

**THE DEVELOPMENT OF AN OVERSIGHT AND ACCOUNTABILITY
FRAMEWORK FOR MUNICIPALITIES IN THE FREE STATE
PROVINCE**

**by
MR JERMIA KHAHLISO TEBOHO SEBAKAMOTSE**

Thesis submitted in fulfilment of the requirements for the degree:

DOCTOR OF PUBLIC MANAGEMENT

In the Department of Public Management

FACULTY OF MANAGEMENT SCIENCES

at the

CENTRAL UNIVERSITY OF TECHNOLOGY, FREE STATE

Promoter: Prof. T. van Niekerk (DTech: Public Management)

2020

DECLARATION OF INDEPENDENT WORK

DECLARATION WITH REGARD TO INDEPENDENT WORK

I, Mr. J.K.T. Sebakamotse, identity number _____ and student number _____, do hereby declare that this research project submitted to the Central University of Technology, Free State for the Degree DOCTOR OF PUBLIC MANAGEMENT, is my own independent work; and complies with the Code of Academic Integrity, as well as relevant policies, procedures, rules and regulations of the Central University of Technology, Free State; and has not been submitted before 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: 07 September 2020

ABSTRACT

Section 152 of the *Constitution* of the Republic of South Africa, 1996 mandates that local communities receive democratic and accountable governance and they and community organisations' involvement in the matters of local government should be encouraged. In terms of Section 4(2) of the *Municipal Systems Act (MSA)*, 2000, