section 2(c) of the Act, a municipality functions in accordance with the political, statutory and other relationships between its political structures, political office-bearers and administration, and the community. The Act also states that a municipality has a separate legal personality, which excludes liability of the community for the

actions of the municipality. Bekink (2006:83) argues that an understanding of the legal nature of local government is of great importance, as it explains the basic composition of a municipality but also provides the significant responsibilities in terms of political and administrative structures.

Municipalities must ensure that municipal services are equitable and accessible for all local residents, so as to enable municipalities to achieve and fulfil their objectives and responsibilities. Municipal services and service provision should comply with and conform to the constitutional vision and requirements. With all relevant legislation and structures in place, local government now has to implement and execute governmental policies to achieve effective service provision to all residents.

2.5 SEPARATION OF POWERS IN A DEMOCRACY

As has already been explained, government enjoys legislative, executive and administrative authority and, according to Bekink (2006:7), the doctrine of separation of powers, also known as the *trias politica*, is fundamental to all constitutional systems, typical of any democracy. In defining the concept of democracy, Cloete (1998:103) in Du Toit *et al.* (2002:103) maintained that to act in accordance with the tenets of democracy, the government should be arranged in such a manner that it cannot abuse the powers that have been entrusted to it. The legislative, executive and judicial authorities are therefore exercised by different organs of state.

The legislative authority in South Africa is vested in Parliament, the nine provincial legislatures, and the 283 municipalities (Bekink, 2006:7-8). The legislature has the authority to make laws pertaining to common affairs of the country, and the framework for this authority is contained in the *Constitution*. Taljaard and Venter (2006:17) explained that the most important function of the legislature (parliament, provincial legislatures and municipal councils) is to

transform the policies of the government-in-power into laws. Laws falling outside this constitutional framework are *ultra vires* and will be declared nil and void *ab initio* (Gildenhuys & Knipe, 2000:7).

In terms of the *Constitution*, the executive authority vests in the president, the nine premiers and the municipal councils. With the exclusion of the functions mentioned in section 160(2) of the *Constitution*, certain powers may be delegated to specific functionaries of municipalities by the specific municipal councils.

According to Gildenhuys and Knipe (2000:7) the task of the executive is to execute the orders of the legislature as contained in its laws. The executive is not permitted to exercise an authority not legislated for or delegated to it by the legislature.

The South African judicial authority is vested in a national court hierarchy (Bekink, 2006:8). The mandate of the judiciary is to adjudicate on the execution of the laws and on the contravention of such laws by the public (Gildenhuys & Knipe, 2000:7). Malherbe (2006:62) agreed, stating that it is the function of the judiciary to resolve disputes by determining the law and the way in which it should be applied to all disputes. The courts must therefore determine which rule of law applies to the dispute. Craythorne (2006:40) argued that the rule of law has two participants, namely the subject of a state and the state. He explained that when a subject of a state is certain of the protection of law through the courts, and the state respects the independence of the judiciary and honours the orders of judges, then it can be declared that there is rule of law in that state.

In explaining the patterns of support for democracy, Markowski (2006:137) explained that in a democracy, the community believes in the values of freedom and equality, exhibits mutual tolerance, and supports the rule of law. Markowski (2006:162) also stated that democracy is cherished wherever a certain level of satisfaction with life has been attained and that democracy as an ideal

emphasises the importance of the socio-economic status of individuals combined with the “cognitive-behavioural” factor, namely awareness of politics and confidence in institutional infrastructure and cultural affairs. Du Toit and Van der Waldt (1999:2) in Du Toit *et al.* (2002:103) stated that in complying with the democratic principles, the democratic rights of the community are acknowledged and there is more integrity in the matters in which government institutions engage.

The *Constitution*, applicable legislation and established government structures provide a basis for a successful democracy in South Africa. These established government structures and the division of government powers are clear, and therefore any organ of state impeding in the affairs of another state organ would be not only undemocratic, but unconstitutional. The South African government now needs to achieve the ideals of democracy by means of proper and committed conduct.

The *trias politica* is the very core of a democratic state (Craythorne, 2006:40). The doctrine implies that state powers should be entrusted to three separate, autonomous institutions in order to avoid tyranny and to defend liberty (Venter & Mtimkulu, 2006:48). Gildenhuis and Knipe (2000:8) explained that the ideal for a democracy is to separate the legislative, executive and judicial authority and to vest them in separate government institutions with interconnected checks and balances. Gildenhuis and Knipe (2000:8) further stated that a constitution should determine the vesting of these authorities in separate government institutions, with an independent and legitimate Constitutional Court acting as overseer over the activities of these institutions, which is currently the position in South Africa.

Bekink (2006:63) explained that municipalities are local political institutions that have been empowered with executive and legislative powers and functions. According to Van der Waldt (2007:2) local government is influenced by its political environment, and Bekink (2006:78) expressed similar sentiments by

stating that local government will not be able to fulfil and comply with its various objectives and duties without accountable political leadership in accordance with democratic principles. Du Toit and Van der Waldt (1999:2) in Du Toit *et al.* (2002:103) pointed out, however, that government must accept responsibility for its conduct and is therefore accountable to the community.

Opposition parties in South Africa often criticise the current ruling party, the African National Congress (ANC), of not separating the powers between the party and the state (Kok, 2008d:1). The challenge of any political party in power is to ensure that public service becomes an effective instrument for executing the mandate of the ruling party. The critical question, however, is the extent to which these methods are implemented in executing the political mandate in a democratic environment. These aspects, within the local sphere of government, are expanded on in chapter 4.

2.6 CONCLUSION

To ensure that the objectives of the *Constitution* are achieved, every member of a legislature, every executive office-bearer and every government employee has to live up to the provisions of the *Constitution*. South Africa is a sovereign, democratic country where the citizens are able to exercise their fundamental rights, which originate from specific values in the *Constitution*.

The structures of the national, provincial and local government are all structured to implement the principle of the division of powers and to be responsive to the actual needs and realistic expectations of the community. The democratic rights of the community will only materialise if the provisions of the *Constitution* and other legislation that address the government's legislative, executive and administrative institutions and functionaries are put into practice.

Governmental functions demand enthusiasm, diligence and commitment from the office-bearers performing them, and these functionaries must be able to meet specific legislative requirements. These requirements have to be implemented to ensure the general wellbeing of the population. In this regard the *Constitution* demands that all municipalities achieve the relevant objectives and provide effective services to their communities within their financial and administrative capacities. Service provision should therefore be focused on enhancing the quality of life of all people.

As a consequence of the enactment of the *Constitution*, a society based on democratic values, social justice and fundamental human rights has been established. All government legislators, political-executive office-bearers and public officials need to be aware of these principles. These functionaries have specific powers that have been entrusted to three separate autonomous institutions, namely the legislative, executive and judicial.

The three spheres of government are constitutionally compelled to assist and support one another in accordance with their exclusive powers. Authorised intrusion in the affairs of other spheres of government is therefore a prerequisite. The doctrine of separation of powers is essential in controlling interference across state organs and preventing the excessive concentration or centralisation of governmental powers.

The constitutional dispensation of the three spheres of government and the specific separation of powers in terms of the *Constitution* have been specifically designed to ensure that government achieves its constitutionally defined objectives. There are specific influences that exacerbate the achievement of these objectives, and the challenges facing the local sphere of government are identified in chapter 3.

CHAPTER 3

CHALLENGES FACING LOCAL GOVERNMENT

3.1 INTRODUCTION

Local government provides numerous diversified municipal services to the community within a particular area of jurisdiction, and the provision of these local government services is the most important reason for the existence of municipalities. The provision of municipal services to the community is so fundamental that it has been entrenched in the South African constitutional framework.

The specific local government objectives identified in the *Constitution* fundamentally confirm the constitutional commitment to a democratic state and accountable government, to ensure the sustainable provision of services to the community, to promote social and economic upliftment and development, to create a safe and healthy environment, and to revitalise community participation and involvement (Bekink, 2006:68). However, the systems and programmes that must be put in place to achieve these objectives present complex challenges to all local government participants, namely the political office-bearers, municipal employees, and the citizens themselves.

To ensure effective and efficient local government service provision, government must take cognisance of those challenges that most often have a negative effect on municipal service provision. Government must also address these challenges with a co-ordinated and practical approach to ensure that all South Africans receive high-quality and sustainable local government services.

There are a number of influential factors that can hinder and challenge effective local government service provision. These factors include those conditions and

situations that create a need or a sense of dissatisfaction in the community and for which redress by governmental action is sought. The community is a vibrant entity with various needs, demands and preferences that are constantly changing, developing and growing over time (Cloete & Wissink, 2005:238). Persistent demands by the public for the standard of municipal service provision to improve require commitment, dedication and a sensible approach by government in their efforts to meet the needs of the community.

In identifying the specific factors that have an impact on local government service provision, it is necessary to provide a brief explanation of the origin and importance of local government, the reasons for its existence, and the local government statutory framework with specific reference to the *Constitution*, the *Municipal Structures Act* and the *Municipal Systems Act*. For the purpose of identifying local government challenges, the service expectations of the community and the current state of service provision are also identified in this chapter. Two sections – theoretical and empirical – provide a comprehensive analysis of the challenges facing local government.

3.2 THEORETICAL SURVEY

As the South African democracy matures, the country is also confronted with numerous challenges that affect municipal service delivery negatively. The service provision challenges affect not only the quality of services provided by municipalities, but also the social progress of the community. In addition to analysing these challenges, it is appropriate to clarify the theoretical foundation for local government service provision in South Africa.

3.2.1 Foundation and relevance of local government

Local government in South Africa has undergone a number of fundamental changes over the past few decades to ensure that the local communities receive

a specific level of municipal services. The current local government system endeavours to achieve a local government decision-making process that involves the community and to provide essential services that are required by the community on a daily basis. To clarify the relevance and importance of local government, it is also important to identify the motivation and the basis for the establishment of local government. The origin and importance of local government are discussed in the next two subsections.

3.2.1.1 Origin of local government

The origins of human settlement in reasonably densely populated areas can be traced back to the early stages of human culture (Van der Waldt, 2007:2). Urban settlements were the residential structures adopted by citizens and which became the religious, administrative and political centres of society. Produce harvested in rural areas was sold in towns and eventually new commercial practices and industries emerged in these towns. The urban areas of the developing world provided an environment where the community could live in harmony and in safe surroundings (Bekink, 2006:20). Citizens who were prepared to live in close proximity to others and who were prepared to be subjected to a form of governing body gave rise to the need for service provision (Du Toit *et al.*, 2002:88).

In South Africa the oldest urban settlement dates back to the establishment of the country's first port by the Dutchman, Jan van Riebeeck, in 1652. This colony was governed by the first Dutch settlers on a centralised basis until a system of *landdrosten* (magistrates) and *heemraden* (local court members) was created (Craythorne, 2006:9). This system remained in place until the British occupied the Cape Colony and established the municipal government system in 1836 (Van der Waldt, 2007:3).

According to Craythorne (2006:9) ordinances were passed in the Cape and Natal colonies in 1840, 1854 and 1867, which initiated the following actions:

- Towns were constituted as corporate bodies.
- Representatives were elected by citizens registered on a voters' roll.
- Councils decided on a local tax levied on property, which had been valued.
- Auditors were appointed.
- Town clerks and staff members were appointed and not elected at a public meeting.
- The committee system was introduced.

Due to various socio-political processes, the South African governance landscape has undergone constant change during its recent history. Over a period of 86 years, South Africa has had five constitutions that have served to change the entire nature of the South African state, and therefore also local government (Craythorne, 2006:1). Although the South African local government system has been transformed from time to time, local government has remained the cornerstone of service provision in South Africa. The key challenge, however, is to ensure that quality services are actually provided to the community.

3.2.1.2 Importance of local government

It is generally accepted that local government is in the most favourable position to address and satisfy the needs and expectations of the community. As the sphere of government that functions closest to the community, it is an essential service provider.

In support of the above, Reddy (1999:9) in Van der Waldt (2007:3) defined local government as the sphere of government that has been created to bring government to the populace and to give residents a sense of involvement in the political processes that affect their lives. The same author also defined local

government as local democratic units vested with prescribed, controlled governmental powers and sources of income to render specific local services and to control and regulate the geographic, social and economic development of demarcated local areas. Zybrands (2006:133) agreed, stating that local government is that sphere of government that is closest to its constituents and which provides a wide range of services that materially affect the lives of all residents.

Local government services are of fundamental importance to the growth, development and stability of a municipality (Craythorne, 2006:153) and are aimed at satisfying the needs of the community (Zybrands, 2006:144). Van der Waldt (2007:5) mentioned that the effort to improve the liveability of urban areas places large demands on government and that good governance implies the inclusion and representation of all groups of society, with local government having to uphold accountability, integrity and transparency in pursuing its goals. However, sufficient financial resources are required to improve service delivery, and municipalities need to identify ways of augmenting their income. The collection of outstanding consumer debts, for example, would provide adequate revenue to fund the provision of services.

According to Du Toit *et al.* (2002:88) the recognition of local government in South Africa as a distinctive sphere of government has enhanced the status of local government, giving it a new dynamism as an instrument of government service delivery. Bekink (2006:67) explained, however, that local government must be aware of this status, but should also not ignore the fact that their entrenched status also carries a substantial burden. As part of government, local government has a number of constitutional obligations to fulfil and to which it must comply.

Local government is the sphere of government that is most suitably positioned to provide the services that affect the lives of residents on a daily basis. The challenge faced by local government is that it plays an indispensable role in

ensuring that municipal services are provided to the community in a financially sustainable manner and that there is equitable access to the municipal services to which the community is entitled.

3.2.2 Statutory framework for local government service provision

Legislation contains essential requirements when it comes to addressing the service provision obligations of government. National legislation such as the *Constitution*, the *Municipal Structures Act* and the *Municipal Systems Act* identify the powers and functions of local government when it comes to improving the living conditions of the community.

The word “statutory” can be defined as “prescribed or authorised by statute” and therefore, in the context of this research, the statutory framework within which services must be provided is a prescribed and authorised framework (Du Toit *et al.*, 2002:73). The creation of a statutory framework for service provision is an action to establish the necessary requirements to realise government’s vision and to determine the boundaries within which political office-bearers and government employees must ensure service delivery (Du Toit *et al.*, 2002:80). Although numerous pieces of legislation affect local government, the *Constitution*, the *Municipal Structures Act* and the *Municipal Systems Act* contain specific provisions that have a direct impact on service provision, which pose distinct challenges. The South African statutory framework for local government service provision, with specific reference to the *Constitution*, the *Municipal Structures Act* and the *Municipal Systems Act*, is further clarified in this Chapter.

The context of the legislative provisions analysed in this Chapter differs from the legislative provision analysis in Chapter 2. Chapter 2 specifically identified legislative provisions that explained government responsibilities in general and that are applicable to all three spheres of government. It also clarified the local government legislative, executive and administrative institutions. The statutory

framework identified in this Chapter concentrate on the specific local government service provision responsibilities.

3.2.2.1 Constitution of the Republic of South Africa

The *Constitution* entrenches specific powers and functions applicable to all municipalities. As previously mentioned, section 152 of the *Constitution* provides for the following set of objectives, which every municipality must strive to achieve within its financial and administrative capacity:

- To provide democratic and accountable government for the local community;
- To ensure the provision of sustainable services to the community;
- To promote a safe and healthy environment;
- To encourage community participation in local government affairs; and
- To promote social and economic development.

The *Constitution* also stipulates that local government must provide the services impartially, fairly, equitably and without bias.

Van der Walt (2007:50) refers to sections 156(1) and 156(4) of the *Constitution* and explains that a municipality has executive powers in respect of, and the right to administer, local government affairs contained in part B of schedule 4 and part B of schedule 5 of the *Constitution*, as well as any other matter delegated to it by national and provincial legislation. These services include functions such as building regulations, electricity and gas reticulation, fire-fighting services, municipal health services, water and sanitation services limited to potable water supply systems and domestic waste-water and sewage disposal systems, cemeteries, local amenities, local sports facilities, refuse removal, refuse dumps, street trading, street lighting, and traffic and parking (Meyer, 1998:86).

Section 152(1)(b) of the *Constitution* requires that local government services must be sustainable. Sustainability, according to Zybrands (2006:144), implies that services should be continuous, affordable and not easily abandoned, and must address the needs of the citizens. The challenge that municipalities in South Africa need to address is to ensure that service provision meets the aforementioned criteria of sustainability.

Although the detailed powers and functions of local government are determined by the laws of a competent authority, the powers exercised by local government are regarded as original and not assigned by another sphere of government (Bekink, 2006:215). The *Constitution* directly provides for the powers and functions of local government, while the *Municipal Structures Act* and the *Municipal Systems Act* further elaborate on this constitutional foundation.

3.2.2.2 Local Government: Municipal Structures Act

The *Municipal Structures Act* is intended to regulate the internal systems, structures and office-bearers of a municipality, to provide for appropriate electoral systems, and to determine the appropriate division of functions and powers between the different categories of local government (Van der Waldt, 2007:41).

In general, section 83 of the *Municipal Structures Act* provides that local government has the powers allocated to it in terms of sections 156 and 229 of the *Constitution* (Bekink, 2006:223). Section 229 of the *Constitution* provides the authority to local government to impose rates on property and surcharges on fees for services provided by or on behalf of the municipality.

Section 84 of the *Municipal Structures Act* clearly distinguishes between the powers and functions of district and local municipalities and allows for a local municipality to perform certain powers and functions that have been assigned to a district municipality, provided that the minister responsible for local government

has authorised a local municipality to perform a function or exercise a power mentioned in section 84(1)(b),(c),(d) or (i) of the *Municipal Structures Act*. These powers and functions pertain to potable water supply systems, bulk supply of electricity, domestic waste-water and sewage disposal systems, and municipal health services.

The member of the Executive Council (MEC) for local government in a province may also adjust the division of functions and powers between a district and a local municipality by allocating, in terms of section 85 of the *Municipal Structures Act*, any of those functions vested in a local municipality to the district municipality and *vice versa*.

In terms of enhancing service provision, Bekink (2006:227) emphasised the importance of co-operative government and explained that this involves co-operation not only with the other spheres of government, but also between municipalities *inter se*. In this regard, section 88 of the *Municipal Structures Act* stipulates that where a district municipality must provide support services to a local municipality, the MEC is obligated to assist that district municipality to provide the relevant support services.

The distinguished powers and functions of local government place specific service provision obligations on municipalities, which could create a serious predicament for local government if those obligations are not fulfilled.

3.2.2.3 Local Government: Municipal Systems Act

The *Municipal Systems Act* provides for, among other things, the core principles and processes that are necessary to enable municipalities to move progressively towards the social and economic upliftment of local communities and to ensure general access to essential services that are affordable to all. The Act also provides for the manner in which municipal powers and functions are exercised

and performed, as well as a framework for the provision of services. In addition, the Act makes provision for municipalities to put service tariffs and credit control policies in place.

According to Craythorne (2006:153) the *Municipal Systems Act* also places a duty on municipalities to implement the provisions of the *Constitution* by giving priority to the basic needs of the community and promoting its development. Municipalities are also obliged to ensure that the community has access to, at least, the minimum level of basic municipal services.

Section 73(2) of the *Municipal Systems Act* stipulates that municipal services must be equitable and accessible and be provided in a manner that is conducive to the prudent, economic, efficient and effective use of available resources. Municipal services must also be financially and environmentally sustainable and should be regularly reviewed with a view to upgrading, extension and improvement.

The Act also provides that a municipality has all the functions and powers assigned to it in terms of the *Constitution*. Furthermore, section 8(2) of the Act provides that a municipality has the right to do anything reasonably necessary for, or incidental to, the effective performance of its functions and the exercising of its powers.

The local government services statutory framework extends far beyond the provision of specific municipal services, such as water and electricity supply, and has a significant impact on the powers and functions of municipalities. Municipal services must address the needs of the community while also being effective and efficient. The legislative framework authorises all municipalities to perform their functions and to execute their duties and obligations to ensure the achievement of governmental goals and objectives. The difficulty facing local government,

however, is to ensure that government's objectives, as identified in the applicable legislation, are adequately executed.

3.2.3 Reality of local government service provision

The fact that the powers, functions and obligations of local government are clarified in legislation does not guarantee that these responsibilities are actually executed. It is therefore essential for this study to analyse the actual state of service provision with specific reference to the expectations of the community and the current reality of local government service provision.

3.2.3.1 Expectations of the community

It is common practice for the general public to have specific expectations in respect of the continuous improvement of service provision and the quality of services that are provided by municipalities. Local government therefore has a responsibility to ensure that it meets these expectations in line with the applicable legislative provisions and available financial resources.

Local government has a constitutional assignment to promote a satisfactory quality of life for every member of the community. For local government to achieve its goals and objectives, it is bound to provide services to the community (Gildenhuys, 1997:2-7). The actions performed by public institutions, including municipalities, are conducted in accordance with generally accepted normative principles. The *Batho Pele* principles provide a new perspective on normative principles and emphasise the legitimate right of the community to expect quality services. Du Toit *et al.* (2002:101) identified the following three essential service provision aspects:

- Public institutions, including municipalities, are compelled to deliver quality services to the community.
- Citizens have a legitimate right to receive quality services from these public institutions.

■ The community has a legitimate right to demand quality services from the public institutions.

A municipality is required to give effect to the provisions of the *Constitution* by prioritising the basic needs of the local community, ensuring that all members of the local community have at least the minimum level of basic municipal services, and promoting the development of the local community. As already mentioned in this chapter, municipal services must be equitable and accessible; be provided in a manner that is conducive to the prudent, economic, efficient and effective use of available resources, as well as the improvement of standards of quality over time; be financially sustainable; be economically sustainable; and be regularly reviewed with a view to upgrading, extension and improvement. The expectations of the community for the realisation of this level of service provision are thus legitimate. Should municipalities therefore be unable to or incapable of meeting these expectations, it could result in the public demanding that improved services be provided.

Du Toit and Van der Waldt (1999:86) argued that as society becomes more sophisticated, more is expected from government. Functions and services performed by government institutions, including local government, have multiplied because society's needs have increased and more advanced services are being demanded. However, an effective government will, as far as possible, keep pace with the needs of society (Du Toit & Van der Waldt, 1999:86).

Public expectations of municipal service provision will always be a challenge. The actual service provision performance of municipalities is under constant scrutiny, and citizen satisfaction will only be achieved if municipalities succeed in putting people first within their service provision capacities. The challenge that municipalities need to address, however, is to ensure that everything possible is being done to provide adequate municipal services that meet the expectations of the community.

3.2.3.2 Current reality of local government service provision

Service provision is the most important responsibility of municipalities. Maintaining the provision of existing basic municipal services and extending these services to areas where serious municipal service backlogs exist requires not only dedication and commitment from municipal councillors and employees, but also adherence to all relevant legislative provisions. This subsection analyses the extent to which local government has actually performed its service provision responsibilities and implemented sound financial management practices in the execution thereof.

Local government service provision performance

Over the past few years, local government has made substantial progress in creating a democratic and accountable system in this sphere of government. Local government has also improved on its provision of basic public services, such as potable running water, and ensuring the community's access to at least the minimum level of basic services (Nealer, 2007:157-158).

Media reports have, however, often criticised the quality of the municipal services being provided in the municipalities that are the subject matter of this research. The level of infrastructural maintenance in the Mangaung, Naledi and Mantsopa local municipalities in particular has come under severe criticism. Irregular refuse removal, water-supply disruptions, degradation of the central business districts, neglected pavements and public areas, and generally ineffective and poor service provision are problems frequently identified in these municipalities (Brits, 2009a:4). It is also regularly reported that there are virtually no streets in these municipalities without potholes (Gericke, 2009:4). Adding to this distressing state of affairs is the fact that the Motheo district municipality, whose area of

jurisdiction comprises the above-mentioned three local municipalities, had only spent 2.5% of its 2008/2009 capital budget by the end of February 2009 (Brits, 2009c:4).

Research conducted by Ipsos Markinor during 2007 revealed that of the three spheres of government, the performance of local government is consistently rated the lowest by South Africans. A total of 3 277 respondents, representative of adults eighteen years and older in South Africa, were interviewed in April and May 2007, the sample having been scientifically selected to represent South Africa's adult population. Respondents were asked to rate how well the national, provincial and local governments were performing on a scale ranging between "very well", fairly well, "not very well" and "not at all well". A total of 59% of the respondents rated local government as performing "not very well" or "not well at all" (Ipsos Markinor, 2007).

Further research on government performance was conducted by Ipsos Markinor in 2009, at which time 3 312 respondents, representative of the South African adult population, were interviewed. The respondents were asked to provide their perceptions of government's performance, and their responses showed general dissatisfaction with the level of service provision in South Africa (Ipsos Markinor, 2009). The research conducted by Ipsos Markinor illustrates that the South African population is not only dissatisfied with the quality of services provided to the community, but that the services that are provided by local government do not meet the expectations of the residents. The predicament that municipalities must therefore address as a matter of urgency is the provision of quality municipal services to the community so as to ensure that the constitutional objectives and the legitimate expectations of the residents are met.

An additional factor that has a negative effect on the performance of local government is the incidence of nepotism and corruption. Opposition political parties often accuse local government of corruption and nepotism and draw

attention to the poor condition of municipal infrastructure (Brits, 2009b:2). Opposition parties have accentuated the fact that municipal employees are appointed based on their loyalty to the ruling party – the ANC – and not their abilities (Burger, 2009:1). This allegation is analysed comprehensively in chapter 4.

Non-compliance with resolutions of the Free State Legislature has also had a negative effect on local government service provision. A number of Free State municipalities, including the local municipalities already identified, have failed to implement resolutions of the Free State Legislature aimed at addressing their financial and management challenges (Kok, 2008f:1). These resolutions are identified in the following subsection.

Based on the identified opinions and expectations of the community, as well as media reports and statements made by opposition political parties, it appears that the performance level of local government is not regarded as satisfactory. The empirical results on whether local government has fulfilled the expectations in respect of the quality of municipal services to the community and whether the community has been provided with the minimum level of basic municipal services are presented in section 3.3.4.3.

Provincial Public Accounts Committee of the Free State Legislature

The Provincial Public Accounts Committee of the Free State Legislature (referred to in this subsection as PROPAC) made a number of recommendations since its inception to ensure legislative compliance and sound financial management of municipalities. The following resolutions of PROPAC have been identified to illustrate that the three local municipalities in question are characterised by inadequate legislative compliance and financial management (Weideman, 2009):

■ **Resolution no. 6/2007. Outstanding replies to resolutions:** PROPAC pointed out that it was extremely dissatisfied with the low implementation rate and apparent disregard shown by the municipal managers in implementing and finalising resolutions tabled and adopted in the Free State Legislature. PROPAC resolved that municipal managers should have regular meetings with managers at the specific municipalities to follow up on the implementation and finalisation of resolutions. Municipal managers must also report back to PROPAC within 90 days after the tabling and adoption in the Free State Legislature of this resolution on the outstanding issues.

■ **Resolution no. 12/2007. Mangaung local municipality:** PROPAC noted with concern that not all formal policies and procedures for important municipal processes had been approved by the municipal council and implemented by the municipal manager. PROPAC resolved that the municipal manager of the municipality must provide the Department of Local Government and Housing (now known as the Department of Co-operative Governance, Traditional Affairs and Human Settlements), the Provincial Treasury and the auditor-general with copies of all policies approved by the municipal council.

PROPAC also indicated that it is a tendency of the municipality not to submit tender documents and other supporting documentation for audit purposes. PROPAC resolved that the municipal manager should conduct an investigation into this matter and report back to the committee.

■ **Resolution no.13/2007. Mantsopa local municipality:** PROPAC was not satisfied with the implementation rate of resolutions tabled and adopted in the Free State Legislature and recommended that the municipal manager be required to provide the Council, the Provincial Treasury and the Department of Local Government and Housing with quarterly reports on the progress made and corrective measures implemented.

PROPAC was also not satisfied with the municipal manager's failure to provide supporting documentation during the auditor-general's audit. PROPAC therefore resolved that the municipal manager must ensure that an effective document filing system is implemented so as to guarantee the adequate filing of all supporting documentation.

PROPAC further noted that the writing off of indigent debt was not approved by the council due to "an oversight by staff". It was resolved that the municipal manager should put procedures in place to ensure that similar situations do not recur and to improve control over staff activities, particularly with regard to financial matters.

🗑️ **Resolution no.17/2007. Naledi local municipality:** PROPAC noted that in view of the fact that resolutions of the Free State Legislature were not properly followed up and resolved at this municipality, there were concerns about the lack of respect shown to the Free State Legislature. PROPAC resolved that the municipality should identify mechanisms to implement all outstanding resolutions of the Free State Legislature.

PROPAC was also concerned about the fact that various transactions at this municipality were not recorded and monitored on the accounting system. Control measures should therefore be implemented to ensure timely and accurate recording of all transactions on the accounting system. Reconciliations must be performed on a monthly basis to ensure that all transactions are recorded.

PROPAC also noted the following matters of concern:

🗑️ Proper records and documentation supporting certain transactions were not available and could not be submitted for audit purposes.

■ The municipal council ignored the municipal manager's guidance and advice and insisted on an increment in councillors' allowances, notwithstanding the fact that the MEC for Local Government and Housing (now known as the MEC for Co-operative Governance, Traditional Affairs and Human Settlements) had denied their request.

■ Fruitless and wasteful expenditure payments were reported in the auditor-general's report.

■ **Resolution no. 25/2007. Statutory deductions made from officials' salaries:** PROPAC identified that some municipalities utilised amounts deducted from the employees' salaries to settle outstanding commitments of the municipality. PROPAC resolved that this matter should be immediately addressed by the relevant municipalities, as it was creating a misrepresentation on the employees' salary slips and third-party payments were not being made, which could lead to criminal offences.

The above-mentioned resolutions of PROPAC were subsequently adopted by the Free State Legislature (Weideman, 2009).

Based on these resolutions of PROPAC, the conclusion can be drawn that these municipalities are experiencing serious challenges with regard to financial management and legislative compliance. Government must pay particular attention to this situation, as non-compliance with legislation and inadequate financial management will hinder the sustainable provision of services to communities in an environment of local government excellence. However, there are many other challenges confronting South African local government in providing services to residents, and these are elaborated on in section 3.2.4 of this chapter.

3.2.4 Factors influencing local government service provision

Local government is part of the South African government structure, which is founded on the constitutionally protected values identified in section 1 of the *Constitution*. Local government in general, and local government service provision in particular, are currently confronted with a number of significant challenges, including the following six major hurdles:

3.2.4.1 Financial constraints in local government

No public institution can afford to set up ambitious service provision programmes if there are insufficient funds available. However, the limited financial resources of local government serve to constrain its ability to provide effective and efficient services.

The restructuring of local government in South Africa and the amalgamation of the previously disadvantaged areas with the previously segregated white municipal areas has in particular served to increase the population for which each municipality is responsible. This factor has also had a serious effect on the utilisation of municipalities' financial resources to provide quality services to these larger populations (Bekink, 2006:42).

The inclusion of large numbers of people in new structured areas and the additional responsibility of this new extended area of jurisdiction are not balanced by an increase in taxes and financial potential. Many municipalities are experiencing severe financial crises due to service provision backlogs, the overall collapse of infrastructure, and a noticeable deterioration in creditworthiness (Bekink, 2006:42). This situation is then often exacerbated by increasing demands for service provision and higher expectations by the local community. Khalo (2007:186) agreed, stating that if the demand and cost for services are compared with the financial resources available, it is evident that these financial resources are severely limited.

As already mentioned in section 3.2.3.2, municipalities in the Free State are characterised by poor and unsatisfactory financial management. Khalo (2007:186) stated that the management of municipal funds is the pivot around which municipal service provision revolves. Municipal councillors and employees must ensure more effective, efficient, proper and sound financial management of public funds. By avoiding the procurement of goods and services that will not lead to the achievement of the municipality's objectives, these municipal functionaries can ensure that public funds are properly utilised for service provision. Zybrands (2006:157) added that municipalities will be burdened with poor financial management for as long as councillors take irresponsible politically motivated decisions without incurring any accountability.

Another challenge affecting municipalities' ability to provide adequate services is the existence of outstanding consumer debts. As at 30 June 2010, municipalities were owed a total of R56.1 billion by consumers (National Treasury, 2010). If municipalities had collected these debts, they would have been in the position to add sustainability to their ability to address the service provision backlogs (National Treasury, 2008:27-34).

The revenues and expenditures of municipalities determine their ability to provide services and their contribution towards poverty reduction and economic development. It is therefore essential that municipalities manage their financial resources in accordance with the provisions of the *Municipal Finance Management Act*, No. 56 of 2003 (SA, 2003a), financial procedures and regulations to ensure that the limited funds are spent prudently and to the benefit of the community.

3.2.4.2 Capacity limitations in local government

One of the key objectives of the current South African local government dispensation is to create a system of sustainable municipal service provision.

Municipalities will not be able to provide for the basic needs of the community if such municipalities are deficient in the sustained and effective provision of municipal services. To provide sustainable services and to perform all the functions identified in the applicable legislation, however, municipalities must have the necessary capacity along with skilled and experienced employees.

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 (SA, 1998g). An acceptable standard of municipal capacity is therefore required to ensure that municipalities perform their specific duties and responsibilities.

In his speech at the South African Local Government Association (SALGA) national conference, former President Thabo Mbeki (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 through 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 subsequently made available to focus on improving the capacity of these municipalities.

Also at the 2007 SALGA national conference, the Minister for Public Service and Administration (Fraser-Moleketi, 2007) explained that performance excellence within the three spheres of government, underpinned by the availability of capacity and the ability to attracting and retain 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, since in the absence thereof the overall effectiveness of government service provision becomes compromised.

In October 2010 the Outcome 9 delivery agreement was signed between the Minister for Cooperative Governance and Traditional Affairs, the MECs responsible for local government affairs in the provinces and the mayors of all municipalities in the country. The purpose of the agreement was to ensure a responsive, accountable, effective and efficient local government system. This agreement acknowledges that the “poor administrative and financial management” at municipalities and lack of adequate controls and accountability have impacted negatively on service provision for communities. The agreement suggests specific measures to improve municipal administrative and financial capability. These measures include the conducting of an audit to determine the quality and quantity of the existing municipal capacity and the development of a job classification framework for local government (Department of Co-operative Governance and Traditional Affairs, 2010).

The lack of necessary skills and experience is seen as a major constraint and one of the most significant challenges facing local government. It is therefore absolutely essential that the correct expertise, skills and mindset are urgently introduced at municipal level to address the capacity limitations.

3.2.4.3 Legislative complexity of the local government system

Over the past decade and a half, local government has experienced a deluge of laws from the national government (Community Law Centre, 2008). In terms of the *White Paper on Local Government*, an ambitious legislative programme was implemented to deal in principle with the institutional and political reorganisation 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 (SA, 2004a:12-14). Apart from the *Constitution*, the following current legislation are the most important that serves to regulate local government in South Africa:

- *Organised Local Government Act*, No. 52 of 1997 (SA, 1997c);
- *Transfer of Staff to Municipalities Act*, No. 17 of 1998 (SA, 1998f);
- *Remuneration of Public Office Bearers Act*, No. 20 of 1998 (SA, 1998d);
- *Local Government: Municipal Demarcation Act*, No. 27 of 1998 (SA, 1998b);
- *Local Government: Municipal Structures Act*, No. 117 of 1998 (SA, 1998c);
- *Local Government: Municipal Electoral Act*, No. 27 of 2000 (SA, 2000b);
- *Local Government: Cross-Boundary Municipalities Act*, No. 29 of 2000 (SA, 2000a);
- *Local Government: Municipal Systems Act*, No. 32 of 2000 (SA, 2000c);
- *Disaster Management Act*, No. 57 of 2002 (SA, 2002);
- *Local Government: Municipal Finance Management Act*, No. 56 of 2003 (SA, 2003a); and
- *Local Government: Municipal Property Rates Act*, No. 6 of 2004 (SA, 2004b).

A number of acts administered by national government also have a direct effect on local government, including the following significant examples:

- *National Building Regulations and Building Standards Act*, No. 103 of 1977 (SA, 1977);
- *Development Facilitation Act*, No. 67 of 1995 (SA, 1995a);
- *South African Police Service Act*, No. 68 of 1995 (SA, 1995c);
- *Housing Act*, No. 107 of 1997 (SA, 1997b);
- *Water Services Act*, No. 108 of 1997 (SA, 1997d); and
- *Traditional Leadership and Governance Framework Act*, No. 41 of 2003 (SA, 2003b).

Additionally, local government is further affected by laws that are not deemed to be “local government legislation”, for example:

- *Occupational Health and Safety Act*, No. 85 of 1993 (SA, 1993);
- *Labour Relations Act*, No. 66 of 1995 (SA, 1995b);
- *Basic Conditions of Employment Act*, No. 75 of 1997 (SA, 1997a);
- *Employment Equity Act*, No. 55 of 1998 (SA, 1998a); and
- *Skills Development Act*, No. 97 of 1998 (SA, 1998e).

Local government, due to the inherent nature of its diverse functioning, has become “the point of convergence for a barrage of legislation and regulations” (Community Law Centre, 2008). The legislation is presumably geared towards ensuring that local government fulfils its constitutional mandate of development. All the legislation and regulations are arguably relevant in the effort to regulate local government’s composite functions and enable it to achieve the intended outcomes.

The question that arises is whether the sheer volume, style, nature and scope of the legislative framework that has emerged is facilitating or impeding the achievement of this mandate. Some researchers have suggested that the current plethora of laws may be guilty of “strangulating” local government, “thus preventing it from executing its constitutional developmental mandate” (Community Law Centre, 2008). Empirical results on the impact of this plethora of legislation, applicable to local government, on municipal service provision are reflected in paragraph 3.3.4.7 of this chapter.

3.2.4.4 Party-political challenges

Public institutions, including municipalities, are created to achieve political aims and for this reason all government departments and municipalities are under the command of a political office-bearer (Botes *et al.*, 1992:193). At local government level, an office-bearer such as a mayor, executive mayor or councillor has a responsibility to ensure that his/her political assignment is achieved. Political factors, however, also present formidable local government service provision challenges.

According to Thornhill and Hanekom (1995:55-56) government programmes are usually developed 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 ANC was elected into power in 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 relevant municipal programmes.

Although provision has been made in legislation for the development of a number of policies and programmes, no municipal manager would be in a position to implement these policies and programmes without the support of a political will. In this regard, Zybrands (2006:157) stated that the political will has been "glaringly absent for the last ten years" at local government level, which has had a serious effect on service provision.

Municipalities in the Free State have over the last decade also experienced visible political instability as a result of political struggles within the ruling ANC (Du Toit, 2008:2). Mayors, speakers and other councillors have periodically been removed as office-bearers of municipalities due to party-political challenges, with a serious effect on the level and continuity of local government service provision. Political office-bearers were removed at all the municipalities under investigation in this research, namely the Motheo district municipality and the Mangaung, Mantsopa and Naledi local municipalities. This situation is thoroughly examined in Chapter 4.

The well-known former South African parliamentarian, Dr Frederik van Zyl Slabbert, stated that one of the most common mistakes of the current South African government in power is that, in the appointment of government

employees, loyalty towards the ruling party and specific individuals is to a certain extent rewarded over and above competence and performance excellence (Slabbert, 2006:145). In this regard the existence of the ANC's cadre policy, also referred to as the deployment policy, is profoundly criticised (Du Plessis, 2008:16).

As can be deduced from the above, party-political factors pose serious challenges to the effective and efficient provision of local government services. It is also believed that regular political interference in administrative responsibilities is experienced at municipalities. This, along with aspects such as the allegations of the absence of a political will and the assertion that loyalty to the ruling party and the ANC's deployment policy dominates the local government employee recruitment and selection criteria, is comprehensively analysed in chapter 4.

3.2.4.5 Administrative challenges

The absence of the necessary skills and capacity in the local sphere of government has already been identified as a factor that negatively affects municipal service provision. South African municipalities, however, also experience other administrative challenges such as the administrative integration process after the 2000 local government elections.

The amalgamation process resulted in drastic administrative changes to be implemented by municipalities. The different municipal policies and practices necessitated comparison and alignment, and labour disputes over salary and other service benefit disparities were challenges requiring the urgent attention of the individual municipal managements. Bekink (2006:42) stated that local government is still characterised by poor co-ordination between municipal departments, as well as poorly trained employees, which complicates municipal performance.

In emphasising the poor service provision at local government level, Shaw (2007:131) identified the serious lack of administrative capacity as one of the factors contributing to ineffective service provision. He also categorised “precipitate and badly executed affirmative action” as the reason for this unfavourable situation of inadequate service provision.

These administrative aspects are the main contributors to the inefficiency that occurs in local government service provision. Positive attitudes, effective capacity-building and realistic administrative approaches by municipal employees are urgently required to improve service provision and ensure quality municipal services. Municipal employees must also understand that as public servants, they have been appointed to serve the public. Their loyalty and commitment should therefore be focused on satisfying the expectations of the community.

3.2.4.6 Municipal developmental challenges

Local government in South Africa faces new demands in providing viable and environmentally stable urban and rural developments. Bekink (2006:68) identified the following developmental challenges:

- Transforming and addressing the skewed settlement patterns created by the former racially oriented dispensation. These settlement patterns are functionally inefficient and costly.
- The redistribution of concentrations of taxable resources, which are mostly collected in former white settlements.
- Addressing the enormous backlogs in service infrastructure in almost all historically underdeveloped areas. This challenge requires municipal spending far in excess of the revenue that is currently available.
- The establishment of viable municipal institutions in dense rural settlement areas. These areas usually have large population numbers with minimal access to services and little or no economic tax base to support the financial constraints.

- The integration of the spatial disparities between towns and townships. These disparities are mainly responsible for the increased demands on service and high transportation costs.
- The creation of municipal institutions that recognise the linkages between urban and rural settlements.
- The changing of former decision-making approaches and administrative systems in local government to ensure sustainable service provision to the community.
- The promotion of private sector involvement and the improvement of poor creditworthiness of municipalities. In addressing these aspects the administrative capacity of most municipalities needs to be reformed, as they have “little or no pre-existing institutional foundation to build on” (Bekink, 2006:69).
- Rebuilding the relationship between the newly demarcated municipalities and the community. Municipalities need to be more sensitive towards the needs of the people “who tend to be marginalised within their communities” (Bekink, 2006:69).

The above challenges are comprehensive in nature and complex to address adequately in practice. These challenges however have a negative impact on local government service provision. Local government will therefore have to identify practical and realistic measures to address these challenges.

3.3 EMPIRICAL SURVEY

In ensuring a comprehensive assessment of the challenges facing local government, empirical research was conducted. The aim of the empirical research, the research method employed and the research results are analysed in the following subsections.

3.3.1 Aim of the empirical research

With reference to the research question pertaining to the identification of the factors influencing local government in general and local government service provision in particular, the aim of the empirical research in this section was:

- To determine the role of local government in ensuring an acceptable quality of life for all South Africans in compliance with the local government statutory framework;
- To identify the challenges facing local government service provision;
- To identify the reasons for the lack of institutional capacity, skills and experience so as to ensure the effective provision of services at local government level and to assess how local government should address this challenge; and
- To identify whether the plethora of applicable local government legislation has a negative influence on local government service provision.

3.3.2 Sampling

The population for purposes of the research in this section consisted of functionaries in the Motheo district municipality and the Mangaung, Mantsopa and Naledi local municipalities since the aim was to evaluate the influence of political factors on the services provided by these institutions as example in the local government sphere. In determining the role of local government within the current legislative framework and identifying the typical service provision challenges facing local government in general, it was essential to identify respondents with substantial knowledge of the local government environment in the Free State provincial government and the identified municipalities. The participants that were identified also provided essential information that helped to clarify the reasons for the lack of institutional capacity, skills and experience within these municipalities in particular and the local government sphere in general, as well as to identify whether the plethora of applicable local

government legislation has a negative influence on the applicable service provision.

In a discussion document that was presented to its National General Council in 2010 the ruling party, the African National Congress (ANC) identified a number of factors “that exposed the causal reasons for distress in municipal governance”. These factors include the tensions between the political and administrative interface, the inability of many councillors to deal with the demands of local government and insufficient separation of powers between political parties and municipalities. Other factors that were identified are the poor compliance with legislative and regulatory frameworks for municipalities, the instability of municipal administrations and ineffective financial accountability (ANC, 2010). These factors correspond with the research results obtained with the identified research population. This acknowledgement of the ANC, who governs all 25 municipalities in the Free State, is sufficient motivation that the results identified in this Chapter also apply to the identified municipalities in particular and can be generalised in terms of the Free State as a whole.

The main objective of this study as indicated in paragraph 1.3 is to put the political reality of local government service provision into perspective, and it is therefore also essential to analyse the views of important office-bearers of the main political parties in the Free State. Interviews, based on an arrangement of structured questions, were held with two members of the Executive Council (MECs) in the Free State Province, four members of the Provincial Legislature (MPLs), senior managers of the Provincial Department of Co-operative Governance, Traditional Affairs and Human Settlements as well as councillors and senior employees of municipalities in the Free State Province.

The political office-bearers in the provincial and local government spheres who were interviewed included members of the ruling ANC party, as well as members of the opposition political parties in the Free State Legislature and the relevant

municipal councils. The MPLs included members of the ruling ANC, the leader of the official opposition in the Free State Legislature, and the national chairperson of the Freedom Front Plus. The councillors and employees of the municipalities identified above were serving as mayors, speakers and municipal managers.

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), Mangaung Local Municipality (Bloemfontein, Botshabelo, Thaba Nchu area), Mantsopa Local Municipality (Ladybrand, Excelsior, Tweespruit, Hobhouse, Thaba Patchoa area), and Naledi Local Municipality (Dewetsdorp, Wepener, Van Stadensrus area).

The motivation for involving these municipalities was that the Motheo District Municipality and the 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, 2004a:13), they are classified as high- and medium-capacity municipalities respectively. The Mantsopa Local Municipality received the Vuna award for the best local municipality in South Africa in 2004. The Naledi Local Municipality, however, receives support from the other spheres of government in terms of Project Consolidate. This municipality can also be regarded as one of the less resourced municipalities in the Free State.

As indicated, not all the municipalities in the Free State were selected for purposes of the survey, but as is evident from media reports, statements made by senior government office-bearers and opposition political parties, and reports of the Free State Legislature, inadequate local government service provision and the challenges facing municipalities appear to be of general concern. Interviews were held with a total of 31 respondents consisting of provincial and local government political office-bearers, as well as senior provincial government and municipal employees who, by virtue of the positions they occupy, could be

regarded as having experience or possessing technical knowledge of the challenges experienced by the local sphere of government. To ensure contributions from respondents with different fields of expertise, interviews were conducted with more than one respondent from the Provincial Department of Co-operative Governance, Traditional Affairs and Human Settlements and from each particular municipality.

Finally, the views and opinions of the public with respect to their municipal service provision expectations and the performance of government were also essential for this research. The comprehensive research conducted by Ipsos Markinor on these aspects, as discussed in section 3.2.3.2, adequately meets this research requirement.

3.3.3 Structure of the interviews

Interviews based on an arrangement of structured questions were conducted, with the questions contained in the questionnaires (Addendum A) being formulated to focus on the applicable research question. The respondents were asked to mark the most applicable answer with an X in the space provided alongside each answer and to sign the completed questionnaire. The interviews were also recorded on audiotape.

The questions were formulated in such a way as to determine whether the role of local government is adequate to provide a good quality of life for all citizens, as well as to identify the general challenges facing local government service provision. Respondents were also asked to identify the reasons for the lack of institutional capacity, skills and experience necessary to ensure the effective provision of services at municipal level, and to formulate their opinion on whether the vast number of local government legislations has a negative influence on local government service provision.

3.3.4 Data analysis and interpretation

The results and the interpretation of the empirical survey are presented in the following subsections for the purpose of analysing the appropriate data accordingly.

3.3.4.1 Essential nature of local government service provision

As already indicated, local government provides municipal services that materially affect the lives of all residents. In determining whether government structures and political parties regard local government service provision as indispensable in ensuring an acceptable quality of life, respondents were asked to indicate the essential nature of local government service provision by identifying the applicable criteria provided in the questionnaire. All 31 respondents answered all the questions in the questionnaire. The results are stipulated by indicating the frequency or number of respondents that identified the pertinent response, as well as the corresponding percentage of respondents.

Table 3.1 Essential nature of local government service provision

CRITERIA	FREQUENCY	PERCENTAGE <i>n = 31</i>
<i>i) Absolutely essential.</i>	30	96.8%
<i>ii) Essential, but the services provided by national and provincial government are more important.</i>	1	3.2%
<i>iii) Not essential.</i>	0	0%

As observed from Table 3.1, 96.8% of respondents indicated that the role of local government is absolutely essential in ensuring an acceptable quality of life for all residents. Only one respondent or 3.2% of the total number of respondents indicated that the role of national and provincial government is more important than that of local government in ensuring an acceptable quality of life, and this response can probably be disregarded. A concerted effort is therefore required from local government to ensure that it meets the expectations of the community in providing quality services. Whether or not local government has fulfilled these expectations is analysed in the following subsection.

3.3.4.2 Fulfilment of local government service provision expectations

As already explained, the *Batho Pele* principles emphasise the legitimate right of the community to expect quality services. It is, however, essential to determine whether local government has fulfilled those expectations. Table 3.2 provides the number and percentages of respondents who stated that their expectations in respect of the quality of local government service provision are being fulfilled, as well as those who claimed not to be satisfied with the quality of service provision.

Table 3.2 Fulfilment of service provision expectations

CRITERIA	FREQUENCY	PERCENTAGE <i>n =31</i>
<i>i) Local government has fulfilled the expectations in respect of the quality of municipal services to the community.</i>	9	29%
<i>ii) Local government has not fulfilled the expectations in respect of the quality of municipal services to the community.</i>	22	71%

As detected from Table 3.2, 71% of respondents indicated that local government has not fulfilled their expectations in providing quality services to the community. Nine or 29% of respondents expressed the view that local government has fulfilled their expectations in respect of the quality of services rendered to the community. All of those nine respondents, however, also indicated that the quality of municipal service provision should be improved. The non-fulfilment of service provision expectations by these Free State municipalities is not only inconsistent with the *Batho Pele* principles, but it also points to the non-achievement of one of local government's constitutional objectives, namely to ensure the provision of sustainable services to the community.

3.3.4.3 Community access to the minimum level of basic municipal services

Section 73(1)(c) of the *Municipal Systems Act* stipulates that a municipality must give effect to the provisions of the *Constitution* and ensure that all members of the local community have access to at least the minimum level of basic municipal services. Respondents were asked to point out whether local government in general has ensured that all members of the local community have access to at least the minimum level of basic municipal services. The responses are reflected by means of the percentages indicated alongside the criteria indicated in the table below.

Table 3.3 Access to minimum level of basic services

CRITERIA	FREQUENCY	PERCENTAGE <i>n</i> = 31
<i>i) Community has access to the minimum level of basic services.</i>	21	67.7%
<i>ii) Community does not have access to the minimum level of basic services.</i>	10	32.3%

It can be concluded from Table 3.3 that the majority (21) of the respondents indicated that the local community has access to at least the minimum level of basic services. Ten or 32.3% of the respondents disagreed with this statement. Although approximately 80% of the respondents who indicated that the community does not have access to the minimum level of basic services are opposition political party office-bearers, a small number of ANC office-bearers also indicated that the minimum level of municipal services is not yet being provided. This leads one to deduce that there might be some areas where the minimum level of municipal services has not yet been provided.

3.3.4.4 Challenges facing local government service provision

A number of factors influencing local government service provision were identified in paragraph 3.2.4. In further identifying service provision challenges, these factors were included in the ones presented to the respondents as a means of determining the challenges facing municipal service provision. Respondents were asked to identify the most to the least dominant factors in priority order. The weights awarded for the specific responses are six for the most dominant challenge and one for the least dominant challenge. The maximum potential weight for the identified criteria is 186 per criterion. Interviews were conducted with a total of 31 respondents, who answered all the questions contained in the questionnaire (Addendum A).

Table 3.4 Challenges facing local government service provision

<i>CRITERIA</i>	<i>SCALE WEIGHT</i>	<i>MAXIMUM WEIGHT</i>	<i>PERCENTAGE WEIGHT</i> <i>n = 31</i>
<i>i) Lack of necessary capacity such as knowledgeable staff.</i>	143	186	76.88%
<i>ii) Absence of the political will to</i>	99	186	53.23%

<i>provide services.</i>			
<i>iii) Political instability (political infighting) in the province.</i>	110	186	59.14%
<i>iv) Resistance of employees to ensure that government achieves its developmental objectives.</i>	84	186	45.16%
<i>v) Legislative complexity of the local government system.</i>	91	186	48.92%
<i>vi) Financial constraints.</i>	124	186	66.67%

As evident from Table 3.4, capacity and financial constraints are the most dominant challenges facing local government service provision, followed by the so-called political factors, namely the political instability in the province and the absence of the political will to provide municipal services. These challenges obtained percentage weights of 76.88%, 66.67%, 59.14% and 53.23% respectively. The legislative complexity of the local government system and the resistance of employees to ensure that government achieves its developmental objectives obtained percentage weights of 48.92% and 45.16% respectively. The fact that the political factors attained substantial percentage weights illustrates that they pose serious challenges for local government service provision. The lack of the necessary capacity at local government level also raises questions about the extent to which political factors have influenced and encouraged the appointment of inexperienced and unskilled employees. These factors are identified in subsection 3.3.4.6.

3.3.4.5 Addressing capacity constraints and skills shortages

The lack of the necessary capacity at municipal level has been identified in the theoretical survey and by the respondents as one of the main challenges facing local government service provision. In identifying measures to address the capacity constraints and skills shortages in the local sphere of government, respondents were asked to identify, in priority order, the proposed methods that could be implemented to address these challenges. To identify the most popular

methods proposed as ways of addressing administrative capacity constraints and skills shortages, weights were awarded to the responses in a similar way as described in subsection 3.3.4.4. A weight of four was assigned to the proposal selected most often and a weight of one was assigned to the least popular proposal, with a maximum potential weight of 124 per criterion.

Table 3.5 Methods to address capacity constraints and skills shortages

CRITERIA	SCALE WEIGHT	MAXIMUM WEIGHT	PERCENTAGE WEIGHT n = 31
<i>i) Creation of a working environment conducive to the retention of skilled employees.</i>	73	124	58.87%
<i>ii) Implementation of effective capacity-building and training programmes.</i>	81	124	65.32%
<i>iii) Recruitment and selection of knowledgeable and skilled employees.</i>	98	124	79.03%
<i>iv) Implementation of programmes to attract former experienced employees or to motivate these former employees to apply for positions.</i>	58	124	46.77%

As observed from Table 3.5, 79.03% of the respondents identified the recruitment and selection of knowledgeable and skilled employees as the method that would most likely succeed in addressing the capacity constraints and skills shortages experienced at municipalities. The implementation of effective capacity-building and training programmes attained a percentage weight of 65.32%, followed by methods to create a working environment conducive to the retention of skilled employees with a percentage weight of 58.87%. The implementation of programmes to attract former experienced employees or to

motivate these former employees to apply for positions received a percentage weight of 46.77%. Municipalities will not be able to provide for the basic needs of the community if they continue to appoint personnel who lack the necessary skills, knowledge and expertise and who are therefore unable to ensure the sustained and effective provision of municipal services. The recruitment and selection of skilled employees is therefore essential to ensure effective and efficient municipal services.

3.3.4.6 Reasons for the lack of institutional capacity, skills and experience

As identified in subsections 3.3.4.4 and 3.3.4.5, the lack of knowledgeable staff and the recruitment of inexperienced employees present serious challenges for the effective and efficient provision of sustainable services to the community. To determine the main causes of this problem, respondents were asked to identify the most applicable criteria among the possibilities provided in the questionnaire. The responses are shown by means of percentages provided alongside the identified criteria.

Table 3.6 Reasons for lack of institutional capacity, skills and experience

<i>CRITERIA</i>	<i>FREQUENCY</i>	<i>PERCENTAGE</i> <i>n = 31</i>
<i>i) Appointment of inexperienced and unqualified persons in positions.</i>	8	25.81%
<i>ii) Political interference in the appointment of employees.</i>	18	58.06%
<i>iii) Ineffective employee training programmes.</i>	5	16.13%

In subsection 3.3.4.4, a question was raised about the extent to which political factors have influenced and encouraged the appointment of inexperienced and

unskilled employees. As seen from Table 3.6, it is noticeable that political interference in the appointment of employees is one of the most dominant reasons for the lack of the necessary institutional capacity, skills and experience to ensure the effective provision of services at local government level, with 58.06% of respondents selecting this criterion. The appointment of inexperienced and unqualified persons in positions and the offering of ineffective training programmes were identified by a number of respondents as the reasons for the lack of institutional capacity, skills and experience, with 25.81% and 16.13% of the respondents selecting these factors respectively. Political factors such as the absence of the political will to provide municipal services and the political instability in the Free State have been identified as factors that have a negative influence on local government service provision. The presence of political interference in the appointment of employees emphasises the effect that political factors currently have on local government service provision.

3.3.4.7 Influence of the deluge of legislation on service provision

As alluded to in the theoretical survey of Chapter 3, local government has experienced the enactment of a plethora of significant legislation by national government. The legislation applicable to local government not only creates additional municipal responsibilities, but also requires specialised skills to ensure legislative compliance. It was mentioned in section 3.2.4.3 that the sheer volume, style, nature and scope of the legislative framework applicable to local government prevent municipalities from providing quality municipal services. Respondents were therefore asked to indicate whether the implementation of the deluge of applicable legislation applicable to local government has had a negative effect on the provision of quality municipal services. This negative effect includes aspects such as the complexity of legislation, the lack of specialised skills to ensure legislative compliance, and the additional workload that may have been created. The research results are depicted in Table 3.7 by the classification of the number and percentage of respondents alongside the criteria provided.

Table 3.7 Influence of the deluge of legislation on service provision

CRITERIA	FREQUENCY	PERCENTAGE <i>n = 31</i>
<i>i) The implementation of the plethora of applicable legislation has had a negative influence on ensuring the provision of quality municipal services.</i>	20	64.5%
<i>ii) The implementation of the plethora of applicable legislation has not had a negative influence on ensuring the provision of quality municipal services.</i>	11	35.5%

It can be concluded from Table 3.7 that the implementation of the specific requirements of the plethora of applicable local government legislation presents a challenge when it comes to ensuring the provision of sustainable municipal services to the community, with 64.5% of the respondents identifying it as such. Eleven or 35.5% of the respondents stated that the legislation has not had a negative influence on ensuring the provision of quality municipal services.

Complying with the substantial number of legislative requirements when faced with the limited skills and experience of personnel contributes to government's dilemma of being unable to achieve its vision, namely to provide "a better life for all". A certain degree of expertise is required to interpret and implement legislation, which appears to be sorely lacking at municipalities.

3.3.4.8 Administrative workload of municipalities

In implementing the substantial number of legislative requirements as referred to in subsection 3.3.4.7, it is inevitable that municipalities will experience an additional administrative workload. All respondents were therefore asked to identify whether municipalities are overburdened with administrative responsibilities while the primary responsibility of service provision is neglected. Administrative responsibilities include functions such as policy-making, financing, personnel provision and utilisation, organisation, the determining of working methods and procedures, and control functions (Du Toit *et al.*, 2002:82). The results of the survey are reflected in Table 3.8.

Table 3.8 Determining the administrative workload of municipalities

<i>CRITERIA</i>	<i>FREQUENCY</i>	<i>PERCENTAGE</i> <i>n = 31</i>
<i>i) Municipalities are overburdened with administrative responsibilities.</i>	24	77.4%
<i>ii) Municipalities are not overburdened with administrative responsibilities.</i>	7	22.6%

An ambitious legislative programme has been implemented which, in principle, deals with the institutional and political reorganisation of the South African local government system. Twenty-four or 77.4% of the respondents agreed that the implementation of the legislation applicable to local government has brought about additional responsibilities for municipalities, while 22.6% of the respondents disagreed with this statement. The execution of these responsibilities is complicated by the lack of the necessary capacity such as knowledgeable staff at municipalities. A number of respondents mentioned that regular reporting to the national and provincial governments and the implementation of other requirements such as the formulation of policies have changed the performance priorities of municipal employees. Municipal

employees place emphasis on complying with legislation in performing their administrative responsibilities, such as submitting reports to the other spheres of government, developing performance measurements for employees, formulating policies, and establishing intergovernmental structures. Service provision appears to have become a less significant responsibility at some municipalities as a result of the additional administrative responsibilities, which is an alarming challenge.

South Africa prides itself on having some of the finest legislation applicable to local government in the world. To implement this legislation and to achieve its goals, local government needs skilled and experienced employees to perform the required duties and responsibilities. However, such employees have already been identified as a rarity. As alluded to in this chapter, the voluminous legislation contributes to the “strangulation” of local government, “thus preventing it from executing its constitutional developmental mandate” (Community Law Centre, 2008).

3.4 CONCLUDING REMARKS

The *Constitution* supported by other relevant legislation provides local government with an entrenched autonomy and specific powers and functions. This entrenched status also brings about a substantial responsibility, as municipalities are compelled to fulfil various constitutional obligations. It is essential that municipal services comply with and conform to the constitutional requirements. To achieve and fulfil municipal objectives, service provision must be effective, efficient, equitable and accessible.

The research results in this Chapter, however, point to an unsatisfactory level of service provision in the identified municipalities in particular and in the Free State in general. There is disparity between the legislative requirements, the expectations of the community, and local government’s actual service provision

output. The provision of quality municipal services is also complicated by a number of financial, administrative and legislative difficulties, as identified in this chapter.

Significant factors influencing local government service provision, such as financial constraints, capacity limitations, the legislative complexity of the local government system, party-political challenges, administrative challenges and municipal development challenges, have been identified. The results of the empirical survey also reveal that the lack of the necessary capacity such as knowledgeable staff, coupled with financial constraints, is the most dominant reason for ineffective municipal service provision. Without sufficient capacity and financial resources, no municipality will be able to achieve the constitutional objectives or fulfil its duties and responsibilities. It is therefore absolutely essential that local government ensures that its administrative capacity is adequate to guarantee compliance with all legislative obligations.

The plethora of legislation applicable to local government and the administrative workload that this legislation has brought about for municipal employees have been identified as additional factors that have a negative influence on local government service provision. In complying with legislation, municipal employees prioritise their administrative responsibilities while neglecting the primary responsibility of municipal service provision. Government therefore urgently needs to introduce measures to address this challenge, such as reorganising the volume and complexity of legislation. Government's good intentions aside, the legislation is preventing local government from executing its developmental mandate.

The empirical results furthermore show that political factors such as the absence of the political will to provide municipal services and the political instability within these Free State municipalities have emerged as predominant negative influences on local government service provision. Political office-bearers are accountable to the electorate and are compelled to prioritise the basic needs of

the community. The reality is that political factors are having a negative effect on municipal service provision, and this needs to be addressed adequately by all local government participants to ensure that the needs of the community are prioritised.

The *Constitution* compels local government to strive within its financial and administrative capacities to achieve the constitutional objectives. Services should be provided to enhance the quality of life of all people without compromising the quality of those services. In addressing the basic needs of the community and dealing with service provision backlogs, municipalities are, however, confronted with extensive challenges.

It will also not be possible for local government to achieve its various objectives without public-oriented, effective and efficient political leadership. The empirical results, however, indicate that political factors have a significant influence on the day-to-day operations of local government. Local politics as a determinant of a municipality's ability to provide municipal services in an effective and efficient manner is evaluated in chapter 4.

CHAPTER 4

LOCAL POLITICS AND EFFECTIVE SERVICE PROVISION

4.1 INTRODUCTION

Local government in South Africa is highly politicised for three distinctive reasons, the most apparent being that prior to 1994 the municipal dispensation was race-based and municipal services were unequally provided to communities. The unequal and unfair local government system left a negative imprint on municipalities in respect of the provision of services and social upliftment, and many of the current challenges experienced in local government are directly attributable to the undemocratic system of the past. The second reason is that the country is in its second decade of democracy and the community is becoming impatient to experience a better quality of living by receiving adequate municipal services. Finally, there are different interests and opinions when it comes to service provision needs and priorities. These differing points of view necessitate discussion and debate while also creating awareness of these different interests and opinions.

Municipalities are public institutions whose political office-bearers are elected by the community. The decisions taken by these office-bearers are influenced by political considerations for which they are politically accountable to the electorate. Local government in South Africa is also characterised by intense political activity, including the interaction between a number of individuals and interest groups who exert pressure on the political office-bearers and employees to address their particular interests and needs. In a diverse South African society where different political aspirations, interests and agendas are found, appropriate interaction, political maturity, mutual tolerance and the resolution of conflict are required to ensure that the actual service provision needs of the community are addressed.

It was determined in chapter 3 that an unsatisfactory level of local government service provision is experienced in the Free State Province, with financial, administrative and legislative challenges, amongst others, being identified as reasons for this deficiency. This chapter seeks to identify the way in which political factors, and more specifically political dynamics in the local sphere of government, affect service provision.

Political influences should, however, not be analysed without referring to the characteristics of the political system. This chapter therefore clarifies the principle of democracy, defines the term “politics”, and describes the role of political parties. A brief history of the ruling party, the African National Congress, is provided, and the distinguishing features of dominant political parties are explored. Similar to chapter 3, this chapter comprises both a theoretical and an empirical section in analysing the research question.

4.2 POLITICS IN A DEMOCRACY

Politics and political activity are inevitable features of any democracy. Politicians and political ideologies determine the extent to which the principles of democracy are interpreted and implemented. They also have an influence on the specific service provision responsibilities of government. In identifying the nature of politics in a democracy, it is essential to clarify the principle of democracy and the defining features of politics. For purposes of this study, it is also necessary to restrict the identification of political influences on democracy to the activities and responsibilities of local government in the Free State Province.

4.2.1 Principle of democracy

South Africa is generally regarded as a democratic state and it prides itself on ascribing to modern democratic principles. This democracy was established by the first majority-rule elections in April 1994 and the subsequent implementation

of the *Constitution*. In identifying the significance of the role of democracy in local government service provision, it is important to conceptualise democracy in its broadest sense.

Democracy is a form of government that is organised in a manner consistent with the principles of popular autonomy, political equality, popular consultation, and majority rule (Ranney, 1996:94). *Popular autonomy* means that the ultimate power to make political decisions is vested in all the people rather than in individuals. *Political equality* requires that all citizens have the opportunity to participate in the political decision-making process. *Popular consultation* refers to the process according to which government institutions determine the preferences of the community and the public policies that the community would like to see adopted and enforced. *Majority rule* applies when the community disagrees on a matter and government acts according to the wishes of the majority (Ranney, 1996:94-97). Democracy is further described as government of the people, by the people and for the people (Heywood, 2007:72). Democracy therefore suggests that for a government to be legitimate, it has to have the consent of the majority of the people.

The objective of democracy is to create conditions where an individual is able to achieve the greatest state of wellbeing (Cloete, 1998:103). Gildenhuys and Knipe (2000:40) agreed, stating that the primary objective of democracy is to develop the individual and to protect the dignity of all citizens. To meet these objectives, government must be structured in a manner that will permit transparent deliberation and consultation that involves not only the supporters of the party in power, but also opposing views.

The principle of democracy is specifically protected in the *Constitution*, with section 1 stipulating that South Africa is one sovereign, democratic state founded on the principles of human dignity, the achievement of equality, and the advancement of human rights and freedom. It also confirms the supremacy of the

Constitution and the rule of law. In addition, section 2 of the *Constitution* states that any law or conduct inconsistent with it is invalid, while section 7 determines that the Bill of Rights is the cornerstone of democracy in South Africa, enshrining the rights of all people and affirming the democratic values of human dignity, equality and freedom. According to Bekink (2006:7) the *Constitution* recognises three forms of democracy in South Africa, namely representative democracy, participatory democracy, and direct democracy.

Cloete (1998:103-104) explained that in ensuring respect for the principles of democracy, the community should have specific rights and freedoms. Firstly, the activities of public institutions should be capable of being observed, investigated and judged. The activities should therefore be conducted in a transparent manner. Secondly, citizens should have freedom of speech, which includes the right to express and publish their views. Thirdly, democracy should allow freedom of movement and therefore freedom of association, which would for instance allow individuals to establish political parties to compete for governance of the country.

For democracy to materialise at local government level, municipal services must be provided according to the needs and preferences of the residents. The residents also need to participate in democratic structures, the political culture and other participatory processes. In this regard, Van der Waldt (2007:26) explained that democracy in the local sphere of government entails the act of making municipalities more responsive to the needs of the community by providing adequate services. It also requires citizen participation and interest in local government decision-making processes. According to Dahl (1989:88-89) in Van der Waldt (2007:26), a significant element of democracy in the local sphere of government is citizen satisfaction. Every citizen therefore has the right to express his or her observations and dissatisfaction with regard to the quality of the services provided by municipalities. Every citizen also has the right to replace public representatives at elections if dissatisfied with their performance.

The *Constitution* specifically protects the principle of democracy, and all government institutions – including local government – have a responsibility to respect the principle of democracy. Government must therefore adhere to the broad constitutional objectives of a democratic state, and local government in particular must ensure that it complies with these principles by fulfilling the requirements of the community.

Democratic systems utilise political processes and political parties to articulate and integrate a diversity of opinions into public policy. It is therefore necessary to examine the characteristics of politics in a democracy.

4.2.2 Defining features of politics

Politics affects the lives of all citizens on a daily basis and there is probably not one household in South Africa where the term “politics” is not used frequently. The reason for this is that the community realises that a stable political system in a democracy is essential to sustaining the quality of their lives and ensuring their very existence.

The word “politics” is derived from the Greek word “*polis*”, meaning “city-state”. Politics can therefore be understood as referring to the affairs of the “polis” or addressing matters that concern the city-state (Heywood, 2007:5). Van Dyke (1960:134) in Du Toit *et al.* (2002:58) defined politics as a struggle among participants “pursuing conflicting desires on public issues”. The South African Concise Oxford Dictionary (DSAE, 2002:903) defines politics as activities associated with the governance of a country or area, and also as the principles relating to an activity especially when concerned with power and status.

Irrespective of how politics is defined, Du Toit *et al.* (2002:58-59) stated that politics takes place within a particular environment and that it is concerned with the process of governing power. Du Toit *et al.* (2002:60) also stated that political

dynamics depend on the interaction and interrelation of specific features in society such as the prevailing political culture, the economic system, and the particular interest and pressure groups involved.

Politics is also described as the activity whereby the people make, preserve and amend the general rules applicable to them, and which is characterised by conflict and co-operation. The existence of differing opinions, competing needs and opposing interests guarantees disagreement about the applicable rules (Heywood, 2007:4). In this regard, Ranney (1996:4) explained that political conflict is not a regrettable deviation from acceptable norms and values, as conflict arises from the very nature of human life itself.

The community must, however, realise that in order to influence and uphold these rules, the residents must co-operate with one another. Politics is also about conflict resolution and the presence of diversity, and the scarcity of resources in society ensures that politics is an inevitable feature of the human condition (Heywood, 2007:4).

Politics includes the decision-making and decision-enforcing processes in society that make and enforce the rules applicable to the community. According to Ranney (1996:2) politics is therefore the process of making government policies. In this regard, Heineman (1996:21) stated that political theory provides a guide to political action and public policy and also offers explanations for the required political behaviour and the exercising of political power.

Politics is significant to the values of the community and the quality of the residents' lives. Political systems, for example, set the minimum requirements for the safety and welfare of the community. If political processes are unsuccessful, the community will be disadvantaged and experience feelings of insecurity while witnessing the general decline of the services provided by government.

An essential participant in politics and the government of any country is the political party. Political parties continually execute strategies to induce government to act in a way that will promote the political parties' interests. The character, duties and responsibilities of political parties are analysed in section 4.4.

4.2.3 Political parties

Political parties are organisations found in almost all countries and political systems in the world. In modern democracies, political parties are regarded as essential to stable and effective governments. Political parties represent the needs and demands of specific groups of individuals and are the instruments through which the aspirations and expectations of the community are communicated to government institutions.

Political parties in South Africa play an essential role in ensuring representation in the South African democracy. In this regard, section 19 of the *Constitution* stipulates that every citizen is free to make political choices, which includes the right to form a political party, to participate in the activities of a political party, and to campaign for a political party.

Modern political parties emerged in the United States of America (USA) in the nineteenth century at the advent of representative government and are part of the structures of mass politics (Heywood, 2007:272-273). Heineman (1996:122) stated that political parties articulate policy priorities intended to benefit their members and that they organise their activities to influence government – or to actually become government – to implement these policies.

According to Ranney (1996:202) political parties have specific characteristics. Firstly, political parties are groups of people with a specific identity who are referred to as “republicans”, “communists” or “democrats” by themselves or

others. Secondly, these groups of people are organised and they act collectively to achieve common objectives. Furthermore, society recognises a political party's right to organise and promote the desires of its members as legitimate. Another characteristic is that political parties work through the mechanisms of representative government, such as elections and legislatures, to promote their activities and policies. Finally, a key activity of political parties is to select candidates for elective public office. Sadie (2006:203) agreed, characterising a political party as a group of people that is formally organised and which is identified by a specific identity or label. Sadie (2006:203) went on to explain that the primary objective of political parties is to gain control of the machinery of government by election or other means.

The principle of representation in a democracy depends on the existence of political parties. The representation of the people can only be effected by the election of representatives, and for this reason political parties need to identify candidates to participate in election for public office (Sadie, 2006:202).

Heineman (1996:122) explained that the most important function of a political party is to provide the means for the orderly transfer of power. Opposition parties continue to organise themselves to gain control of government in the event that the people lose confidence in the ruling party. Another function of a political party, according to Heineman (1996:122), is to provide policy alternatives when it is not in power. Opposition parties monitor the activities of the ruling party and, if the ruling party wishes to remain in power, it must be sensitive to the criticism of the opposition parties. Finally, Heineman (1996:122) stated that political parties can also be sources of new ideas and policy innovation.

Sadie (2006:203) explained that political parties are supposed to perform many useful tasks for society. The first is to organise the public will by bringing the sectional interest together and to refine demands on the political system that are the result of values, beliefs and ideologies. Secondly, political parties perform an

important role in voter education by fostering individual political and leadership skills. The most noticeable function of political parties is to convince people to vote for them, and in so doing stimulate a sense of government legitimacy among the people. Furthermore, political parties are essential vehicles for the recruitment of political leaders who will later represent the people in the legislature and as government executives.

In addition to the functions identified above, Heywood (1996:279) stated that political parties also assist with the formation of government in parliamentary systems. Political parties facilitate co-operation between the legislature and the executive and they are also in a position to provide governments with a degree of stability and coherence.

Political parties are therefore groups of people that are organised for the specific purpose of gaining control of government in order to implement their particular policies and programmes. Political parties are also significant institutionalised participants in a democracy without which a representative government cannot be elected.

The major South African political parties being represented in parliament and provincial legislatures are the African National Congress (ANC), Democratic Alliance (DA), Congress of the People (COPE), Inkatha Freedom Party (IFP), and Freedom Front Plus (FF+). Municipal councils in the Free State are mainly composed of councillors representing the ANC, DA and FF+. The ANC has been the ruling party since 1994, and for purposes of this research it is essential to briefly provide the history of this organisation.

4.2.4 African National Congress (ANC)

Prior to 1994, South African history was characterised by segregationist policies and the ideology of apartheid. Following a negotiation process amongst all the

major political participants that commenced in 1990, South Africa's first democratic elections were held on 27 April 1994. The ANC emerged triumphant and has since then remained the ruling party in South Africa. To be able to put the political reality of local government service provision in the Free State Province with specific reference to the identified municipalities into perspective an analysis of the current South African political dispensation is necessary. This will include a concise view of the history of the ANC as the ruling party in South Africa.

The ANC was founded in Bloemfontein on 8 January 1912. At the time of its formation it was known as the South African Native National Congress. The aim of the organisation was to "bring all Africans together as one people" and to defend their rights and freedoms (ANC, 2009a). The Reverend John Dube, an educationist and newspaper editor, was elected as the first president-general of the organisation. Sol Plaatje, a well-known political spokesperson and clerical assistant in the Cape Province public service, became the secretary-general (Gumede, 2005:3-4).

The increasing violation of the rights of black people in the 1940s, along with blatant racism and racist legislation and policies, gave rise to a more militant response by the ANC. The ANC Youth League, which was formed in 1944, developed a programme of action calling for strikes, boycotts and defiance. This programme of action, which led to the Defiance Campaign of the 1950s, was adopted by the ANC in 1949.

At the 1952 national conference, Chief Albert Luthuli was elected president of the ANC and a decision was made at the conference to embark on an intensive campaign of defiance against apartheid laws. Chief Luthuli was also named the Nobel Peace Prize laureate in 1960 (Asmal, Chidester & James, 2004:3).

In 1955 approximately 3 000 delegates representing organisations such as the ANC, South African Communist Party, Coloured People's Organisation and Congress of Democrats assembled at Kliptown, south of Johannesburg, to adopt the Freedom Charter. This Charter called for equal rights for all national groups and also insisted on the nationalisation of banks and mines. This suggestion for nationalisation was, however, not interpreted by the ANC as a suggestion for socialism (Gumede, 2005:21).

In 1960 Oliver Tambo, who served as ANC president until 1991, left South Africa to set up a mission to campaign for international support against the South African government. He remained in exile for three decades. In a further process to address the injustices of the South African government, the most famous of all ANC members, Nelson Mandela, who was instrumental in the formation of the ANC Youth League in 1944, formed *Umkonktho we Sizwe* (MK), the secret military wing of the ANC, in 1961. Initially MK was only involved in organised acts of sabotage against government installations, but it later escalated to full-scale guerrilla warfare (Gumede, 2005:23).

On 12 June 1964 Nelson Mandela, Govan Mbeki, Walter Sisulu, Ahmed Kathrada, Denis Goldberg, Raymond Mhlaba, Andrew Mlangeni and Elias Motsoaledi were convicted of treason in the Rivonia trial and sentenced to life in prison. The ANC was also later banned as a political organisation, after which ANC activism was revived on the back of resurgent trade unionism. A number of community organisations, such as civic, student and youth structures, were established in the 1970s and 1980s, leading to the formation of the United Democratic Front. During this time, severe political unrest was experienced in South Africa, and a state of emergency was declared numerous times. More than 300 000 people were detained during these times, and hundreds of political activists were killed by secret government units (ANC, 2009a).

As international condemnation of the South African government and its policies escalated, the government realised that it would have to negotiate with the ANC and other organisations to find a political solution to South Africa's dilemma. On 2 February 1990, former President FW de Klerk unbanned the ANC and all other liberation organisations and announced that the government was prepared to address the political challenges peacefully through negotiations. Nelson Mandela and other political prisoners were released shortly after the announcement. At the 1991 ANC national conference, Nelson Mandela was elected as president of the ANC and Oliver Tambo, who had served as ANC president from 1969 to 1991, was elected national chairperson.

The process of negotiation resulted in the first democratic elections being held for all South African citizens on 27 April 1994. A vast majority of 62.6% of the 22 million votes cast during those elections were in favour of the ANC (ANC, 2009a). On 10 May 1994, Nelson Mandela was inaugurated as the president of South Africa. All general elections held since then, in 1999, 2004 and 2009, have seen the ANC emerge triumphant and retain its position as the ruling political party in the South African government.

The ANC fought for power and struggled for liberation for more than 80 years, but it is now facing another challenge as it embarks on the difficult process of transforming from a revolutionary liberation organisation into a political party that is equipped to govern and which embraces democracy.

4.2.5 Dominant political parties

As already mentioned, the ANC has been the ruling party in South Africa since 1994. Moreover, the ANC won the 1994, 1999, 2004 and 2009 general elections by a vast majority of votes. Currently the ANC is also the ruling party in eight of the nine provinces, with the Western Cape – ruled by the DA – being the only exception. The majority of the municipal councils in the country are also under

ANC control, with only a handful of municipal councils in the Western Cape and KwaZulu-Natal being controlled by the DA and IFP respectively. As a result of the dominance of the ANC in national, provincial and local government elections, it is essential to analyse party dominance in South Africa.

A dominant party system is competitive in the sense that a number of political parties compete for power at elections, but a single party dominates and consequently enjoys extended periods in power. Rival parties are not outlawed in dominant party systems, nor are opposition parties' ideologies and programmes suppressed. They also have the prospect of winning votes and public offices and may even gradually increase their support (Ranney, 1996:224). The most prominent characteristic of a dominant party system is the tendency for the political focus to change from rivalry between parties to factional conflict within the dominant party itself (Heywood, 1996:286). In the political environment, the term "faction" is commonly used to describe a group within a larger formation, usually a political party. The aims and organisational status of a faction are compatible with those of the host party, and it is even referred to as a party within a party (Heywood, 1996:272). In the Free State Province, the quality of municipal service provision has deteriorated over the past few years and the opposition parties have identified the political infighting within the ruling ANC as one of the main contributors (Kok, 2008b:4). Lodge (2002:161) stated that even leaders within the ANC have been complaining about factionalism within the organisation. As a result of the infighting, many mayors, speakers and councillors have been removed by the ANC as political office-bearers (Kok, 2008c:1).

Although such infighting could be seen to guarantee argument and debate in a system in which small parties are usually marginalised, factionalism tends to revolve more around personal differences than ideological or policy differences (Heywood, 1996:272). This also seems to be the case with the ANC, which is having a negative effect on the quality of government.

A dominant party system has several other disadvantages. Firstly, a dominant party system is inclined to erode the important constitutional distinction between the state and the party in power. The DA in the Free State in particular has on a number of occasions accused the ANC in the province of having “no understanding” of the distinction between the state and the ruling party (Kok, 2008d:1). Secondly, an extended period in power as the ruling party could stimulate complacency, arrogance and corruption in the party. In this regard, opposition parties in the Free State have blamed the political infighting in the ruling party on the quest for political power and the fact that incumbent political office-bearers seek to enrich themselves by misappropriating government resources (Gericke, 2008b:3). In this regard, Lodge (2002:162) also stated that one of the causes of the factional rivalry within the ruling party is the competition for government tenders by party notables. Thirdly, a dominant party system is characterised by weak and ineffective opposition where criticism by parties that are not regarded as rivals for power is easily ignored. Finally, the existence of a dominant political party may dishearten the democratic spirit by encouraging the electorate to fear change and to continue their support of the incumbent party (Heywood, 1996:287).

Sadie (2006:217) argued that there are a number of factors indicating that South Africa will experience one-party dominance for the foreseeable future. The first is that the ANC occupies the centre of the ideological spectrum in South Africa and it will not be easy for opposition parties to present policies that are considerably different to the policy position of the ruling party. The second is that parties that provide alternative policies only appeal to narrow and specific interests, such as the promotion of Afrikaner and Afrikaans-speaking interests by the FF+. The third is that a crack or division within the tripartite alliance (ANC, Cosatu and SACP) seems unlikely in the foreseeable future, since Cosatu is the major labour movement in South Africa and, together with the SACP, supports the ANC during elections. It remains to be seen what influence one-party dominance in South Africa will have on the quality of municipal services and infrastructure.

A significant conclusion drawn by Sadie (2006:217) is that there is little evidence that the ANC's dominance poses any severe threat to democracy. The time under ANC rule has been characterised by the strengthening of political contestation and constitutional government, including adherence to the rule of law. On the other hand it is argued that some municipal employees have the "skill, guile and dexterity to weave a neat path through the thicket" of local government laws to achieve the result desired by their political principals without breaking the law. This approach is fundamentally in conflict with the foundational constitutional value of the rule of law (Community Law Centre, 2008).

The empirical results in this chapter reveal whether the specific characteristics and disadvantages of a dominant-party system are experienced within municipalities in the Free State Province. The political power of a dominant political party does, however, pose a potential threat to political accountability and constitutional authority, which should not be underestimated. The general public needs to be aware of the advantages of a democracy, and any threat to the constitutional system should be appropriately addressed. A viable approach would be to insist on political accountability at all times. In the Free State Province, however, citizens have had to embark on protest action in certain instances to impose political accountability (UFS, 2008:2-13). The deficient standard of local government service provision, which gives rise to such protest actions, pose a serious threat to democracy and oblige government to ensure that service excellence is achieved.

4.2.6 Local government protests

Local government in South Africa has been overwhelmed with a barrage of protests by communities over the past few years. Municipalities in the Free State Province in particular have experienced numerous such protests (UFS, 2008:1). The protests have coincided with a degree of violence and have been used as a platform by the community to express their frustrations. This section analyses the

motives behind the protests and also examines whether the level and quality of municipal service provision have in any way induced these protests.

News headlines declared the protests to be mainly about inadequate service provision in respect of education, health, social grants, housing, water, electricity and basic infrastructure. The communities involved also accused government of not keeping their promises in respect of service provision (McLennan, 2009:19). In addition, Booysen (2009:106) explained that the community protests reflected the communities' dissatisfaction with the quality and achievement of service provision, as well as the mechanisms used to represent community interests. The protests were an unprecedented development that exposed the communities' pent-up anger with the poor standard of service provision and representation.

Booyesen (2009:109-110) went on to state that the protests targeted local government in a number of areas, the first being the frequent failure to provide the community with conventional services such as water, electricity and sanitation. Secondly, the protests targeted concurrent government functions in respect of which local government shares an implementation role, such as housing and roads, since local government, in sharing concurrent responsibility for these issues, was more accessible to the community than the national and provincial spheres of government. Furthermore, local government was severely criticised by the residents for unsatisfactory levels of responsive, interactive and visible engagement with communities. Finally, the community was particularly angered by increasing incidents of alleged corruption in the local sphere of government. Noticeable self-enrichment by municipal councillors and employees through access to contracts and business connections severely antagonised the community (Booyesen, 2009:110).

In a study conducted by the Centre for Development Support at the University of the Free State (UFS, 2008:2-13) the following reasons for the local government protests were identified:

■ Poor governance. According to the study, “governance” refers to the ability of municipalities to make decisions. A complete lack of basic decision-making and purposefulness were identified at some municipalities.

■ Individual political struggles. In most of the municipalities that formed part of the study and where protests were experienced, political infighting was identified. In many cases, deep-seated divisions between factions in the ruling party and between the municipal councils and management were evident.

■ Poor communication. Institutional lack of transparency and unsatisfactory communication were significant initiators of the protests. Residents become discontent when government institutions do not provide reasons why their expectations have not been met.

■ Ineffective client interface. “Client interface” refers to the interaction between the residents and the municipal councillors or municipal employees. An effective client interface should be responsive to the needs of the community.

■ Ineffective management. By all indications, deficient municipal management contributed to the protests. Poor financial management, ineffective technical management and a lack of general management are experienced at various municipalities.

■ Housing administration and management. Unacceptable housing administration and management and a concomitant lack of housing provision were also central to the protests. It often happens that residents are placed on housing waiting-lists only to discover later that their subsidy allocations have been awarded to others.

■ The economic impact of inadequate service provision. Poor service provision contributes particularly to the residents’ frustrations and to a loss of confidence in the effectiveness and professionalism of municipalities. Erratic

electricity cuts affect the business sector negatively, while infrastructure deterioration results in a decline in tourism.

■ Affordability issues. Residents are discontent about the amounts they are being charged by municipalities for the provision of services. There is a feeling that the level and quality of municipal services do not justify the high service costs.

■ Regional identities at local municipal level. A sense of regional deprivation, where the residents desire a municipality for each town, is intrinsic to the apprehensive atmosphere at specific municipalities. Some community members are concerned that they are purposefully neglected by the decision-makers and that the bulk of the services are only provided in the specific town where the municipal headquarters are located.

■ Strategic planning. The Integrated Development Plan is the main strategic framework of a municipality. Community members would, however, like to experience visible service provision and therefore much more attention should be given to the implementation of strategic planning frameworks than to the formulation thereof.

■ Intergovernmental relations. Powers, functions and unfunded mandates. The system of intergovernmental relations is in the process of being refined. Intergovernmental co-ordination, however, appears to be problematic, as many functions are delegated to municipalities without legal provision or adequate financial resources. This is commonly referred to as the phenomenon of unfunded mandates.

■ Lack of appropriate youth development. Many young people participated in the protests. There is therefore an urgent need for suitable youth development programmes to not only familiarise the youth with government's responsibilities, but also to prepare them to contribute to finding acceptable solutions to service-provision and socio-economic challenges.

In addition to the reasons already identified, Gumede (2009:95) attributed the protests to the fact that the poorer black South Africans are demanding the

dividends of the infant democracy and are also insisting that the ANC and the country become more internally democratic. They therefore desire to make more meaningful contributions to the political direction and decisions taken by government. Furthermore, they are calling for better service provision and the curbing of corruption by municipal councillors and employees. Gumede (2009:95) also pointed out that the poorer people have observed the South African democracy and the economic boom benefiting only the white middle class and the new emerging black middle class. These perceptions are exacerbated by the reality of below-standard public services such as health and education, sluggish municipal service provision, and the growing awareness of financial mismanagement and corruption.

The protests had a certain destructive impact. Public and private infrastructure was damaged, as the burning of vehicles, libraries and councillors' homes became a general feature of the protests. Municipal equipment and buildings were also either damaged or destroyed. The payment levels for services plummeted while the number of illegal service connections increased. In many cases, municipal service provision came to a complete standstill (UFS, 2008:13).

It was anticipated that the protests would also affect the political party support at the ensuing elections. Booysen (2009:134) stated, however, that during the elections, voters demonstrated continued allegiance to the ANC. The ANC was trusted more than other political parties to provide adequate services, and it appears that the voters reckoned that by voting for the ANC they would have the opportunity to hold the ANC accountable through protests, if and when necessary. The inhumanity of the system of apartheid and the fear of recurring oppression may also have persuaded the electorate to vote for the ANC.

The mere fact that communities, in seeking to express their dissatisfaction, had to resort to protests that resulted in the damage and destruction of public and private property, illustrates that the communities are not only frustrated with the

level and quality of municipal service provision, but are also prepared to take extreme measures to ensure improved living conditions. Government must manage these political challenges by identifying the reasons for community frustrations and dissatisfaction and finding acceptable solutions to the problems in respect of service provision. If they are to restore their trust relationship with their communities, municipalities will have to engage honestly and share the required information. Improving the lives of the community by providing adequate and quality municipal services is no longer an option – it is a constitutional obligation. The country's continued stability depends on this, as inadequate municipal service provision and deteriorating municipal infrastructure will not be tolerated by the community over the long term.

4.3 POLITICAL CHALLENGES AFFECTING LOCAL GOVERNMENT SERVICE PROVISION IN THE FREE STATE PROVINCE

Local government remains the primary government sphere that provides services such as water, waste management, electricity, electricity reticulation, sanitation, roads, storm-water drainage and transport planning to the residents. A number of challenges have, however, been identified (see chapter 3 and previous sections of chapter 4) as hindering the effective and efficient provision of services to the community, including party-political challenges.

The lack of a political will among municipal office-bearers to ensure the provision of services, together with political instability at municipalities as a result of political struggles within the ruling ANC party, have been identified as some of the political factors that have a negative influence on local government service provision (Calland, 2006:131-132). Loyalty towards the ruling party as a selection criterion in the appointment of municipal employees and political interference in administrative responsibilities are additional factors that have been identified. The factionalism that exists in the governing party has also led to the

appointment of unqualified and incompetent candidates to strategic municipal positions.

The following subsections analyse the political challenges identified as predominant reasons for inadequate local government service provision.

4.3.1 Lack of political will to provide services

In a democracy, the citizens elect representatives to represent them in public institutions. These public representatives have the mandate to advance the interests of the electorate in government. In terms of section 59 of the *Constitution*, elections for municipal councillors are held at intervals of not more than five years.

To ensure the provision of effective and efficient services to the community, government initiatives need to be supported by a political will. In a local government milieu, this political will must be expressed by the councillors and more specifically the councillors of the majority party represented in the municipal council. As already mentioned in chapter 3, this political will has been completely deficient during the last decade. Zybrands (2006:157) explained that South African cities are without exception experiencing inner-city decay and National Treasury announced in 2010 that municipalities are owed R56, 1 billion in arrears for rates and services (National Treasury, 2010). Furthermore, the majority of South African municipalities, including almost all the local municipalities in the Free State, are technically bankrupt and unable to pay their recurring expenses (National Treasury, 2008:27-34).

Zybrands (2006:157) added that it is possible to address this unacceptable state of local government service provision. Inner cities can, for example, be renewed by designating specific areas for hawkers' markets and by strictly enforcing by-laws that prohibit street littering. Municipalities can also implement programmes

to recover outstanding consumer debts for instance. If municipalities were to collect merely half of these debts, they would have approximately 18% revenue with which to fund the provision of services (National Treasury, 2008:34). For these suggestions to take effect, however, a committed political will is required. Municipal councils will have to make “unpopular” decisions to address the service provision challenges so that all residents may benefit in the long term. Making such decisions appears to be the essential challenge.

Debates in municipal council meetings are conducted along party-political lines and in a manner that revels in cheap discursive political “points scoring” (Pieterse & Van Donk, 2008:70). Political party caucuses are very important in how political debate is conducted and council decisions are made. These party caucuses function decisively along internal factional lines, however. Pieterse and Van Donk (2008:70) added that this situation undermines the prospects of rigorous debate, as standpoints are taken along partisan lines and seldom on the basis of substantive merit.

If municipal councillors in general continue to make politically motivated and irresponsible decisions, municipalities will continue to provide inadequate services to the residents, and a general state of municipal infrastructure deterioration will be experienced. A political mindset that prioritises the needs and expectations of the community rather than the selfish individual political interests of municipal office-bearers is required at all local government institutions without delay.

4.3.2 Political struggles within the ruling party

In the analysis of South African politics, it is important to portray the country’s democracy as being governed by a dominant party. Many of the elements that characterise a dominant political party are recognisable in South Africa’s ruling party. One of these elements is the presence of factionalism. Since the dawn of

democracy in 1994, the ANC has been overwhelmed with occurrences of factionalism in almost all the provinces. The Free State Province is no exception with its long history of factionalism and infighting within the ruling ANC party.

Until 2004, the Free State was regarded as one of the most troubled provinces due to political squabbles within the ANC. A number of interest groups such as the “Concerned Group” emerged in many Free State towns, threatening to divide the movement. These interest groups used the strategy of demanding the improvement of municipal services from local government institutions (Twala, 2005:110). Lodge (2002:171) stated that the factionalism within the Free State provincial ANC seldom appears to be caused by formal ideological differences, but rather by regional differences. Prior to the 1994 elections, the ANC in the province was led by influential leaders from the northern and southern regions of the province. However, the united provincial leadership after the elections created tension and a certain degree of division between the political leaders from the two regions (Twala, 2005:110).

In his report at the 2005 national general council of the ANC, the former secretary-general and current deputy president, Kgalema Motlanthe, described a vast number of ANC branches as being conflict-ridden due to disagreements over leadership positions, the selection and deployment of municipal councillors, and the tendering and control of projects. He also attributed these challenges primarily to the preoccupation of public representatives with securing access to and control over public resources. Such a state of affairs gives rise to tension between members in ANC structures and those who serve in government, to a large extent undermining the effectiveness of government (Calland, 2006:131-132).

The local municipalities in the area of jurisdiction of the Motheo District Municipality, namely the Mangaung, Mantsopa and Naledi local municipalities, experienced disturbing levels of political instability in 2008, which led to the

removal of certain political office-bearers and contributed to the inadequate provision of services (Kok, 2008b:4).

The Mangaung Local Municipality made news headlines in 2008 as a result of the ongoing political instability in the municipal council. The city manager of the municipality, who was also the provincial deputy chairperson of the ANC at the time, was suspended by the council for alleged unsatisfactory work performance (Gericke, 2008a:1). Approximately half of the ANC councillors honoured an instruction from the ANC leadership not to attend the council meeting, while the other half proceeded with the meeting. With the support of the opposition parties, the executive mayor's recommendation to suspend the city manager was adopted. The city manager immediately approached the Free State High Court to have the council resolution set aside (Kok, 2008c:1). The ANC, on the other hand, immediately instituted disciplinary proceedings against all ANC councillors who had voted in favour of the suspension of the city manager. The executive mayor, the speaker and other councillors were immediately suspended by the ANC and prohibited from participating in any municipal activities. The speaker, the executive mayor and five other councillors were also later expelled by the ANC and removed as councillors (Gericke, 2008a:1). During this time, opposition parties condemned the political infighting and expressed concern that the political instability was affecting the execution of the municipality's responsibilities (Gericke, 2008b:3). The former executive mayor currently represents COPE as a member of the Free State Legislature. The former speaker also became a member of COPE and is currently the party's provincial elections co-ordinator.

The Mantsopa Local Municipality experienced similar challenges after the dismissal of their municipal manager. The ANC caucus in the Mantsopa Municipal Council ignored direct instructions from the ANC provincial leadership in respect of the disciplinary proceedings that were instituted against the municipal manager, as well as the election of certain councillors as office-bearers

in the municipality (Brits, 2008c:6). When the ANC instituted disciplinary proceedings against the mayor and other councillors, they were expelled as members of the ANC and removed as councillors (Brits, 2008d:1). It is important to note that service provision was seriously affected at this municipality during the political turmoil.

Due to political challenges experienced at the Naledi Local Municipality, no municipal council meeting was held for a period of nine months. Not only did this failure to hold council meetings contravene the *Municipal Structures Act*, but serious financial mismanagement was reported during this time (Brits, 2008a:2). A number of councillors were also expelled by the ANC and replaced with other councillors. Once again, opposition parties pointed out that service provision at the municipality was negatively influenced by the political struggles – a lack of refuse removal services and erratic water provision being examples of this (Brits, 2008b:12).

The characteristics of a dominant political party were evident in the Free State during 2008, manifested by intense rivalry and factional conflict (Gericke, 2008a:1). The criticisms of opposition parties were also ignored in that the decisions of the ruling party were ultimately implemented by the municipalities. This political disarray had a seriously negative effect on municipal service provision. Municipal councils were so preoccupied with issues of a political nature that decisions on service provision were completely disregarded. The state of affairs at the Naledi Local Municipality bears testimony to this. It is apparent that political infighting in the local sphere of government jeopardises service provision and thus should be approached with a sense of responsibility.

4.3.3 Selection criteria in the appointment of employees

It has been mentioned in this chapter that the capacity of municipal employees to ensure the effective functioning of the local government sphere is both

inadequate and inefficient. One of the reasons that have been advanced for the incapacity of municipal employees is that appointments to crucial posts are still based on political considerations (Burger, 2009:1).

As mentioned in chapter 3, Slabbert (2006:145) stated that the appointment of government employees is based on loyalty rather than competence. This implies that applicants who are compliant and uncritically support the ruling party or a specific political office-bearer are valued more than applicants who have the relevant expertise and ability to perform specific duties. Molapo (2008:30) agreed, stating that although it appears that loyalty to the ruling party has become a prerequisite for appointment in government, such appointments cannot be made at the expense of qualifications.

Another factor that can be recognised as having a negative impact on the appointment of skilled and experienced municipal employees is the ANC's cadre or deployment policy (Du Plessis 2008:16). With regard to the appointment or "deployment" of ANC cadres in positions, the cadre policy stipulates the following:

Deployment and redeployment: This must be according to speciality, aptitude, qualification and capability. Though in principle a revolutionary must be ready to serve in any capacity, in practice the aptitudes and wishes of individuals should be taken into consideration wherever possible. Cadres should be correctly placed and promoted at the right time so that they may fully apply their talents and creativity" (ANC, 2009b). In a 2005 ANC discussion document, the former secretary-general referred to the status of cadres and stated that the ANC had thousands of dedicated, devoted and determined cadres at its disposal. The challenge was to continue to prepare these cadres for future human resources needs (Calland, 2006:131).

The cadre policy also recognises specific weaknesses in previous ANC deployment strategies. The first is that there was no comprehensive and co-ordinated plan to “deploy” cadres in essential positions, which led to a situation where individuals identified themselves for appointment. Another consequence, according to the policy, was that experienced cadres were sometimes displaced and underutilised.

The cadre policy furthermore suggests two human resources development approaches for cadre deployment in society: Firstly the mobilisation of the youth and students in higher education institutions so that they form part of the qualified cadres of deployment, and secondly the utilisation of international relations to encourage the placement and further professional development of cadres in key positions, as such contributing to the ANC’s short-, medium- and long-term succession plans (ANC, 2009b).

The cadre policy of the ANC has also come under recent criticism by the leaders of opposition parties, such as the leader of COPE who was a former national chairperson of the ANC. It has been implied by these political party leaders that people without qualifications are being appointed to key positions because of their loyalty to the ANC and that the cadre policy has contributed to this state of affairs (Burger, 2009:01). A question that may rightfully be asked is why the former leaders of the ANC, who now find themselves in opposition parties, failed to address these concerns while they were holding senior decision-making positions in the ruling party. It is perhaps because they themselves benefited from the cadre policy.

Political appointments are, however, not unique or limited to the ANC. The DA, which has been the main critic of the ANC on political appointments, employed a similar strategy by appointing party loyalists in the city of Cape Town where it happened to be the governing party (Mafunisa, 2003:94). What seems to inform

political appointments is the concern of ruling parties that their service provision programmes may be disrupted by disloyal municipal employees. The essence of municipal appointments should, however, be based at all times on the competence of the candidates resulting in quality service provision as the final evidence.

The problem with political appointments is that no matter how committed and willing the persons appointed to local government positions are, if they lack the skills and expertise, municipal service provision will be adversely affected. Local government will have to raise the productivity, efficiency and civility of every employee, but will also have to appoint employees based on their level of skills and experience.

4.3.4 Political interference in municipal administration

Municipal councillors are elected by the electorate to make decisions on behalf of the community. These councillors have the legislative authority to make policy decisions that regulate the needs and expectations of the community. All municipalities also have administrative components, consisting of the employees of the municipalities, to implement the decisions made by the municipal council. The administrative component provides the relevant services to the community with the aid of the different municipal line-function departments. The different roles and responsibilities of the municipal councillors and municipal employees are clearly identified in the applicable legislation (Craythorne, 2006:97).

With regard to the general conduct of municipal councillors, item 2 of schedule 1 of the *Municipal Systems Act* stipulates that a councillor must perform the relevant functions in good faith, with honesty and in a transparent manner. Councillors must at all times act in the best interests of the municipality and in a way that does not compromise the credibility and integrity of the municipality.

Due to the fact that councillors endeavour to follow a hands-on approach to ensure that a municipality achieves its goals, the municipal, political and administrative components are brought into conflict from time to time (Thornhill, 2008:725). Item 11 of schedule 1 of the *Municipal Systems Act* states that a councillor may not, except as provided by law, interfere in the management or administration of any department of the municipality. A councillor may also not give any instruction to any employee of the municipality except when authorised to do so. Furthermore, no councillor may obstruct or attempt to obstruct the implementation of any decision of the municipal council. The occurrence of political interference in municipal administration could lead to discontent among the different functionaries and could also contribute to inadequate service provision.

The municipal administrative component has to be provided with political guidance on the policy direction of the governing political party in the municipal council. The political office-bearers, on the other hand, need effective administrative machinery for the implementation of municipal council decisions and the realisation of the service provision objectives of government. However, municipalities face certain challenges when it comes to properly locating the municipal administration within the broader municipal political process. In providing effective and efficient municipal services to the community, the political and administrative components of a municipality need to complement each other and avoid conflict. Section 4.4.2.7 identifies the level of political interference in municipal administration, as experienced in practice at the municipalities in the area of jurisdiction of the Motheo District Municipality as example of the reality in the Free State.

4.4 EMPIRICAL SURVEY

Similar to chapter 3, this chapter comprises an empirical section that analyses the way in which political factors present at municipalities have affected the

municipalities' ability to provide effective and efficient services to the community. This section interprets and analyses the empirical results that were obtained for purposes of the research. The research methods, population and structure of the interviews are identical to those identified in chapter 3.

4.4.1 Aim of empirical research

The aim of this section is to analyse the degree of influence that political factors have on municipalities in terms of local government service provision and to further identify whether the political challenges identified in the theoretical survey have any significant influence on service excellence in the Free State Province in general.

The questions were formulated to identify the following major aspects:

- Whether municipalities lack the political will to provide effective and efficient services to the community;
- The effect of party-political infighting on local government service provision;
- Whether loyalty towards the ruling party, rather than aspects such as qualifications, abilities and skills, is the norm for the recruitment and selection of municipal employees;
- The effectiveness of the ruling party's deployment policy;
- The extent of any form of political interference in the management or administration of any department of the municipality;
- The influence of political instability at municipalities on the implementation of capital projects; and
- The reasons for the high number of protests by the local community in the Free State Province.

4.4.2 Data analysis and interpretation

The following subsections present the results and interpretation of the empirical survey for purposes of analysing the data gathered.

4.4.2.1 Political will to provide effective and efficient services to the community

The absence of the political will to ensure the provision of effective and efficient local government services to the community has been identified in section 4.3.1 as a factor that influences municipal service provision negatively. To determine the presence of a political will in local government, respondents were asked to indicate whether they agree with the statement that municipalities in particular lack the political will to provide effective and efficient services to the community, by identifying the applicable criteria provided in the questionnaire. As explained in chapter 3, all 31 respondents answered all the questions in the questionnaire. The results are clarified by indicating the frequency or number of respondents that identified the relevant response, as well as the appropriate percentage of respondents.

Table 4.1 Political will to provide municipal services

CRITERIA	FREQUENCY	PERCENTAGE <i>n = 31</i>
<i>i) Municipalities lack the political will to provide services.</i>	15	48.39%
<i>ii) Municipalities do not lack the political will to provide services.</i>	16	51.61%

As observed from Table 4.1, 51.61% of the respondents were of the opinion that the political will to provide effective and efficient municipal services to the

community is present at local government level. Fifteen or 48.39% of the respondents indicated that municipalities lack the political will to provide adequate services. Of the political office-bearers that were interviewed, all the members of the opposition political parties, with the exception of one, indicated an absence of the political will to provide quality services to the residents. This particular opposition party leader in the Free State, who is also chairperson of a portfolio committee in the Free State Legislature, explained that municipalities have the political will to provide services, but that the incapacity of municipal employees to ensure that the services are provided is visibly absent. With the exception of two municipal councillors, the majority of the ANC political office-bearers who were interviewed indicated that municipalities possess the political will to provide the necessary services to the citizens.

The political office-bearers of the ruling party were adamant that municipalities have the political will to provide adequate municipal services to the community, while the opposition parties and a small number of municipal employees expressed the view that the political will is absent. The fact that the research results indicate that nearly 50% of the respondents indicated that municipalities lack the political will to provide effective and efficient municipal services is of major concern, however, and every effort must be made to ensure that municipalities address the needs of the community by providing quality local government services.

4.4.2.2 Influence of political infighting on local government service provision

Political infighting is another factor that has been identified as having the potential to influence local government service provision negatively. Respondents were therefore asked to indicate the way in which party-political infighting has affected local government service provision. The percentages of the responses are indicated in Table 4.2 alongside the criteria provided.

Table 4.2 Impact of party-political infighting on municipal service provision

CRITERIA	FREQUENCY	PERCENTAGE <i>n = 31</i>
<i>i) Party-political infighting has not had any negative influence on local government service provision.</i>	2	6.45%
<i>ii) Service provision has deteriorated as a result of party-political infighting.</i>	20	64.52%
<i>iii) Service provision has collapsed as a result of party-political infighting.</i>	9	29.03%

As seen in Table 4.2, approximately 64.52% of the respondents expressed the view that municipal services in the Free State have deteriorated as a result of party-political infighting. More alarming is that 29.03% of the respondents expressed the opinion that municipal service provision has actually collapsed. Only 6.45% of the respondents indicated that party-political infighting had not had any negative influence on local government service provision, and this view can probably be discarded.

It is apparent that party-political infighting not only has a negative effect on the provision of adequate municipal services to the community, but also contributes to the deterioration of the quality of services provided. It could even lead to the total collapse of the provision of municipal services, as is the situation at the Naledi Local Municipality (see section 4.3.2). Politicians should therefore demonstrate political maturity to ensure that party-political differences do not overshadow the primary responsibility of politicians – namely to serve the people.

4.4.2.3 Ruling party loyalty determine recruitment and selection

As identified in this chapter, a number of opposition parties and political analysts are of the opinion that loyalty towards the ruling party is the determinant for the recruitment and selection of municipal employees. Table 4.3 provides the percentages of respondents who indicated that loyalty towards the ruling party, rather than aspects such as qualifications, abilities and skills, is the norm for the recruitment and selection of municipal employees. The table also indicates the percentage of respondents who disagreed with this statement.

Table 4.3 Loyalty as determinant for the appointment of municipal employees

CRITERIA	FREQUENCY	PERCENTAGE <i>n = 31</i>
<i>i) Loyalty towards the ruling party, rather than aspects such as qualifications, abilities and skills, is the norm for the recruitment and selection of municipal employees.</i>	17	54.84%
<i>ii) Loyalty towards the ruling party, rather than aspects such as qualifications, abilities and skills, is not the norm for the recruitment and selection of municipal employees.</i>	14	45.16%

As observed from Table 4.3, the majority or 54.84% of the respondents indicated that loyalty towards the ruling party, rather than aspects such as qualifications, abilities and skills, is the norm for the recruitment and selection of municipal employees. Similar to the pattern identified in section 4.4.2.1, the 45.16% of respondents, who indicated that loyalty towards the ruling party is not the norm

for the recruitment and selection of municipal employees consist predominantly of ANC political office-bearers. Opposition parties, on the other hand, were in agreement that ruling-party allegiance influences the appointment of municipal employees. A number of provincial government and municipal employees who were interviewed concurred that loyalty towards the ruling party has secured the appointment of several municipal employees. In addition, these employees expressed the concern that this state of affairs would affect their promotion prospects negatively within the municipal institutions. They also explained that the skills levels of the “deployed” employees were already having a negative effect on the quality of administrative output within the municipalities.

To ensure that municipalities have the necessary capacity to provide essential services to the community, employees with the required skills and expertise must be appointed. Appointments at municipalities should therefore be made strictly according to these principles, irrespective of the candidates’ political allegiance.

4.4.2.4 Effectiveness of the ruling political party’s deployment policy

The deployment or cadre policy of the ANC has been a major topic of discussion amongst political office-bearers in recent times (Molapo, 2008:30). In determining the significance of the deployment policy, respondents were asked to indicate whether they regarded the policy as effective. Responses are reflected by indicating the frequency and percentage of the representation alongside the criteria provided in Table 4.4.

Table 4.4 Effectiveness of ruling political party’s deployment policy

<i>CRITERIA</i>	<i>FREQUENCY</i>	<i>PERCENTAGE</i> <i>n = 31</i>
<i>i) The ruling political party’s deployment policy is effective.</i>	12	38.71%

ii) <i>The ruling political party's deployment policy is not effective.</i>	19	61.29%
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It can be concluded from the responses indicated in Table 4.4 that a substantial majority of the respondents, namely 61.29%, were of the opinion that the deployment policy of the ruling party is not effective. The 38.71% of respondents who indicated that the deployment policy is effective consisted of ANC political office-bearers in the Free State Executive Council and the Legislature, as well as municipal councillors. The opposition political parties again expressed their dissatisfaction with the policy, along with a number of government employees. Respondents explained that it is desirable to appoint municipal employees who support and implement the policies of government, but that such employees should have the necessary skills and abilities to perform the required duties and responsibilities. According to some of the ANC political office-bearers interviewed, the deployment policy is essential to ensure that the service provision policies and programmes of the governing party are put into practice. They did, however, admit that the deployment policy is not being implemented effectively to ensure that the most suitable candidates are appointed in view of ensuring the implementation of government objectives.

4.4.2.5 Effect of political instability on local government service provision

This chapter has indicated that political struggles within the ruling party have occurred frequently in the Free State since 1994. Many mayors, speakers and other councillors have been removed from office as a result of the political instability, which has had a detrimental influence on local government service provision. Respondents were therefore asked to indicate the extent to which political instability has affected local government service provision. The percentages captured in Table 4.5 express the views of the respondents in respect of the criteria provided, along with a representation of the frequency of the relevant responses.

Table 4.5 Effect of political instability on municipal service provision

CRITERIA	FREQUENCY	PERCENTAGE <i>n = 31</i>
<i>i) Political instability, such as the removal of mayors, speakers and other councillors, has had absolutely no effect on local government service provision.</i>	2	6.45%
<i>ii) Political instability, such as the removal of mayors, speakers and other councillors, has had a marginal affect on local government service provision.</i>	8	25.81%
<i>iii) Political instability, such as the removal of mayors, speakers and other councillors, has had a serious effect on local government service provision.</i>	20	64.52%
<i>iv) Municipalities have not experienced any form of political instability.</i>	1	3.22%

As observed from Table 4.5, 64.52% of the respondents felt that political instability has a serious effect on local government service provision. The assertion that political instability has a detrimental effect on local government service provision is therefore confirmed by the research results. More than 25% of the respondents were of the opinion that political instability has a marginally negative effect on municipal service provision, while 6.45% of the respondents indicated that political instability has no effect on local government service provision. Only 3.22% of the respondents expressed the view that Free State municipalities have not experienced any form of political instability.

More than 90% of all the respondents therefore indicated that political instability has a negative effect on local government service provision. Political struggles and conflict within political parties should therefore be managed and controlled in such a way as to prevent any negative impact on service provision. There is a need for quality political party leadership and the development of an acceptable understanding of democratic principles by government institutions and political party office-bearers.

4.4.2.6 Municipalities' control over political instability

Political struggles within the ruling party and general political instability in local government have been identified as having serious negative implications for municipal service provision. The question that arises, however, is whether municipal councillors and employees can control or influence political instability when it occurs at individual municipalities. The responses of the respondents are again indicated with a percentage alongside the relevant criteria.

Table 4.6 Municipalities' control over political instability

<i>CRITERIA</i>	<i>FREQUENCY</i>	<i>PERCENTAGE</i> <i>n = 31</i>
<i>i) Municipalities can control or influence political instability when it occurs.</i>	12	38.71%
<i>ii) Municipalities cannot control or influence political instability when it occurs.</i>	19	61.29%

As seen in Table 4.6, the majority or 61.29% of the respondents were of the view that municipal office-bearers cannot control or influence political instability when it occurs. The municipal councillors who were interviewed explained that political instability is caused in other structures of the ruling party and that it merely “spills over” to municipalities. Their view is therefore that the conflict can only be

controlled or influenced by the higher-ranking structures of the ruling party, since the municipal political office-bearers merely follow the instructions of their party-political leaders.

The 38.71% respondents who expressed the view that it is possible for municipal office-bearers to control or influence political instability when it occurs elaborated that municipalities have the necessary authority in terms of the applicable legislation to address internal conflicts. These respondents pointed to reluctance on the part of municipal office-bearers to implement these legislative provisions. According to the respondents, the municipal office-bearers favour intervention by the relevant ANC leadership structures as the preferred approach to addressing political instability. Respondents from the opposition political parties stated that the reluctance of municipal office-bearers to address specific political challenges within individual municipalities could be attributed to the ruling party's non-adherence to the constitutional distinction between the state and the party in power.

4.4.2.7 Influence of political instability on the implementation of capital projects

Political instability and internal party-political struggles have an adverse influence on municipal service provision, as indicated in this chapter. In determining the specific effect on service provision, the respondents were asked to indicate the extent to which political instability affects the implementation of capital projects. Capital projects refer to projects that have been budgeted by the municipalities for municipal infrastructure development, such as the construction of sewers, roads and storm-water channels. The implementation of capital projects not only explains the extent to which local government addresses the expanding population and growing service provision needs of the community, but also illustrates the commitment of municipalities towards the upgrading or replacement of a deteriorating municipal infrastructure. Table 4.7 below reflects

the responses in this regard by indicating the frequency and percentage of the responses alongside the relevant criteria.

Table 4.7 Influence of political instability on capital projects

CRITERIA	FREQUENCY	PERCENTAGE <i>n = 31</i>
<i>i) Political instability affects the implementation of the majority of capital projects.</i>	25	80.65%
<i>ii) Political instability affects the implementation of a minority of capital projects.</i>	4	12.90%
<i>ii) Political instability does not affect the implementation of capital projects.</i>	2	6.45%

As observed from Table 4.7, the vast majority of respondents, or 80.65%, were of the opinion that political instability affects the implementation of the majority of municipal capital projects. A small percentage of respondents, namely 12.90%, indicated that political infighting affects the implementation of a minority of capital projects. Only 6.45% of the respondents expressed the opinion that political instability has no effect on the implementation of capital projects.

As mentioned in this chapter, the Motheo District Municipality had spent only 2.5% of its 2008/2009 capital budget by the end of February 2009. Considering the fact that the primary responsibility of a municipality is to provide efficient and effective municipal services to the community, the inadequate implementation of capital projects as a result of political instability is detrimental to this objective. The conclusion that can be drawn is that in addition to the adverse influence of political instability on local government service provision, it also has an unfavourable effect on the implementation of local government capital projects in general.

4.4.2.8 Political interference in municipal administration

Political interference in municipal administration is a major factor identified in this chapter as having a potentially negative effect on municipal service provision. Respondents were therefore asked to indicate the extent to which municipalities experience political interference in the management or administration of any department of the municipality. Table 4.8 provides the responses of the respondents, indicated in terms of frequency and percentage.

Table 4.8 Extent of political interference in municipal administration

CRITERIA	FREQUENCY	PERCENTAGE <i>n = 31</i>
<i>i) Political interference in the management or administration of any department of the municipality occurs frequently.</i>	21	67.74%
<i>ii) Political interference in the management or administration of any department of the municipality does occur, but with no negative effect on the management of municipalities.</i>	10	32.26%
<i>iii) No political interference in the management or administration of any department of the municipality is experienced.</i>	0	0%

As concluded from Table 4.8 all respondents recognise that political interference in municipal administration occurs in local government. More than two-thirds of the respondents, namely 67.74%, felt that political interference in the management or administration of any department of the municipality occurs frequently. Thirty-two percent of the respondents indicated that although political

interference is experienced in the administration of municipalities, the interference has no negative effect on the management of municipalities. None of the respondents were of the opinion that no political interference is experienced. Respondents also explained that political interference in municipal administration has an adverse effect on municipal service provision, since it creates conflict between the political and administrative components. Furthermore, political interference affects the commitment of the municipal employees to performing their duties, thus generating animosity between municipal councillors and employees. It can be concluded that municipal political office-bearers must improve their understanding of the local government system, as an appreciation of the clearly demarcated roles of the different local government functionaries is visibly absent.

4.4.2.9 Service-delivery protests

As indicated in this chapter, a large number of community protests have been held in the Free State. To identify whether these protests were brought to the attention of the relevant government incumbents, the respondents were asked to indicate whether they were familiar with the protests. The frequency and percentages of the responses are shown in Table 4.9 alongside the respective criteria.

Table 4.9 Service-delivery protests

CRITERIA	FREQUENCY	PERCENTAGE <i>n = 31</i>
<i>i) Familiar with protests by the local community about inadequate service provision.</i>	31	100%
<i>ii) Not familiar with protests by the local community about inadequate service provision.</i>	0	0%

As can be seen from Table 4.9, all the respondents were familiar with the community protests that had occurred in the Free State. The dissatisfaction expressed by the community had therefore been brought to the attention of the relevant local government participants. The reasons for the community protests are analysed in section 4.4.2.10.

4.4.2.10 Reasons for community protests

A number of reasons for the local government protests were identified in section 4.7. In further analysing this issue, the most prominent reasons for such protests were presented to the respondents with the request that they identify the reasons in priority order. Each response was assigned a specific weight, namely five for the most dominant challenge identified and one for the least dominant challenge. The maximum potential weight is 155 per criterion. Interviews were conducted with a total of 31 respondents, and all questions were answered.

Table 4.10 Reasons for community protests

CRITERIA	SCALE WEIGHT	MAXIMUM WEIGHT	PERCENTAGE WEIGHT N = 31
<i>i) Poor governance (inability to make decisions).</i>	93	155	60%
<i>ii) Insufficient local government service provision.</i>	109	155	70.32%
<i>iii) Individual political struggles.</i>	94	155	60.65%
<i>iv) Ineffective client interface.</i>	79	155	50.97%
<i>v) Ineffective management of municipalities.</i>	90	155	58.06%

As observed from Table 4.10, the reason identified by the majority of the respondents (70.32%) for the community protests was the insufficient provision of local government services. This was followed by individual political struggles (60.65%), poor governance or the inability to make decisions (60%), and the

ineffective management of municipalities (58.06%). The weights accumulated by these factors are almost similar, which is an indication that these factors are equally significant. Ineffective client interface secured the lowest weight (50.06%).

The results of the research indicate that the community will not be satisfied with inadequate service provision. The presence of political struggles within municipalities, poor municipal governance, and the perceived ineffectiveness of local government management has only exacerbated the antagonism of the local communities towards local government. Local government must address these aspects without delay if it is serious about addressing the needs of the people.

4.5 CONCLUDING REMARKS

Much has been achieved in establishing democratic governance systems and structures in South Africa, and government has introduced many strategies to ensure expanded local government service provision. Post 1994, the newly elected democratic government faced the challenge of converting a fragmented and unequal local government system into one that would meet the demands of all citizens. The new government's objective to ensure expanded and adequate local government service provision was, however, initially limited by a backlog in basic municipal services and infrastructure and inequalities in local government service provision.

As the country approaches the end of the second decade of democracy, the quality of local government service provision has deteriorated. The basic infrastructure for service provision, such as water and electricity, is increasingly coming under pressure, and a large number of South African residents must still be provided with adequate basic municipal services. A further significant challenge obstructing local government service provision is the effect of party

politics and more specifically the political approaches of the political office-bearers.

The research results have identified a number of significant political factors that affect municipal service provision. These factors include the lack of the political will to provide services, political struggles within the ruling party, the selection criteria for the appointment of employees, and political interference in municipal administration. The empirical survey confirmed that these factors are also present at municipalities in the Free State.

As far as the appointment of municipal employees is concerned, the implementation and interpretation of the ruling party's deployment policy in ensuring the appointment of suitable candidates was questioned by some respondents. The incapacity of municipalities to provide satisfactory services is well known and it is therefore essential that the local government decision-makers identify people with the necessary knowledge and skills to occupy essential positions in local government.

Considering that the research results point to political instability in local government being detrimental to municipal service provision, it is absolutely essential that political conflict within municipalities be astutely managed and controlled. Political parties and office-bearers must take responsibility for the management and control of this political conflict and instability, since the research results also indicate that municipalities are hesitant to address the conflict. The reality that political instability has a seriously negative effect on the implementation of capital projects should be sufficient motivation for these political office-bearers to take appropriate action.

Political interference in municipal administration is a local government reality according to the research results. This occurrence is a matter that needs to be addressed by all government office-bearers, including politicians in the national

and provincial spheres of government. No individual would appreciate a situation where another person interferes with his or her responsibilities, and this could lead to conflict and a general reluctance to perform service provision duties.

The community protests experienced in the Free State should not only be an indication that the needs and expectations of the residents have not been met, but should also be sufficient inspiration for municipalities to ensure that adequate municipal services are provided. The community has shown that it will no longer be satisfied with below-standard municipal services.

Politicians are the instruments through which the aspirations and expectations of the community are communicated to government institutions. The research results confirm, however, that the local government political office-bearers have let the community down as far as the provision of adequate services is concerned. It is therefore appropriate to conclude this chapter with a quote by the current USA president, Barack Obama. In describing American politics – equally applicable to South Africa – he stated that “what’s troubling is the gap between the magnitude of our challenges and the smallness of our politics” (Feinstein, 2007:253).

CHAPTER 5

INTERGOVERNMENTAL RELATIONS IN MUNICIPAL SERVICE PROVISION IN THE FREE STATE PROVINCE

5.1 INTRODUCTION

Intergovernmental relations in South Africa are of vital importance in ensuring that government in all spheres performs its concerted powers and functions effectively. To address the service provision challenges of government and the needs of the community, all spheres of government need to operate as a cohesive unit.

With a sovereign parliament in operation prior to 1994, limited consideration was given to intergovernmental relations in South Africa. The *Constitution* of 1996 served to alter this situation, however, establishing a new government model with co-operation and partnership as the pillars of government (Craythorne, 2006:14).

The new *Constitution* specifies the configuration of government and provides for national, provincial and local spheres of government, which are distinctive, interdependent and interrelated. All spheres of government are therefore constitutionally necessitated to support and to provide assistance to one another. Chapter 2 elaborates on the fact that one of the characteristics of a constitutional state, which is typical of any democracy, is the separation of powers between the legislative, executive and judicial authorities. To maintain governance balance between the three spheres of government, the constitutional principles of co-operative government and intergovernmental relations provide the basic foundation for co-operation between the three spheres (Bekink, 2006:90). This provides the basis for government spheres to address challenges collectively rather than separately, within a system of intergovernmental relations.

Similar to the national sphere of government, provincial government has the responsibility to support and strengthen the capacity of local government and also to ensure that the municipalities perform their functions effectively. This chapter investigates the measures implemented by the Free State Provincial Government (FSPG) to promote and monitor local government service provision.

In specifying the local government monitoring and support measures of the FSPG, it is appropriate to provide a clarification of the legislative framework for intergovernmental relations and to define the principles of intergovernmental relations and co-operative government. In analysing the essence of this research regarding the political reality of local government service provision, the challenges of intergovernmental relations in an environment of political conflict are also examined. Consistent with chapters 3 and 4, this chapter comprises a theoretical and empirical section.

5.2 LEGISLATIVE FRAMEWORK FOR INTERGOVERNMENTAL RELATIONS

The *Constitution* states that the South African government is constituted as national, provincial and local spheres of government. The principles of intergovernmental relations and co-operative government apply to all the spheres of government (Bekink, 2006:94). The specific relationship and extent of co-operation between the three spheres of government are regulated by the *Constitution*, the *Intergovernmental Relations Framework Act*, No. 13 of 2005 (SA, 2005) and other national legislation. The legislative framework for intergovernmental relations creates the foundation for the implementation of intergovernmental relations and co-operative government in South Africa. It is therefore appropriate to identify the legislative framework, with specific reference to local government, prior to defining the principles of intergovernmental relations and co-operative government. This legislative framework controls the conduct and affairs of all three government spheres, including its political and

administrative functionaries, in the intergovernmental relations environment and therefore has a significant influence on the provision of an acceptable standard of local government services.

5.2.1 Constitution of the Republic of South Africa

The *Constitution* specifically entrenches the basic principles of intergovernmental relations and co-operative government. In terms of section 40 of the *Constitution*, three spheres of government, which are distinctive, interdependent and interrelated, have been established. All three spheres of government must conduct their activities within the parameters of intergovernmental relations and co-operative government. These parameters are titled principles of co-operative government and intergovernmental relations in section 41 of the *Constitution*. The *Constitution* states that all spheres of government and all organs of state are compelled to adhere to the following eight principles:

- Preserving the peace, the national unity and the indivisibility of the Republic;
- Securing the wellbeing of the people of the Republic;
- Providing effective, transparent, accountable and coherent government for the Republic as a whole;
- Loyalty to the Constitution, the Republic and its people;
- Respecting the constitutional status, institutions, powers and functions of government. In this regard, Craythorne (2006:15) stated that without the identified respect, government affairs will become chaotic and the interdependence, distinctiveness and interrelationship of the three spheres of government will be meaningless.
- Not assuming any power or function except those entrusted to them in terms of the Constitution;
- Exercising their powers and performing their functions in a manner that does not encroach on the geographical, functional or institutional integrity of another sphere of government. In this regard, Craythorne (2006:15) explained

that local government also has further protection in terms of section 151(4) of the *Constitution*, in that the national and provincial spheres may not impede a municipality's ability or right to exercise its powers or perform its functions.

■ Co-operating in a spirit of mutual trust and good faith. Co-operation between the spheres of government in mutual trust and good faith is required in respect of six aspects, namely fostering friendly relations; assisting and supporting one another; informing one another of, and consulting one another on, matters of common interest; adhering to agreed procedures; and avoiding legal proceedings against one another.

In addition, section 41(2) of the *Constitution* provides that an act of Parliament must establish or provide for structures and institutions to promote and facilitate intergovernmental relations. Such an act of Parliament must also provide for appropriate mechanisms and procedures to facilitate the settlement of intergovernmental disputes.

With regard to the principles of co-operative government and intergovernmental relations, the Constitutional Court of South Africa has ruled that these principles were designed to ensure that in areas of common endeavour, the different spheres of government will co-operate with one another to secure the implementation of legislation in which they have a common interest (Craythorne, 2006:15). Bekink (2006:94) agreed, pointing out that these principles constitute a definite commitment to a legal design focused on co-operation, co-ordination and adequate consensus. This commitment is not merely aspirational, but also recognises the complexity of the government system, as well as the existence of possible intergovernmental power struggles and competition (Bekink, 2006:94).

In implementing the principles of co-operative government and intergovernmental relations, the three spheres of government co-operating with one another are more likely to address challenges than if they were attempting to address the challenges on their own or alternatively in competition with one another (Reddy,

2001:26). The specific challenges affecting local government service provision negatively, including the political challenges, can therefore be managed more effectively if they are addressed collectively and with a co-operative approach by all three spheres of government.

5.2.2 White Paper on Local Government

The legislative framework initiated by the *White Paper on Local Government* intends to create a basis for feasible local government in South Africa. In this regard Bekink (2006:90) argued that the intergovernmental concept in the current governmental system has emerged to give more meaning to the foundation of co-operative government that is protected in chapter 3 of the *Constitution*.

A system of intergovernmental relations has a number of strategic purposes in terms of the *White Paper*, namely the promotion and facilitation of co-operative decision-making; the co-ordination and alignment of government priorities and the annual budgets of the different government institutions; and ensuring the smooth, effective and accurate flow of information, not only within government institutions *inter se*, but also between government. Finally, the system is intended to prevent and resolve intergovernmental conflicts and disputes effectively and efficiently.

Through the realisation of the new South African local government system, the intergovernmental relations vision intended by the *White Paper* has emerged. Local government is to be included and represented in all intergovernmental processes and forums (Bekink, 2006:91). This development is intended to promote sustainable municipal service provision in South Africa.

5.2.3 Local Government: Municipal Structures Act

The *Municipal Structures Act* regulates the process of democratising local government in South Africa by the establishment of legitimate democratic structures with a developmental vision (Geldenhuys, 2005:53). In support of the constitutional requirements for intergovernmental relations, the *Municipal Structures Act* encapsulate aspects of co-operation in the local sphere of government.

The *Municipal Structures Act* makes specific reference to the co-operation between municipalities *inter se*. Section 88 of the Act requires that district municipalities and local municipalities must co-operate by assisting and supporting one another. At the request of a local municipality within its area, the district municipality may provide financial, technical or administrative support services to that local municipality. Similar reversed support of a local municipality to a district municipality of a particular area is also envisaged in the Act. In addition, the Act stipulates that the relevant MEC in the province must assist a district municipality to provide support services to a local municipality. The involvement and participation of the provincial sphere of government therefore also impacts on the relationship between municipalities (Bekink, 2006:103).

In addition, to elaborate on the co-operation between municipalities, the Act assigns a limited yet significant role to the provincial sphere of government in managing the relationship between district and local municipalities.

5.2.4 Local Government: Municipal Systems Act

The principle of co-operative government is broadened in the *Municipal Systems Act*. The Act describes the core principles, mechanisms and processes that are necessary for municipalities to achieve their goals and, similar to the *Municipal Structures Act*, it identifies the components of co-operation in the local sphere of government.

Section 3 of the Act requires that municipalities must exercise their executive and legislative authority within the constitutional system of co-operative government. In addition, the Act stipulates that national and provincial government must exercise their legislative and executive authority in a manner that does not compromise or impede a municipality's ability or right to exercise its legislative and executive authority. In furtherance to the purpose of effective co-operative government, organised local government also has specific responsibilities in terms of section 3(3) of the Act. The South African Local Government Association (SALGA) must seek to develop common approaches to local government and enhance co-operation, mutual assistance and the sharing of resources among municipalities. Furthermore, it must attempt to find solutions to problems relating to local government generally. Finally, it should facilitate compliance with the principles of co-operative government and intergovernmental relations.

The Act emphasises the applicability of the principles of co-operative government and intergovernmental relations identified in section 41 of the *Constitution* to give effect to the new system of local government, which is fundamentally developmental in a co-operative government milieu.

5.2.5 Local Government: Municipal Finance Management Act

The *Municipal Finance Management Act* aims to secure sound and sustainable management of the financial affairs of municipalities. To achieve this, chapter 5 of the *Municipal Finance Management Act* further expands on the implementation of specific measures to promote co-operative government between the three spheres of government.

Specific provision is made in section 34 of the Act for national and provincial governments to assist municipalities in building the capacity of municipalities for efficient, effective and transparent financial management. National and provincial

governments are also compelled to support the efforts of municipalities to identify and resolve the financial challenges of these municipalities.

In promoting co-operative government, national and provincial government departments are obliged in terms of the Act to meet their financial commitments towards municipalities without delay. In addition, these departments must also provide timely information and assistance to municipalities to enable them to plan properly in developing and revising their integrated development plans and to prepare their budgets. An integrated development plan is defined in the *Municipal Structures Act* as a plan aimed at the integrated development and management of a municipal area. These plans need to be established for the short, medium and long term.

In terms of the Act, local government also has specific responsibilities in promoting co-operative government. Section 37 of the Act requires that municipalities must provide budgetary and other financial information to relevant municipalities and national and provincial organs of state. Municipalities also have to meet all financial commitments towards other municipalities or national and provincial organs of state.

The Act also prescribes specific procedures and processes for price increases of bulk resources for the provision of municipal services. In this regard, section 42 of the Act states that if a national or provincial organ of state which, for example, supplies water and electricity to a municipality, intends to increase the price of such resources, it must first submit the proposed amendment to the relevant national or provincial executive authority and any regulatory agency for approval.

If correctly implemented, and by putting acceptable financial management practices into operation, the Act provides an opportunity for municipalities to ensure the provision of sustainable municipal services to the community. The challenge facing local government, however, is to improve the efficiency and effectiveness of municipalities to implement the Act properly.

5.2.6 Intergovernmental Relations Framework Act

With reference to section 5.2.1 of this thesis, section 41(2) of the *Constitution* requires an act of Parliament to establish or provide for structures and institutions to promote and facilitate intergovernmental relations. The act is also required to provide for mechanisms and procedures to facilitate the settlement of intergovernmental disputes. The *Intergovernmental Relations Framework Act* has essential intergovernmental relations implications for local government, as it sets out the general objects and principles of intergovernmental relations. It also provide for structures in terms of which local government must consult with national and provincial government.

Section 4 of the Act sets out its aim, namely to provide within the principle of co-operative government a framework for national government, provincial government and local government and all organs of state to facilitate co-ordination in the implementation of policy and legislation. This co-ordination in the implementation of policy and legislation includes coherent government, the effective provision of services, the monitoring of the implementation of policy and legislation, and the realisation of national priorities (Craythorne, 2006:16-17).

In section 5, the Act requires all spheres of government to take into account the circumstances, material interests and budgets of other governments and organs of state when exercising their statutory powers and functions. It also requires that other affected organs of state need to be consulted and that unnecessary and wasteful duplication or jurisdictional contests need to be avoided. Furthermore, the actions of the different spheres of government need to be co-ordinated, and they also need to participate in the intergovernmental structures of which they are members and in efforts to settle intergovernmental disputes.

A premier's intergovernmental forum has to be established at provincial level in terms of the Act. The role of this forum is, amongst other responsibilities, to discuss and consult on matters of mutual interest, including draft national policy and legislation affecting local government, as well as the co-ordination of provincial and municipal development planning to facilitate coherent planning in the province as a whole. In addition, it also consults on the co-ordination and alignment of strategic and performance plans and priorities, objectives and strategies of provincial and local government in the province. Craythorne (2006:17) explained that the premier's forum places a significant emphasis on local government matters especially with regard to the implementation of national policy and legislation in municipalities and the alignment of priorities, objectives and strategies in the local sphere of government.

Section 24 of the Act also provides for the establishment of a district intergovernmental forum to promote and facilitate intergovernmental relations between the district municipality and the local municipalities in the specific district. The role of the district forum is to serve as a consultative forum for district and local municipalities to discuss and consult one another on matters of mutual interest such as draft national and provincial policy and legislation relating to matters affecting local government, as well as matters arising from the premier's forum that affect the district. The district forum also discusses mutual support in terms of the *Municipal Structures Act* and the provision of services in the district. Furthermore, any other matters of strategic importance that affect the interests of the municipalities in the district are also discussed.

Provisions on the settlement of intergovernmental disputes have also been included in the Act. Sections 39 to 45 of the Act deal with these aspects and include provisions on the duty of all organs of state to avoid intergovernmental disputes, the consequences of declaring intergovernmental disputes, the roles of the dispute facilitator and the MEC for local government in intergovernmental

disputes, and the process for instituting judicial proceedings to settle intergovernmental disputes.

The *Intergovernmental Relations Framework Act* is a significant achievement in ensuring an effective intergovernmental relations system. By implementing the Act, all spheres of government and organs of state will ensure that there is a co-ordinated effort and unity in purpose to address the service provision priorities of government. It appears, however, that a more concerted effort from government is required to ensure the success of the implementation of the Act. The quality of municipal service provision has deteriorated since the promulgation of the Act and there is general discontent among citizens regarding inadequate service provision.

5.3 DEFINING INTERGOVERNMENTAL RELATIONS AND CO-OPERATIVE GOVERNMENT

All three spheres of government are compelled in terms of section 41 of the *Constitution* to conduct their activities in accordance with the principles of co-operative government and intergovernmental relations. To identify whether there is a conceptual difference between intergovernmental relations and co-operative government, the two concepts are defined below.

5.3.1 Intergovernmental relations

Intergovernmental relations are intended to promote, support and facilitate co-operative decision-making across all three spheres of government (Edwards, 2008a:90). According to Malan (2005:228) intergovernmental relations include all the complex and interdependent relations between the different spheres of government, as well as the co-ordination of public policies between these spheres through programme reporting requirements and budget and planning processes.

Malan (2005:228) further explained that intergovernmental relations also refer to the fiscal and administrative processes through which government spheres share resources. Geldenhuys (2005:54) agreed, stating that the relations between the spheres of government lead to a form of “power-independence”, which means that the different government structures are dependent on one another for resources.

A further definition of intergovernmental relations states that intergovernmental relations can be described as a set of formal and informal processes, as well as structures and institutional arrangements for bilateral and multilateral co-operation within and between the three spheres of government (Bekink, 2006:90).

From these definitions it can be argued that intergovernmental relations are interdependent relations between the different spheres of government through institutional arrangements, formal and informal processes, as well as structures that ensure intergovernmental co-operation in addressing the service provision expectations of the community. The main aim is thus to create an environment of co-operation between the three spheres of government, and to achieve that a mutual planning framework with a complementary time framework with the same priorities and strategies should be in place.

Local government is responsible for the provision of a number of services that affect the lives of millions of South Africans on a daily basis. Effective intergovernmental relations between the three spheres of government in general and with local government in particular are essential to ensure service provision that meets the needs of the citizens.

5.3.2 Co-operative government

The concept of co-operative government is closely related to that of intergovernmental relations (Bekink, 2006:90). Co-operative government is a partnership between the three spheres of government, which requires each government to fulfil a specific role. No sphere can function effectively without co-operation with other spheres of government because of the interdependency and interrelatedness of some governmental functions (Malan, 2005:229).

According to Malan (2005:230) there is a conceptual difference between co-operative government and intergovernmental relations. Co-operative government is a fundamental philosophy of government that governs all features and activities of government, including the “deconcentration of power” to other spheres of government, and encompasses the structures of government as well as the organisation and exercising of political power.

In the South African context, co-operative government implies that although each sphere is distinctive, they are also interdependent and interrelated within the overall government system. Interdependence refers to the degree to which each sphere depends on another for ensuring that it executes government’s constitutional mandate. Interrelated implies that the three government spheres must ensure that they function as a collective unit in promoting the general execution of government responsibilities (Reddy, 2001:26).

Co-operative government is therefore about government partnerships as well as the values associated with it, such as national unity, effective communication and the avoiding of conflict. Intergovernmental relations on the other hand refer to the means through which the values of co-operative government are given institutional and statutory expression (Malan, 2005:230).

Effective co-operative government will not only ensure that local government, with the proviso of adequate capacity, performs a significant role in improving the implementation of national and provincial policies and programmes, but it will

also ensure that the three spheres of government achieve the constitutional objectives as far as service provision is concerned.

5.4 INTERGOVERNMENTAL RELATIONS IN PROVINCES

Intergovernmental relations concern the interface between the different spheres of government as defined in chapter 3 of the *Constitution*. Similar to national government, provincial governments have specific local government support and monitoring roles in terms of the *Constitution* and other national legislation. This section identifies these roles and also elaborates on the initiatives that the FSPG has applied to support and monitor local government.

5.4.1 Role of provincial government in ensuring effective municipal performance

The *Constitution* ensures that a provincial government does not distance itself from the activities of local government and places an obligation on both national and provincial government to support municipalities in the performance of their responsibilities. In this regard, section 154(1) of the *Constitution* stipulates that the national and provincial governments must support and strengthen the capacity of local government to manage its own affairs, to exercise its powers and to perform its duties. Furthermore, section 155(7) of the *Constitution* states that national and provincial governments have the legislative and executive authority to ensure the effective performance by municipalities of their functions. This section explores the extent to which the FSPG has given effect to these provisions.

The *White Paper on Local Government* identifies the following key roles provinces have to perform in terms of local government:

- A developmental role, which necessitates a provincial government ensuring that the integrated development plans of municipalities combine to

form a viable development framework across the province and are integrated with the provincial growth and development strategy.

- An intergovernmental role, which implies that local government is included in decision-making processes of provinces that affect municipalities' activities. Provinces should also promote horizontal co-operation and co-ordination between municipalities in the province.

- A regulatory role in terms of section 155(7) of the *Constitution* provides provincial government with the legislative and executive authority to ensure the effective performance of municipal functions.

- An institutional development and capacity-building role in terms of section 155(6) of the *Constitution* whereby provincial governments are tasked to promote the development of local government's capacity in order to perform their own functions and manage their own affairs.

- A fiscal role, which allows provincial governments to monitor the financial status of municipalities.

- A monitoring role, which allows provincial government to perform a key role in monitoring local government to ensure that high standards of public service and good government are maintained.

- An intervention role in terms of section 139 of the *Constitution*, which permits a provincial government to intervene in the affairs of a municipality if a municipality cannot or does not fulfil an executive obligation in terms of legislation.

To fulfil these key roles towards local government and to comply with the *Constitution*, structures and systems have been established to enhance and promote intergovernmental relations between the different spheres of government. The *Intergovernmental Relations Framework Act* establishes a general legislative framework applicable to all spheres and all sectors of government to ensure that intergovernmental relations are conducted as envisaged by the *Constitution* (Besdziek, 2006:124). At provincial level, the Act promotes co-operation between provincial and local government through the

establishment of the premier's forum, which is obliged to report annually to the president's co-ordinating council (Besdziek, 2006:124).

Edwards (2008b:94) explained that all provinces established intergovernmental structures before the promulgation of the *Intergovernmental Relations Framework Act*, but that some of these structures existed only in name and that meetings were seldom held. To comply with the Act, the provinces adjusted their respective intergovernmental structures after the adoption of the Act. Edwards (2008b:95) also mentioned that most provinces have implemented the *Intergovernmental Relations Framework Act* and that most intergovernmental forums are functioning effectively. These provincial intergovernmental forums also serve as a platform for provincial government and municipalities to consult on developmental issues such as the integrated development plans (IDPs).

Municipalities are subject to the monitoring and intervention of the provincial government within restrictive limits (Malan, 2005:239). According to Thornhill *et al.* (2003:21) in Malan (2005:239) monitoring is defined as the intermittent oversight of a process with the purpose of determining to what extent the objectives within a municipality are achieved so that timely action can be taken to correct the identified deficiencies. Furthermore, Malan (2005:239) explained that the monitoring role of provincial government is clarified in section 139 of the *Constitution*. This specific section states that when a municipality cannot or does not fulfil an executive obligation identified in the *Constitution* or legislation, the provincial government may intervene by taking appropriate steps to ensure fulfilment of such obligation. These steps include the issuing of a directive to a municipality that describes the extent of the municipality's failure to fulfil its obligations and also states the steps that are required to meet those obligations. It includes a provincial government assuming responsibility for the relevant obligation in a municipality and, lastly, the dissolution of a municipal council and the appointment of an administrator until a newly elected municipal council has been declared elected. When a provincial government intervenes in a

municipality, a lengthy implementation process is provided in the *Constitution* which, in itself, could delay the intervention process.

Provincial governments monitor municipalities by determining whether a municipality has performed its executive responsibilities in terms of the relevant legislation and also by determining the effectiveness of the duties municipalities perform. Thornhill *et al.* (2003:21) in Malan (2005:240) expressed the view that intervention should be seen as a form of assistance in circumstances where municipalities do not address specific responsibilities and that the primary objective with intervention is to improve the performance of municipalities. As identified in Chapter 3 intervention has taken place at the Naledi local municipality in that support is provided to the municipality by the other spheres of government in terms of Project Consolidate.

It is evident that provincial governments have the authority to monitor and, where necessary, intervene in municipalities when executive obligations are not fulfilled. In addition, provincial government is also obliged to support municipalities in the performance of their responsibilities and to support and strengthen the capacity of local government to manage its own affairs, to exercise its powers and to perform its duties. The extent to which support to municipalities is identified by the Provincial Public Accounts Committee of the Free State Legislature (PROPAC) is analysed in the following subsection.

5.4.2 Support to local government initiated by PROPAC

Provincial legislatures perform a significant role in continuously promoting the principles of co-operative government and intergovernmental relations. The *Constitution* places a responsibility on the legislature to oversee the exercise of executive authority in the province. In addition, section 132 of the *Municipal Finance Management Act* states that municipalities must submit to the legislature annual reports and all adopted oversight reports on these annual reports.

In terms of the *Municipal Finance Management Act*, the relevant portfolio committee of the legislature must deal with the documents referred to it in accordance with its constitutional powers. According to Kanyane and Nazo (2008:141) this suggests the interrogation of the reports by the specific portfolio committee and calling on municipalities to appear before the committee individually to account for the municipality's performance. Furthermore, Kanyane and Nazo (2008:141) pointed out that in addition to investigating the performance levels of local government, the relevant portfolio committee also needs to enquire about the quality of local government services provided by the municipalities.

As an example PROPAC passed the following two resolutions during 2007, which address the provincial support role in respect of local government (Weideman, 2009):

■ Resolution no. 14/2007. In respect of the late submission of financial statements by municipalities to the auditor-general, as prescribed by legislation, the committee resolved that Provincial Treasury and the Department of Local Government and Housing must, on a continuous basis, monitor the situation and provide the necessary assistance to ensure timely and reliable financial statements.

■ Resolution no. 19/2007. After the committee had considered the evidence presented in the Thabo Mofutsanyana District Municipality's auditor-general's report, the committee resolved that the accounting officer of the municipality must engage with the National Treasury, the Provincial Treasury and the Department of Local Government and Housing to obtain their assistance in addressing the many deficiencies.

Personal interviews with the current chairperson and a former chairperson of PROPAC revealed that PROPAC had passed a resolution in the past that emphasised the provincial government's support role to ensure the effective performance of local government functions (Oosthuizen, 2010; Van Rooyen,

2010). The resolution was, however, not specific in determining the exact support required. The current chairperson of the committee mentioned that, during 2009, PROPAC resolved that Provincial Treasury and the Department of Co-operative Governance, Traditional Affairs and Human Settlements should provide the necessary financial administration support to municipalities to ensure unqualified auditor-general's reports by 2014 at all the municipalities in the Free State. This resolution was passed as a result of the provincial government programme "Operation Clean Audit 2014", which was identified in 2009 with the purpose of implementing high-quality financial management practices at local government. It appears that the provincial government is achieving success with this programme as one of the municipalities under investigation, the Motheo district municipality, accomplished an unqualified audit opinion for the 2009/2010 financial year (Gericke, 2010:1).

In ensuring that local government functions are performed as prescribed by the *Constitution* and the applicable legislation, the FSPG should be decisive in identifying the type and extent of the support required to improve municipal performance. PROPAC in particular has the opportunity to facilitate co-operation and co-ordination between provincial and local government and it should utilise this opportunity to develop a local government support approach in line with the *Constitution* and the intergovernmental regulatory framework.

5.5 CHALLENGES OF INTERGOVERNMENTAL RELATIONS

In implementing intergovernmental relations, as envisaged by the *Constitution* and other legislation, three important factors have been identified as intergovernmental relations challenges of provincial and local government. To address the research question, political challenges affecting intergovernmental relations are specifically explored.

5.5.1 Lack of capacity at provincial government level

As explained, provincial governments have a constitutional responsibility to support and strengthen the capacity of local government. According to Reddy (2001:35) the provincial governments have, however, not demonstrated the capacity to execute these responsibilities effectively and efficiently. Levy and Tapscott (2001:13) agreed, stating that provinces do not always recognise their lack of capacity to provide support to municipalities. More recently the Local Government Turnaround Strategy, which was adopted by the National Cabinet in December 2009, identified that in supporting local government, both national and provincial government need to improve their capacity to involve citizens in service provision “to compensate for municipal failure” by the increased use of community partnerships and government’s expanded public works programme (Department of Co-operative Governance and Traditional Affairs, 2009b). Provincial governments also do not have the necessary funds and additional human resources capacity to support local government.

Reddy (2001:35) argued that provincial governments experience significant capacity constraints as far as their own administration, strategic planning and financial management are concerned. In this regard Levy and Tapscott (2001:6) mentioned that the administrative capacity is variable in the different provinces. The Gauteng and Western Cape provinces, for example, have the capacity to execute their responsibilities reasonably well, while provinces such as the Eastern Cape, Limpopo and Mpumalanga have difficulty providing effective provincial services to the community. The 2009 Local Government Turnaround Strategy also confirmed the Eastern Cape and Limpopo as the two provinces that experienced the most difficulty in meeting service provision targets (Department of Co-operative Governance and Traditional Affairs, 2009b).

Although provincial governments have common interests as far as their responsibilities are concerned, provinces do not have similar capacity levels and will thus not develop concurrently to address their responsibilities (Reddy,

2001:36). Capacity development at provincial government level should therefore be prioritised by both national and provincial government to not only ensure that the current government system is sustained, but also to ensure that provincial government has the capacity to support and strengthen the capacity of local government. As indicated, government acknowledged the lack of capacity at provincial government level by specifically referring in the Local Government Turnaround Strategy to the need for provincial governments to improve their capacity (Department of Co-operative Governance and Traditional Affairs, 2009b).

5.5.2 Assignment of functions: Lack of capacity at local government level

Powers and functions are assigned to local government in terms of the *Constitution* and other national legislation. The Local Government Turnaround Strategy of 2009, however, identified that municipalities lack the necessary capacity and skills to implement these functions (Department of Co-operative Governance and Traditional Affairs, 2009b). This section identifies the powers and functions that are assigned to municipalities and also examines local government's ability to implement these powers and functions.

The *Constitution* defines the functional responsibilities of each sphere of government, and specific provision has been made in the *Constitution* for the powers and functions of municipalities. Section 156(1) of the *Constitution* provides municipalities with the executive authority in respect of the local government matters listed in part B of schedule 4 and part B of schedule 5 of the *Constitution* and any other matter assigned to it by national or provincial legislation.

In addition, section 156 (4) of the *Constitution* states that national and provincial government must assign to a municipality, by agreement and subject to any conditions, the administration of a matter listed in part A of schedule 4 and part A

of schedule 5 of the *Constitution*, which necessarily relates to local government. These matters must be assigned to municipalities if the matter would be administered most effectively at the local sphere of government and if the municipality has the capacity to administer it. The matters that are identified in part A of schedule 4 and part A of schedule 5 of the *Constitution* refer to the functional areas of concurrent national and provincial legislative competence and functional areas of exclusive provincial legislative competence. The functional areas include functions such as education, health services, housing, welfare services, abattoirs, ambulance services and liquor licenses. The Local Government Turnaround Strategy, however, recognises that provincial governments need to extend their support and oversight responsibilities over local government by improving their performance and accountability, as well as the involvement of municipalities and communities in the planning and execution of provincial functions (Department of Co-operative Governance and Traditional Affairs, 2009).

In addition, the *Constitution* makes provision for the division of powers between municipalities. In this regard, section 155(5) of the *Constitution* states that subject to the provisions of section 229 of the *Constitution*, which deals with municipal fiscal powers and functions, national legislation must make provision for the appropriate division of powers and functions between municipalities when an area has municipalities of both category B, namely local municipalities, and category C, namely district municipalities. Sections 84 and 85 of the *Municipal Structures Act* provide for the division of functions and powers between district and local municipalities and the adjustment of division of functions and powers between district and local municipalities.

Malan (2005:241) argued that the mechanisms for managing government service provision by means of intergovernmental relations lack institutional classification. The consequence is the inappropriate integration of services in ensuring that the community receives adequate services. Furthermore, duplication by the different

spheres of government in the provision of services occurs from time to time. In addition, insufficient funds are allocated to local government when functions are assigned to this sphere of government (Malan, 2005:241). It is for example expected of municipalities to establish specific health committees and other structures such as District Aids Councils. Municipalities however carry the burden of all costs in relation to the activities of these structures.

It is essential that the assignment of functions to local government should be according to its capacity to perform functions. In this regard Levy and Tapscott (2001:7) emphasised that many municipalities are located in underprivileged rural areas and that they lack both the administrative capacity and the financial resources to provide the most basic services. As identified in Chapter 3 the ANC also identified the instability of municipal administrations and ineffective financial accountability as challenges that have a negative influence on local government service provision (ANC, 2010).

Regardless of the powers and functions assigned to local government, the Local Government Turnaround Strategy unfortunately identifies that the expectations of the public far exceed the capacity of municipalities to fulfil those expectations by providing adequate services (Department of Co-operative Governance and Traditional Affairs, 2009). Effective governance in terms of the principles of co-operative government and intergovernmental relations is essential to address the service provision needs of all citizens. Government's turnaround strategy, however, states that all three spheres of government need to improve on intergovernmental relations. It is therefore essential that government co-ordinates and integrates the government functions in such a way that it promotes sustainable service provision.

5.5.3 Political conflict

As mentioned in chapter 4, political challenges such as direct interference by councillors in municipal administration have a detrimental affect on local government service provision. In this regard the Local Government Turnaround Strategy expresses that this undue political interference causes instability in municipal administrations (Department of Co-operative Governance and Traditional Affairs, 2009b). Furthermore, political struggles occur frequently, which redirects the primary focal point of local government, namely to address the needs of the community by providing adequate municipal services.

In the local sphere of government, intra-political party and inter-political party conflict is common (Kirkby, Steytler & Jordan, 2007:154). Inter-party competition and conflict is prevalent and expected, as the multi-political party system is the cornerstone of the South African democracy. A growing source of conflict is intra-party disputes or disputes in government institutions controlled by the same political party (Gericke, 2008a:1). This source of conflict is also identified in the empirical research conducted. In certain cases the conflict has led to councillors being removed by the ruling party or party members simply becoming members of other political parties (Kok, 2008b:4).

According to Kirkby *et al.* (2007:155) an example of intra-party strife is the so-called “overlording” where a district municipality assumes the role of the more senior local government partner over its constituent local municipalities. This situation is exacerbated when a political party awards more senior party members with positions in district municipalities rather than local municipalities. The incorrect impression is then created that district municipalities are more senior than local municipalities. Kirkby *et al.* (2007:155) argued that until municipal councillors separate their individual roles as party members and elected representatives, the “overlording misconception” will continue to negatively influence the co-operative relationship envisaged for local government.

In the case of effective district intergovernmental forums, the principle of district and local municipality equality ensures that the meeting agenda is determined by the participating municipalities. Debate on the concerns, proposals and challenges of all participating municipalities is thus encouraged (Kirkby *et al.*, 2007:160). Any attempt to silence debate in an intergovernmental forum or municipal council should be avoided, as it will undoubtedly obstruct developmental progress.

Another factor that affects intergovernmental relations is the fact that political office-bearers and public employees serve together in structures such as the premier's intergovernmental forum. This state of affairs could lead to political interference in administration and the politicisation of administrative matters (Edwards, 2008b:95).

The manner in which political office-bearers and government employees relate to the public and among themselves has a significant influence on the effectiveness of intergovernmental relations. It is therefore essential that the intergovernmental relationship is built on the reasonable expectations of all participants and as such the responsible achievement of government's development objectives. The extent to which political conflict affects the relationship between the provincial government and municipalities in the Free State Province is analysed in subsection 5.6.2.8.

5.6 EMPIRICAL SURVEY

This chapter comprises a similar empirical section as Chapters 3 and 4 and in this case an analysis of the intergovernmental relations arrangements of the FSPG to regulate and promote municipal service provision is presented. This section deduces and evaluates the empirical results that were obtained for purposes of the research. The research methods, population and formulation of the research questions correspond with those identified in the previous chapters.

5.6.1 Aim of empirical research

The aim of this section is to evaluate the effectiveness of the measures the FSPG has implemented to promote and ensure quality service provision that meet the basic needs of communities in municipalities. The level and nature of the support provided to municipalities by the provincial government are also analysed. Specific reference is made to whether political factors have a notable effect on intergovernmental relations, such as co-operation between the provincial government and municipalities in addressing service provision challenges.

The following main aspects are explored:

- The status of the relationship between local government and the national and provincial spheres of government;
- The prospect of local government functioning effectively and efficiently in the event of inadequate intergovernmental relations;
- Intergovernmental relations challenges facing the three spheres of government;
- The effectiveness of provincial intergovernmental relations structures in ensuring quality local government service provision;
- Identifying the most important matters that are discussed in the intergovernmental structures;
- Whether national and provincial government have implemented measures to monitor the execution of local government functions;
- Identifying the support the provincial government provides to municipalities in ensuring adequate service provision;
- The effect of party-political infighting on intergovernmental relations; and

■ The appropriateness of a provincial government support structure to address intergovernmental challenges.

5.6.2 Data analysis and interpretation

The results and analysis of the empirical survey are presented in the following subsections.

5.6.2.1 Status of the relationship between local government and the national and provincial spheres of government

Intergovernmental relations have been defined in section 5.3.1 as the interdependent relations between the different spheres of government that ensure intergovernmental co-operation in addressing the service provision expectations of the community. To determine the level of co-operation between the three spheres of government, the respondents were asked to indicate the status of the relationship between local government and the national and provincial spheres of government by identifying one of the answers provided in the questionnaire. These answers are categorised according to the specific criteria. All 31 respondents yet again answered all the questions in the questionnaire. The results are specified by indicating the frequency or number of respondents that identified the specific criteria and the percentage of respondents that the frequency represents.

Table 5.1 Status of the relationship between local government and other spheres of government

CRITERIA	FREQUENCY	PERCENTAGE <i>n = 31</i>
<i>i) Excellent. No challenges are experienced.</i>	1	3.23%
<i>ii) The relationship is good</i>	18	58.06%

<i>enough to address major service provision challenges, but the relationship can be improved.</i>		
<i>iii) Political challenges were previously experienced but have now been addressed.</i>	2	6.45%
<i>iv) Poor. Major challenges are experienced.</i>	10	32.26%

As observed from Table 5.1, 58.06% of the respondents were of the view that the current relationship between the three spheres of government is sufficient to address the most important service provision challenges. However, these respondents also indicated that the relationship between the government spheres can be improved. The latter statement is important in light of the fact that 32.26% of the respondents indicated that the relationship between the government spheres is poor and that major intergovernmental relations challenges are experienced. This suggests that intergovernmental relationship concerns exist that need to be addressed. It should, however, be noted that the majority of the 32.26% respondents who indicated that the relationship is poor are members of opposition political parties. This state of affairs can imply that these members are not content with the current government sphere relationship or that they might consider themselves excluded from all essential intergovernmental relations processes.

Two respondents, representing 6.45% of the respondents, indicated that political challenges were previously experienced between the different government spheres but that they have since been addressed. Subsection 5.6.2.8, however, analyses whether party-political infighting has affected the relationship between the provincial government and municipalities. A small percentage of 3.23% of the respondents further expressed the view that the current intergovernmental relationships are excellent and that no challenges are experienced. In the view of more than 96% of the respondents, a certain degree of challenges is

experienced in the relationship between local government and the other spheres of government. The view expressed by one respondent that no challenges in the relationship are experienced can therefore probably be discarded.

Although the majority of respondents indicated that the status of the current intergovernmental relations between local government and national and provincial government is adequate to provide satisfactory services to the community, it appears that these relationships still need to improve. Considering the inadequate level of local government service provision in the Free State Province, more effective intergovernmental relations to address the service provision challenges is required. Successful intergovernmental relations and a combined effort by all spheres of government to address the poor service provision will undoubtedly contribute in ensuring that government service provision meets the needs of the community.

5.6.2.2 Effective local government functioning notwithstanding deficiencies in intergovernmental relations

It is stated in subsection 5.6.2.1 that effective intergovernmental relations are necessary to ensure effective services that meet the needs of the citizens. To determine the significance of proper intergovernmental relations, respondents were asked to point out whether it would be possible for local government to function effectively and efficiently if the relationship with the national and provincial spheres of government was poor. The results of the survey are indicated as a percentage alongside the identified responses in Table 5.2.

Table 5.2 Functioning of local government where inadequate intergovernmental relations exist

CRITERIA	FREQUENCY	PERCENTAGE <i>n = 31</i>
<i>i) It is possible for local government to function</i>	2	6.45%

<p><i>effectively and efficiently where inadequate relationships with the national and provincial spheres of government exist.</i></p> <p><i>ii) It is not possible for local government to function effectively and efficiently where inadequate relationships with the national and provincial spheres of government exist.</i></p>	29	93.55%
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It can be concluded from the responses identified in Table 5.2 that a vast majority of 93.55% of the respondents indicated that it would not be possible for local government to function effectively and efficiently where inadequate relationships with the national and provincial spheres of government exist. A minor 6.45% of the respondents disagreed. It is therefore apparent that in order for local government to provide quality municipal services to the community, satisfactory relationships with the national and provincial governments need to exist. The co-operation and support of these spheres of government are fundamental in ensuring that local government achieves its developmental objectives.

A concerted effort is required from all three spheres of government to ensure that effective and efficient services are rendered to the community. Sound intergovernmental relations between these spheres of government are therefore essential to promote effective local government that addresses its service provision challenges.

5.6.2.3 Challenges facing intergovernmental relations

A number of factors that have an influence on intergovernmental relations between the three spheres of government have been identified in section 5.5.

These factors include the lack of capacity at provincial and local government level and the presence of political conflict at the different government spheres. To further expose factors that influence intergovernmental relations, respondents were asked to classify the factors specified in the questionnaire in priority order. The weights awarded for the specific responses were four for the most dominant challenge identified and one for the least dominant factor. The maximum potential weight for the identified criteria was 124 per criterion, and a 100% response to the questions was received from the respondents.

Table 5.3 Challenges facing intergovernmental relations

<i>CRITERIA</i>	<i>SCALE WEIGHT</i>	<i>MAXIMUM WEIGHT</i>	<i>PERCENTAGE WEIGHT n = 31</i>
<i>i) Ineffective intergovernmental co-ordination and integration.</i>	87	124	70.16%
<i>ii) Absence of policies to support intergovernmental relations.</i>	71	124	57.26%
<i>iii) Absence of mutual respect between the different spheres of government.</i>	70	124	56.45%
<i>iv) Absence of a political will to enhance intergovernmental relations.</i>	82	124	66.13%

As deduced from Table 5.3, ineffective intergovernmental co-ordination and integration (70.16%), followed by the absence of a political will to enhance intergovernmental relations (66.13%), is the most dominant intergovernmental relations challenge experienced by government. Factors such as the absence of policies to support intergovernmental relations (57.26%) and the absence of mutual respect between the different spheres of government (56.45%) were also identified as important challenges. The results reveal that intergovernmental relations challenges are not only limited to a small number of factors, but that a variety of factors influence these relations. A significant aspect identified is that

political factors continue to dominate government challenges. In this specific scenario the absence of a political will to enhance intergovernmental relations has been emphasised. In view of the political will interpretation of Zybrands (2006:157) political will in the intergovernmental relations environment can probably be described as the urgency and the desire with which political office-bearers execute measures to ensure that intergovernmental relations between all spheres of government are effective and efficient. The absence of a political will is a matter of concern, as political determination is required to ensure that government achieves its goals.

5.6.2.4 Effectiveness of intergovernmental relations structures

Since the promulgation of the *Intergovernmental Relations Framework Act*, a number of intergovernmental relations structures have been established. These structures co-ordinate processes in addressing the service provision priorities of government. To determine whether the contribution of these structures is successful in ensuring quality local government service provision, respondents were asked to identify whether they regard these structures as effective. The responses are shown by means of the percentages provided alongside the identified criteria.

Table 5.4 Effectiveness of intergovernmental relations structures

CRITERIA	FREQUENCY	PERCENTAGE <i>n = 31</i>
<i>i) Contribution of intergovernmental relations structures is effective in ensuring quality local government service provision.</i>	8	25.81%
<i>ii) Ineffective contribution of intergovernmental relations structures in ensuring</i>	23	74.19%

<i>quality local government service provision.</i>		
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As observed from Table 5.4, 74.19% of the respondents were of the view that the contribution of intergovernmental relations structures in the Free State, in ensuring quality local government service provision, is ineffective. A moderate 25.81% of the respondents felt that these intergovernmental relations structures are effective. These results correspond with those analysed in subsection 5.6.2.1 where the majority of respondents concurred that the relationship between the government spheres could be improved. A significant finding of the research is that since 2009, the premier’s co-ordinating forum in the Free State Province has convened frequently to discuss the performance of government. Meetings were for example scheduled on 4 February 2010, 26 March 2010 and 5 August 2010 to discuss the challenges experienced by municipalities and to make decisions on corrective measures (Kay, 2010).

Quality service provision remains the primary obligation of any government. Government should therefore enhance the effectiveness of the intergovernmental relations structures in addressing the serious municipal service provision challenges. The adoption of the Local Government Turnaround Strategy, in which the improvement of intergovernmental relations is specifically addressed, is therefore a positive development. As already identified, however, political factors have a significant influence on local government service provision. The extent to which these political factors and more specifically party-political infighting affect intergovernmental relations in the Free State is analysed in subsection 5.6.2.8.

5.6.2.5 Intergovernmental relations on the agenda

Ascertained in subsection 5.6.2.4 is that intergovernmental relations structures are ineffective in ensuring quality local government service provision. In determining whether local government matters are discussed and receive

preference at meetings of intergovernmental relations structures, respondents were asked to prioritise the criteria in the questionnaire from the most to the least dominant. The weights obtainable for the specific responses were six for the most probable agenda item to be discussed and one for the least probable. The maximum potential weight for the identified criteria is 186 per criterion and, similar to Table 5.1 a 100% response to the question was received from the respondents.

Table 5.5 Agenda items of intergovernmental relations structures

<i>CRITERIA</i>	<i>SCALE WEIGHT</i>	<i>MAXIMUM WEIGHT</i>	<i>PERCENTAGE WEIGHT n = 31</i>
<i>i) Expanded public works programme.</i>	<i>134</i>	<i>186</i>	<i>72.04%</i>
<i>ii) Municipal infrastructure grant.</i>	<i>129</i>	<i>186</i>	<i>69.35%</i>
<i>iii) 2010 World Cup preparations and readiness.</i>	<i>82</i>	<i>186</i>	<i>44.09%</i>
<i>iv) Project Consolidate.</i>	<i>95</i>	<i>186</i>	<i>51.08%</i>
<i>v) Service provision interventions.</i>	<i>130</i>	<i>186</i>	<i>69.89%</i>
<i>vi) Distribution of powers and functions between different spheres of government.</i>	<i>81</i>	<i>186</i>	<i>43.55%</i>

The statistics contained in Table 5.5 verify that although all the items listed in the table are discussed at meetings of intergovernmental relations structures, matters such as government's expanded public works programme (72.04%), service provision interventions by other spheres of government (69.89%) and the municipal infrastructure grant from National Treasury (69.35%) receive preference. The weights obtained by Project Consolidate, the 2010 Soccer World Cup preparations and readiness and the distribution of powers and functions between the different spheres of government were lower compared to the other aspects identified. It is, however, necessary to state that specific respondents

identified Project Consolidate as an item that was prioritised by the intergovernmental forums.

The conclusion is therefore drawn that in an effort to address ineffective local government service provision, municipal matters are prioritised and recurrently discussed at meetings of intergovernmental relations structures. Government is therefore conscious of the inadequate service provision at the local sphere of government, which is also emphasised in the 2009 Local Government Turnaround Strategy. The decisions taken at these forums, however, need to be followed up with visible implementation to ensure effective co-operation between the three spheres of government. In further addressing local government service provision challenges, it would be sensible for these intergovernmental relations structures to also consider measures to address the political challenges experienced by municipalities, since these have had a detrimental influence on municipal service provision.

5.6.2.6 Monitoring of local government service provision

As identified in this chapter, intergovernmental relations concern the interface between the different spheres of government and, similar to national government, provincial governments have specific local government support and monitoring roles. In establishing the extent of the national and provincial monitoring roles, respondents were asked to indicate whether any measures have been implemented by national and provincial government to monitor the effective execution of local government functions. The research results are reflected in Table 5.6 by the classification of the number and percentage of respondents alongside the respective criteria.

Table 5.6 National and provincial government monitoring roles

<i>CRITERIA</i>	<i>FREQUENCY</i>	<i>PERCENTAGE</i> <i>n = 31</i>
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<i>i) Measures have been implemented by national and provincial government to monitor the effective execution of local government functions.</i>	<p style="text-align: center;">28</p>	<p style="text-align: center;">90.32%</p>
<i>ii) Measures have not been implemented by national and provincial government to monitor the effective execution of local government functions.</i>	<p style="text-align: center;">3</p>	<p style="text-align: center;">9.68%</p>

It can be concluded from Table 5.6 that the vast majority or 90.32% of the respondents are of the opinion that the national and provincial governments have, in compliance with their constitutional and legislative obligations, implemented measures to monitor the effective execution of local government functions. A small percentage of 9.68%, which represents three respondents, felt that the two spheres of government have not implemented measures to monitor the execution of local government service provision. Specific respondents explained that the monitoring measures implemented consist of the regular submission of reports to national and provincial government by municipalities, the establishment of intergovernmental relations structures to determine whether a municipality has performed its executive responsibilities in terms of the relevant legislation, and the examination of the auditor-general's reports pertaining to each particular municipality.

The national and provincial governments have implemented noticeable measures to monitor the effective execution of local government responsibilities. The monitoring of local government should, however, not merely be an attempt of the other two spheres of government to comply with constitutional and legislative requirements, but should rather be a committed endeavour to ensure that adequate services are provided to the community. In addition to the monitoring roles of the other two spheres of government, it is also essential to determine the

level of assistance that is provided to municipalities. This aspect is analysed in the following subsection.

5.6.2.7 Level of assistance to municipalities

In terms of the *Constitution*, local government is entitled to assistance from the national and provincial governments to be able to fulfil its constitutional obligations. As the purpose of this chapter is to identify the FSPG’s arrangements to regulate and promote local government service provision, respondents were asked whether the provincial government provides any assistance, other than financial assistance, to municipalities to ensure effective municipal service provision.

Table 5.7 Assistance to municipalities

CRITERIA	FREQUENCY	PERCENTAGE <i>n</i> = 31
<i>i) The provincial government provides assistance, other than financial assistance, to municipalities.</i>	31	100%
<i>ii) The provincial government does not provide assistance, other than financial assistance, to municipalities.</i>	0	0%

The respondents unanimously agreed that the FSPG does provide assistance, other than financial assistance, to municipalities. However five respondents, representing 16.13% of the respondents, commented during the interviews that they did not regard the assistance provided by the provincial government to local government as effective, as the quality of municipal services provided to the community is inadequate. To determine the extent of the assistance Free State municipalities receive from the provincial government, respondents were asked

to identify the nature of support provided to municipalities in priority order. The weights awarded for the responses were six for the most prevalent form of assistance identified by the respondents and one for the least prevalent. The maximum potential weight for the identified criteria is 155 per criterion.

Table 5.8 Nature of assistance provided to municipalities

CRITERIA	SCALE WEIGHT	MAXIMUM WEIGHT	PERCENTAGE WEIGHT n = 31
<i>i) Monitoring and evaluation of the performance and legislative compliance of municipalities.</i>	116	155	74.84%
<i>ii) Support to local government in the form of Project Consolidate.</i>	92	155	59.35%
<i>iii) Support in the form of financial grants.</i>	124	155	80%
<i>iv) Provincial government's monitoring role is limited to requesting information from municipalities.</i>	65	155	41.94%
<i>v) Secondment of experienced employees to ensure the provision of services to the community.</i>	68	155	43.87%

As observed from Table 5.8, the most prevalent form of assistance to municipalities is support in the form of financial grants (80%). The monitoring and evaluation of the performance and legislative compliance of municipalities by the provincial government is regarded as the second most prevalent form of assistance (74.84%), followed by support to local government in the form of Project Consolidate (59.35%). The other two options identified in the questionnaire, namely the secondment of experienced employees to ensure the provision of services to the community (48.87%) and the provincial government's

monitoring role is limited to requesting information from municipalities (41.94%), obtained the lowest weight percentages.

In supporting municipalities in the performance of their responsibilities, the provincial government has implemented various projects and programmes in compliance with the *Constitution*, including the appropriation of financial grants and support in the form of Project Consolidate. This project organises intergovernmental groups at municipal level to address practical problems at the specific municipalities (Department of Provincial and Local Government, 2004b:13). Considering the ineffective level of local government service provision, as identified in the 2009 Local Government Turnaround Strategy, the question arises as to whether the current support initiatives of the provincial government are sufficient to address the major municipal service provision challenges.

The support provided by the provincial government will, however, be of little use if solutions to the political challenges within the local sphere of government are not found and implemented. The reality is that local government has been plagued by political instability, which has had an unfavourable effect on municipal service delivery.

5.6.2.8 Party-political infighting and intergovernmental relations

Political factors in general and party-political infighting in particular have a negative effect on local government service provision, as analysed in chapter 4. In determining the extent to which political conflict affects the relationship between the provincial government and municipalities in the Free State Province, respondents were asked to indicate whether the party-political infighting in the Free State has had an affect on municipalities' relationship with the provincial government. The responses are reflected in Table 5.9 wherein the frequency of the responses and the percentages that these frequencies represent are interpreted.

Table 5.9 Party-political infighting and intergovernmental relations

CRITERIA	FREQUENCY	PERCENTAGE <i>n = 31</i>
<i>i) Party-political infighting has had an affect on local government's relationship with the provincial government.</i>	23	74.19%
<i>ii) Party-political infighting has not affected local government's relationship with the provincial government negatively.</i>	8	25.81%

The results in Table 5.9 convey that party-political infighting has affected intergovernmental relations between the FSPG and municipalities negatively. In this regard 74.19%, which represents 23 of the respondents, agreed with this statement. A substantially lower percentage of 25.81% of the respondents felt that the party-political infighting has had no negative effect on such relations. Various respondents explained during the interviews, however, that since the election of Premier Ace Magashule in 2009, the relationship between the provincial and local governments has improved.

Political factors such as party-political infighting not only have a seriously negative impact on local government service provision, but also influence the relationship between the different spheres of government, as the research results clearly illustrate. These political challenges therefore need to be addressed responsibly by the political parties involved to ensure that provincial government provides adequate support to municipalities in the execution of their functions. This will undoubtedly contribute positively to ensuring that the service provision expectations of all residents are addressed appropriately.

5.6.2.9 Establishment of a provincial governance commission

During 2008 a provincial team consisting of national and provincial government officials, representatives of the South African Local Government Association (SALGA) and traditional leaders were appointed by the minister of Provincial and Local Government (presently known as the minister for Co-operative Governance and Traditional Affairs), Mr. Secilo Shiceka, to address the inadequate municipal service provision in the Free State Province. The team was tasked to ensure that all municipalities established appropriate structures to provide acceptable municipal services to the community. It also had to ensure that municipalities acquired the necessary capacity to perform their functions (Kok, 2008e:5). This team did not have any executive powers, however, and merely provided a technical support service to municipalities.

It is recommended in this research that a provincial governance commission be established in the Free State Province which can monitor municipalities' compliance with legislation. Furthermore, the commission could facilitate so-called internal political and administrative challenges and then submit relevant recommendations to an executive office-bearer identified in specific legislation, preferably the premier. The commission could also be tasked with the responsibility of improving inter-sectoral co-ordination and planning between provincial and local government to ensure that adequate support is provided to local government in the execution of its obligations.

The immense political challenges within the local sphere of government in particular must be dealt with decisively and visibly. A commission to be established by legislation, with specific powers and with adequate support from government and political parties, will contribute significantly in addressing the current service provision challenges caused by political instability in municipalities. A statutory structure with decision-making powers can therefore be recommended.

In ascertaining the feasibility of the establishment of a statutory structure to deal with the challenges experienced in the relationship between provincial and local government, respondents were asked to specify whether they support the establishment of a provincial governance commission or an independent provincial government support agency. It was also explained to the respondents that the proposed structure would have legislatively assigned powers to implement corrective measures in addressing the inadequate municipal performance caused by political instability and conflict. Table 5.10 indicates the frequency and percentages of the responses.

Table 5.10 Establishment of a provincial governance commission

CRITERIA	FREQUENCY	PERCENTAGE <i>n = 31</i>
<i>i) The establishment of a provincial governance commission or an independent provincial government support agency is supported.</i>	20	64.52%
<i>ii) The establishment of a provincial governance commission or an independent provincial government support agency is not supported.</i>	11	35.48%

Twenty or 64.52% of the respondents expressed the opinion that the establishment of a provincial governance commission or an independent provincial government support agency would be feasible. The proposed role of such a structure would be to implement corrective measures in addressing inadequate municipal performance. Eleven respondents (35.48%) disagreed with the establishment of such a structure, stating that it would be another costly government process and that the success prospect of such a structure is limited. The research results support the suggestion that the establishment of a provincial governance commission is practical and realistic.

5.7 CONCLUDING REMARKS

The South African constitutional order integrates and creates a governmental structure founded on the principles of co-operation and intergovernmental relations. All spheres of government and organs of state are obligated to comply with these principles.

Local government has, in terms of the current constitutional dispensation, been afforded participation in all governmental structures, and this authorisation is intended to contribute to effective government. In compliance with the *Constitution* and other legislation, national and provincial governments are required to play a fundamental role in supporting local government to perform its powers and functions. Provincial governments in particular have the explicit responsibility in terms of the *Constitution* to monitor and support local governments in their provinces and to further promote the development capacity of municipalities to enable them to fulfil their responsibilities.

In effectively supporting local government, the provincial government's relationship with municipalities must be exemplary. A harmonious relationship between the two spheres of government will contribute positively towards local government's ability to carry out its powers and functions efficiently. The research results have revealed that the status of intergovernmental relations at present is satisfactory to provide effective services to the community, but that the relationship needs to improve. This situation has to be addressed, as effective intergovernmental relations are essential in ensuring that government meets the expectations of the citizens.

Various intergovernmental relations challenges have been identified in this chapter, including ineffective intergovernmental co-ordination and integration, the absence of a political will to enhance intergovernmental relations, the absence of policies to support intergovernmental relations, and the absence of mutual

respect between the different spheres of government. The absence of a political will to enhance intergovernmental relations is particularly contentious, as politicians have been elected by the electorate to serve the interests of the residents. The primary objective of political office-bearers should be to ensure the provision of adequate government services to the community, and the commitment of these office-bearers should be beyond reproach at all times.

The research results also show that the FSPG has, in compliance with its constitutional and legislative obligations, implemented measures to monitor the effective execution of local government functions. Financial grants to municipalities are the most prevalent form of assistance to local government. In addition, the performance and legislative compliance of municipalities are frequently monitored and evaluated by the provincial government. A number of relevant matters addressing local government service provision are also discussed at intergovernmental forum meetings, and it is essential that the decisions taken at these meetings are implemented to ensure effective intergovernmental co-operation.

In conclusion, the improvement and maintenance of an acceptable level of local government service provision may be vested in the establishment of a structure such as a provincial governance commission. To ensure political stability in especially the local government environment, measures should be implemented to address political challenges effectively as and when they occur. The purpose of such a provincial governance commission would be to monitor municipalities' compliance with legislation and to make recommendations to the relevant political office-bearer regarding the internal political and administrative challenges experienced. This commission could be established by legislation and would report directly to the premier of the province. Upon receipt of recommendations from the commission, appropriate steps can be taken against political office-bearers responsible for political instability at municipalities, for example. Furthermore, the executive council of the province could consider

intervening in the affairs of municipalities. The commission can also perform an essential role in improving inter-sectoral co-ordination and planning between provincial and local government.

The provincial government needs to commence with a process to implement provincial legislation that would enable the establishment of a structure such as a provincial governance commission. Such a structure would not only perform an essential role in addressing local government service provision challenges, but would also monitor the execution of municipal executive responsibilities. In this regard, effective intergovernmental relations between the provincial and local government can be achieved.

CHAPTER 6

CONCLUSION AND RECOMMENDATIONS

6.1 INTRODUCTION

The 1996 *Constitution* has established a South African governmental structure that is divided into three spheres, namely the national, provincial and local spheres of government. These spheres of government are distinctive, interdependent and interrelated in terms of section 40(1) of the *Constitution* and have specific constitutional powers and responsibilities. Local government is the sphere of government that has direct interface with the community of a specific area and is responsible for the provision of a range of services that materially affect the lives of all people on a daily basis.

All spheres of government must provide effective, transparent, accountable and coherent government in terms of the *Constitution*. Local government in particular is responsible for providing democratic and accountable government to the local community and ensuring the provision of services to the community. Furthermore, it is compelled to promote economic and social development, to promote a healthy and safe environment, and to encourage the involvement of the community in local government matters.

Similar to the national and provincial spheres, local government has a distinctive political nature and character. Democratic elections are held within all local government areas of jurisdiction and councillors are elected to represent the voters and also the political parties that contest elections in the municipalities. The decisions taken by municipal councils are influenced by political considerations, and responsible conduct is required from the municipal political office-bearers to ensure that the residents benefit from the decisions taken by that municipal council.

The *Constitution* also establishes and describes the various government bodies that are in operation and which exercise state powers. These government bodies or public institutions represent the state and have been classified into three primary groups, namely legislative, executive and judicial structures. Appropriate separation of powers between the legislative, executive and judiciary, with appropriate monitoring measures to ensure accountability, responsiveness and openness, is essential. In this regard the doctrine of separation of powers, also known as the *trias politica*, is significant in a *bona fide* democracy and fundamental to all constitutional systems. The separation of powers in terms of the *Constitution* has been specifically designed to ensure that government achieves its objectives, and the doctrine of separation of powers is indispensable in controlling cross-public institution interference. In a democratic state, the *trias politica* is essential in ensuring that state powers are entrusted to three separate and independent institutions in order to avoid autocracy and to protect the freedom of the citizens. An ultimate objective for a democracy should be to separate the legislative, executive and judicial authority and to vest them in separate government institutions with interconnected control mechanisms.

The provision of sustainable municipal services to the community is the most significant reason for the existence of municipalities. Municipal service provision is such an essential obligation that it has been embedded within the South African constitutional framework. The research results, however, point to an inadequate level of service provision in the country in general and the Free State Province in particular. There is inconsistency between the legislative requirements, the expectations of the community, and the actual quality of services provided by local government.

Local government in the Free State is currently confronted with a number of challenges that affect municipal service provision negatively. These challenges include financial constraints that are mainly caused by the insufficient collection of service fees in arrears and municipal debt burdens running into millions of

rand. Capacity limitations such as lack of knowledgeable staff, the legislative complexity of the local government system, party-political challenges, administrative challenges and municipal development challenges are equally significant in their negative effect on service provision. In addition, a number of Free State municipalities have not implemented resolutions of the Free State Legislature to address the financial and management challenges of the municipalities. Adequate financial and human resources are essential for a municipality to achieve its constitutional objectives and to fulfil its duties and responsibilities.

The plethora of legislation applicable to local government and the legislative complexity have brought about an additional workload on municipal employees, especially as far as regular reporting to national and provincial government is concerned. The complexity of the legislation not only creates additional municipal responsibilities, but also requires specialised skills to ensure legislative compliance. Furthermore, an additional challenge is experienced in that municipal employees prioritise their administrative responsibilities while the main responsibility of municipal service provision is disregarded.

The party-political challenges identified at municipalities in the Free State specifically refer to the political struggles within the ruling ANC in the first decade after the 2000 local government elections. The periodical removal of mayors, speakers and other councillors at municipalities has affected the level and continuity of local government service provision. The research results specify that political factors such as political instability at Free State municipalities and the absence of the political will to provide municipal services have emerged as predominant factors that influence local government service provision negatively.

A number of factors attribute to the highly politicised local government environment in South Africa, one of which is that local government was race-based prior to 1994 and municipal services were unequally provided to

communities. The service provision backlogs that are still experienced in South Africa are directly attributable to the undemocratic system of the past. Furthermore, South Africa is in its second decade of democracy and the community is becoming intolerant of inadequate municipal services and being deprived of a better quality of life.

Politics and political activity are unavoidable characteristics of any democracy and influence the specific service provision responsibilities of government. The objective of democracy is to create conditions where an individual is able to achieve the greatest safety and comfort and to protect the dignity of all citizens. In ensuring that democracy succeeds at local government level, municipal services must be provided according to the needs and preferences of the residents.

Political parties represent the wants and needs of the constituents and are the mechanisms through which the requirements and expectations of the community are conveyed to government institutions. Various political parties are active in South Africa and they perform an essential role in ensuring representation in the South African democracy. The ANC has been the ruling party since 1994 and is also the dominant party in all the municipal councils in the Free State and the majority of councils in the country. According to the research results, the most prominent feature of a dominant party system is the tendency for the political focus to shift from rivalry between parties to factional conflict within the dominant party itself. Infighting within the ruling ANC has been identified as one of the most important reasons for the deterioration in the quality of municipal service provision.

Local government in South Africa has been challenged with a bombardment of protests by the community over the past few years. These protest marches appear to have been about inadequate service provision in respect of education, health, social grants, housing, water, electricity and basic infrastructure.

Numerous additional reasons have been identified for the protests, with the presence of individual political struggles being one of the most predominant causes. These individual political struggles specifically refer to divisions between municipal councillors and even between municipal councillors and the members of the management of individual municipalities. The community protests in the Free State are not only an indication that the needs and expectations of the residents are not being met, but should also be sufficient inspiration for municipalities to ensure that adequate municipal services are provided.

Various other significant political challenges that affect local government service provision in the Free State Province have been identified. These include the lack of the political will to provide services, political struggles within the ruling party, the selection criteria in the appointment of employees, and political interference in municipal administration. A further significant challenge that frustrates local government service provision is the influence of party politics and more specifically the political approaches of the political office-bearers. In terms of the research results, political interference in municipal administration is a local government reality that seriously hampers municipal service provision. Interfering in the responsibilities of other office-bearers normally leads to conflict and a general reluctance to perform service duties. The ruling party, the ANC, has been frequently criticised for not separating the powers between the party and the state. The challenge for any ruling party therefore is to put acceptable mechanisms into practice to ensure that the public service becomes an effective instrument for executing the ruling party's mandate without hampering the day-to-day operations of government.

In addressing the service provision needs of the community and the challenges of government, all spheres of government need to operate as a cohesive unit. Intergovernmental relations are therefore of the essence in ensuring that government performs its concerted powers and functions effectively. The *Constitution* specifies the configuration of government, and all spheres thereof

are therefore constitutionally bound to support and assist one another. To maintain governance balance between the three spheres of government, the constitutional principles of co-operative government and intergovernmental relations provide the basis for co-operation between these spheres.

National and provincial governments have a specific responsibility to support and strengthen the capacity of local government and also ensure the effective performance by municipalities of their functions. The extent of co-operation between the three spheres of government is regulated by the *Constitution*, the *Intergovernmental Relations Framework Act* and other national legislation. This legislative framework creates the basis for the implementation of intergovernmental relations and co-operative government in South Africa.

Intergovernmental relations are intended to promote, support and facilitate co-operative decision-making across all three spheres of government. Interdependent relations between the different spheres of government are required through institutional arrangements, formal and informal processes, as well as structures that ensure intergovernmental co-operation in addressing the service provision expectations of the community. The foremost purpose of intergovernmental relations is thus to create an environment of co-operation between the three spheres of government.

The co-operative government concept is closely related to that of intergovernmental relations and is a partnership between the three spheres of government, which requires each sphere to fulfil a specific role. The implementation of effective co-operative government will ensure that local government performs a significant role in improving the implementation of national and provincial policies and programmes. Furthermore, it will also ensure that the three spheres of government achieve the constitutional objectives as far as service provision is concerned.

The *Constitution* obligates both national and provincial government to support municipalities in the performance of their responsibilities. Provincial governments have the authority to monitor municipalities by determining whether a municipality has performed its executive responsibilities and, where necessary, to intervene in municipalities when executive obligations are not fulfilled. The research results have shown that the status of current intergovernmental relations is of such a nature that satisfactory services to the community is possible, however, further refining of intergovernmental relations is required. This situation must be addressed, as effective intergovernmental relations are essential in ensuring that government meets the expectations of the citizens.

Various intergovernmental relations challenges have been identified in the research. These challenges include ineffective intergovernmental co-ordination and integration, the absence of a political will to enhance intergovernmental relations, the absence of policies to support intergovernmental relations, and the absence of mutual respect between the different spheres of government. The absence of a political will to enhance intergovernmental relations is a particular matter of concern, as politicians have been elected by the electorate to serve the interests of the residents and the commitment of these office-bearers should be beyond reproach at all times.

The research results also revealed that the Free State Provincial Government has implemented measures to monitor the effective execution of local government functions in compliance with its constitutional and legislative obligations. Financial grants to municipalities are the most prevalent form of assistance to local government, while the performance and legislative compliance of municipalities are also frequently monitored and evaluated. In recent times, local government matters and challenges have also been discussed at the premier's intergovernmental forum meetings and it appears that since the election of Premier Ace Magashule in 2009, the relationship between the provincial and local governments has improved. This scenario is another

indication that the quality and commitment of political office-bearers have grave implications for government's ability to implement its service provision obligations.

The community has a legitimate expectation for the provision of appropriate and sufficient services, and all spheres of government are required by the *Constitution* to provide effective, transparent, accountable and coherent service. In terms of the *Municipal Systems Act*, municipalities must provide basic municipal services that are necessary to ensure an acceptable and reasonable quality of life and which will benefit the local community. These constitutional and legislative objectives will, however, be difficult to achieve with the continual presence of political factors and challenges that hamper quality service provision. Specific solutions to address these factors and challenges effectively are recommended in section 6.2

6.2 RECOMMENDATIONS

Local government provides services that are of fundamental importance and are necessary to satisfy the needs of the community. Local government also has an indispensable responsibility to ensure that municipal services are equitably provided to the community and that they are financially sustainable. Many South Africans, however, are dissatisfied with the quality of services provided to the community. The predominant view is that the services that are provided by local government do not meet the expectations of the residents. This dissatisfaction has led to frequent community protests countrywide.

Various factors that have a detrimental affect on the provision of quality municipal services have been identified. The political reality in the new democratic dispensation in particular is identified as a significant factor that has a considerable influence on local government service provision. Recommendations on how to address the local government service provision challenges, with

specific reference to the political reality and specific factors, are founded in the results of this research and are identified below.

- i) To address the financial constraints, capacity limitations and complexity of legislation applicable to local government, the following recommendations are made:

- Municipalities should manage their financial resources in accordance with the applicable legislation, financial procedures and regulations. The collection of outstanding debt for the provision of municipal services to the community, for example, is absolutely essential for the adequate performance of municipal responsibilities. Municipalities should therefore develop debt-collection policies and ensure the stringent implementation thereof.

- Adequate expertise, skills and mindset should be urgently introduced at municipal level to address the capacity limitations. This includes the appointment of knowledgeable staff in key municipal positions. Appointments in crucial positions should not be based on political considerations.

- Government should introduce measures to address the plethora of multifaceted legislation applicable to local government by, for instance, reviewing the quantity and complexity of legislation. This challenge is preventing local government from executing its developmental mandate.

- ii) Pertinent political factors that influence local government service provision negatively have been identified and need to be addressed. The proposed measures are as follows:

🏛️ A political mindset and political will that prioritises the wishes and expectations of the community, rather than selfish individual political interests, must be applied by all municipal office-bearers.

🏛️ To ensure that political infighting and political differences do not overshadow the primary responsibility of politicians, namely to serve the people, political maturity needs to be demonstrated by politicians. Political struggles and conflict within political parties have to be managed and controlled in such a way as to prevent any negative effect on municipal service provision. Quality political party leadership is required, while an adequate conception of democratic principles must be applied by government institutions and political party office-bearers.

🏛️ Loyalty towards the ruling party, rather than aspects such as qualifications, abilities and skills, has been identified as the norm for the recruitment and selection of municipal employees. To ensure that municipalities have the necessary capacity to provide the relevant services to the community, appointments at municipalities should be made strictly on the basis of skills and expertise, irrespective of the candidates' political allegiance.

🏛️ In implementing its deployment or cadre policy, the ruling party should execute the policy in the way in which it was intended, namely that appointments in government institutions must be according to the “speciality, aptitude, qualification and capability” of the appointees. The appointees in municipalities also need to be “correctly placed” in terms of the policy.

🏛️ It is evident from the research that political interference in municipal administration is a reality and that it has an adverse influence on municipal service provision. Municipal political office-bearers must

therefore remain familiarised with the local government system, as it appears that councillors of specific municipalities have no regard for the clearly demarcated roles of the different local government functionaries.

■ The research results confirm that the community is not satisfied with the current level of municipal service provision. The presence of political struggles at municipalities, poor municipal governance and ineffective local government management appear to be the main contributing factors for the community protests that are experienced in the Free State from time to time. These local government service provision challenges urgently need to be addressed by all government participants, namely the politicians and government employees involved in all three spheres of government, if they are serious about addressing the needs of the residents. The community protests should be sufficient inspiration for municipalities to ensure that adequate municipal services are provided.

- iii) In meeting the constitutional objectives as far as service provision is concerned, adequate intergovernmental relations between all spheres of government is essential. To address the identified intergovernmental relations challenges of provincial and local government, the following proposals are made:

■ In dealing with the capacity constraints at provincial government level, capacity development should be prioritised by both national and provincial government. Adequate capacity will ensure not only that the current government system is sustained, but also that provincial government supports and strengthens the capacity of local government.

Due to the fact that many municipalities are located in underprivileged rural areas, they lack both the administrative capacity and the financial resources to provide municipal services. It is therefore essential that the assignment of functions to local government should be according to its capacity to perform functions.

When assigning functions to municipalities, the provincial government must ensure that appropriate integration of the services provided to the community takes place. Mechanisms to avoid duplication by the different spheres of government in the provision of services are essential and should be implemented. Furthermore, it is fundamental that adequate funds are allocated to local government when functions are assigned to it.

Political office-bearers and government employees have a significant influence on the effectiveness of intergovernmental relations. To achieve government's development objectives, it is essential that their intergovernmental relationship is built on the reasonable expectations of all participants. It appears, however, that although intergovernmental relations between local government and national and provincial government are adequate to provide reasonable services to the community, this relationship still needs to improve. Considering the challenges that affect the provision of quality municipal services to the community, more effective intergovernmental relations are necessary to address the service provision challenges.

One of the most significant intergovernmental relations challenges identified in the research is the absence of a political will to enhance intergovernmental relations. This challenge is particularly contentious, as the primary objective of political office-bearers should be to ensure the provision of adequate government services to the community. The

commitment of these office-bearers must be beyond reproach at all times.

🏛️ The decisions made by intergovernmental relations forums need to be followed up with visible implementation to ensure effective co-operation between the three spheres of government. In further addressing local government service provision challenges, it is recommended that intergovernmental relations structures consider measures to address the political challenges experienced by municipalities.

🏛️ National and provincial government have implemented noticeable measures to monitor the effective execution of local government responsibilities. The monitoring measures should, however, not only be an effort to comply with constitutional and legislative requirements, but rather a committed effort to ensure that adequate services are provided to the community.

🏛️ Provincial government has implemented various projects and programmes to support municipalities in the performance of their responsibilities. Financial grants to municipalities are the most prevalent form of assistance to local government. This support will, however, be of little assistance if solutions to the political challenges within the local sphere of government are not found and implemented. Political instability is synonymous with local government and has had an unfavourable affect on municipal service provision.

🏛️ Political factors such as party-political infighting have a seriously negative impact on local government service provision and also influence the relationship between the three spheres of government. The political challenges that affect intergovernmental relations negatively need to be addressed responsibly by the political parties

involved to ensure that provincial government provides adequate support to municipalities in the execution of their functions.

- iv) Finally, the improvement of local government service provision may be vested in the establishment of a structure such as a provincial governance commission. To address the political instability in especially the local government environment, measures need to be implemented to address political challenges effectively as and when they occur. The responsibilities of the proposed provincial governance commission will be to monitor municipalities' compliance with legislation and also to make recommendations to the authorised political office-bearer regarding the internal political and administrative challenges experienced.

The proposed commission should be established by legislation and be directly accountable to the premier of the province. Upon receiving recommendations from the proposed commission, appropriate measures should be implemented to address the political challenges, for example. Disciplinary steps should also be taken against political office-bearers responsible for political instability in government. Furthermore, the executive council of the province could consider intervening in the affairs of municipalities if so recommended by the commission and in terms of the *Constitution* in this regard. The commission could contribute to improving inter-sectoral co-ordination and planning between provincial and local government.

A process to develop and implement provincial legislation that would enable the establishment of a structure such as the proposed provincial governance commission needs to be initiated by the provincial government without delay. The proposed provincial governance commission would execute essential responsibilities in addressing local government service provision challenges.

With the adoption of the 2009 Local Government Turnaround Strategy, government acknowledges the inadequate state of local government service provision. The *Constitution* compels local government to strive within its financial and administrative capacities to achieve its constitutional objectives. The purpose of the provision of municipal services to the community is to enhance the quality of life of all people without compromising the quality of those services. To provide adequate municipal services, the relationship between the three spheres of government must be exemplary. The commitment, attitudes and co-operation of all relevant political office-bearers and government employees must improve in the effort to achieve a common goal – to serve the people. Rigid compliance with the *Constitution* and adherence to the principle of separation of powers by all government institutions will ensure that government achieves its developmental goals, minimises its service provision challenges, and meets the expectations of all citizens. The establishment of the recommended provincial governance commission can contribute to the effective achievement of these goals.

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ADDENDUM A

The Respondent

Dear Sir/Madam

POLITICAL REALITY OF LOCAL GOVERNMENT SERVICE PROVISION IN THE FREE STATE PROVINCE

There are various challenges facing local government, including the rising demands and expectations of service provision by local residents. Another factor complicating local government service provision is political processes and influences.

As part of my research project for the degree Doctor Technologiae: Public Management at the Central University of Technology, Free State, it is my intention to conduct a study to assess the nature, extent and influence of the political reality on local government service provision in the Free State Province. The research will emphasise specific factors that have a direct influence on local government service provision and will stipulate relevant suggestions to improve and promote local government service provision excellence in the Free State Province.

In the quest for local government excellence, the results of this study can direct the appropriate process to ensure quality local government service provision to the benefit of all residents in the Free State.

You have been identified as an important role player who can provide information that will be extremely valuable to this research project and it would be appreciated if the attached questionnaire could be completed. The information will be treated with the necessary confidentiality.

Since my research project is linked to a time schedule, it would be highly appreciated if I could receive your response by 31 May 2009.

Your cooperation in this regard is appreciated.

Yours faithfully

WH BOSHOFF

Date:

QUESTIONNAIRE
POLITICAL REALITY OF LOCAL GOVERNMENT SERVICE PROVISION IN
THE FREE STATE PROVINCE

Please mark the most applicable answer with an X in the block provided next to the answers. When specifically indicated at questions, respondents are requested to mark the answers in priority order, with 1 being the most applicable response of the numerical sequence.

1. How essential is the role of local government service provision in ensuring an acceptable quality of life?

- i) Absolute essential.
- ii) Essential, but the services provided by national and provincial government are more important.
- iii) Not essential.

2. Has local government fulfilled your expectations in respect of the quality of municipal services that are provided to the community?

- i) Yes.
- ii) No.

3. Has local government, in your opinion, ensured that all members of the local community have access to at least the minimum level of basic municipal services?

- i) Yes.
- ii) No.

4. In priority order, what in your view are the challenges facing local government service provision?

- i) Lack of necessary capacity such as knowledgeable staff.
- ii) Absence of the political will to provide services.
- iii) Political instability (political in-fighting) in the Province.
- iv) Resistance of employees to ensure that government achieves its developmental objectives.
- v) Legislative complexity of the local government system.
- vi) Financial constraints.

- 5. In priority order, how should local government deal with capacity constraints and skills shortages at local government level?**
- i) Create a conducive working environment to retain skilled employees. ☒
 - ii) Implementation of effective capacity building and training programmes. ☒
 - iii) Recruitment and selection of knowledgeable and skilled employees. ☒
 - iv) Implementation of programmes to attract former experienced employees or to motivate these former employees to apply for positions. ☒
- 6. What is the most important reason for the lack of institutional capacity, skills and experience to ensure the effective provision of services at local government level?**
- i) Appointment of inexperienced and unqualified persons in positions. ☒
 - ii) Political interference in the appointment of employees. ☒
 - iii) Ineffective employee training programmes. ☒
- 7. Has the implementation of the plethora of legislation applicable to local government had a negative influence on ensuring the provision of quality municipal services?**
- i) Yes. ☒
 - ii) No. ☒
- 8. In your opinion, is local government overburdened with administrative responsibilities, while the primary responsibility of service provision is neglected?**
- i) Yes. ☒
 - ii) No. ☒
- 9. Municipalities in particular lack the political will to provide effective and efficient services to the community. Do you agree with this statement?**
- i) Yes. ☒
 - ii) No. ☒
- 10. In what way has party political in fighting affected local government service provision?**
- i) No negative influences. ☒
 - ii) Service provision has deteriorated. ☒

- iii) Service provision has collapsed.
- 11. Loyalty towards the ruling party, rather than aspects such as qualifications, abilities and skills, is often the norm for the recruitment and selection of municipal employees. Do you agree with this statement?**
- i) Yes.
- ii) No.
- 12. Do you think that the ruling political party's deployment policy is effective?**
- i) Yes.
- ii) No.
- 13. Has the political instability at municipalities i.e. the removal of mayors, speakers and other councillors had and affect on local government service provision?**
- i) Not at all.
- ii) Marginally affected.
- iii) Seriously affected.
- iv) No political instability is experienced at municipalities.
- 14. Can municipalities control or influence political instability when it occurs?**
- i) Yes.
- ii) No.
- 15. To what extent do municipalities experience any political interference in the management or administration of any department of the municipality?**
- i) Political interference occurs frequently.
- ii) Political interference is experienced but it does not affect the management of municipalities negatively.
- iii) No political interference is experienced.
- 16. If political instability exists at municipalities will it influence the implementation of capital projects?**
- i) Majority of projects will be influenced.
- ii) Minority of projects will be influenced.
- iii) No projects will be influenced.

17. The Free State Province has over the last few years experienced a number of protests by the local community about inadequate service provision. Are you familiar with these protests?

i) Yes.



ii) No.



18. In priority order, what were the reasons for the protests (if any)?

i) Poor governance (inability to take decisions).

ii) Insufficient local government service provision.

iii) Individual political struggles.

iv) Ineffective client interface.

v) Ineffective management of municipalities.

19. What is the status of the relationship between local government and the national and provincial spheres of government?

i) Excellent. No challenges are experienced.



ii) The relationship is good enough to address major service provision challenges, but the relationship can be improved.



iii) Political challenges were previously experienced but have now been addressed.



iv) Poor. Major challenges are experienced.



20. Would it be possible for local government to function effectively and efficiently if the relationship with the national and provincial spheres of government is poor?

i) Yes.



ii) No.



21. In priority order, what in your view are the challenges facing intergovernmental relations between local, provincial and national spheres of government?

i) Ineffective intergovernmental co-ordination and integration.



ii) Absence of policies to support intergovernmental relations.



iii) Absence of mutual respect between the different spheres of government.



iv) Absence of a political will to enhance intergovernmental relations.



22. Intergovernmental relations structures were established by the Free State Provincial Government in 2005. Is the contribution of these structures effective in ensuring quality local government service provision?

- i) Yes. ☞
- ii) No. ☞

23. In priority order, what are the matters that are normally discussed in the existing intergovernmental structures?

- i) The expanded public works programme. ☞
- ii) Municipal infrastructure grant. ☞
- iii) 2010 World Cup preparations and readiness. ☞
- iv) Project Consolidate. ☞
- v) Service provision interventions. ☞
- vi) Distribution of powers and functions between different spheres of government. ☞

24. Are there any measures that national and provincial government use to monitor the effective execution of local government functions?

- i) Yes. ☞
- ii) No. ☞

25. Local government has an entitlement to assistance from national and provincial departments. Does the provincial government provide any assistance to municipalities to ensure effective municipal service provision, other than financial assistance?

- i) Yes. ☞
- ii) No. ☞

26. In priority order, in what way do municipalities receive appropriate support from the Free State Provincial Government?

- i) Monitoring and evaluation of the performance and legislative compliance of municipalities. ☞
- ii) Support to local government in the form of Project Consolidate. ☞
- iii) Support in the form of financial grants is provided. ☞
- iv) Provincial Government's monitoring role is limited to requesting information from municipalities. ☞
- v) Secondment of experienced employees to ensure the provision of services to the community. ☞

27. Has the party political in fighting had an affect on local government's relationship with Provincial Government in general and the Provincial Department of Local Government and Housing in particular?

- i) Yes.
- ii) No.

28. If the scenario exists that challenges are experienced in the relationship between provincial and local government and any executive political office bearer the establishment of a provincial governance commission or an independent provincial government support agency is suggested. The roles of the commission would be to monitor municipalities' compliance with legislation to facilitate and address so-called internal political and administrative challenges by making the relevant recommendations. It will also be the role of the commission or agency to improve inter-sectoral co-ordination and planning between provincial and local government. Do you support the establishment of such an agency?

- i) Yes.
- ii) No.



RESPONDENT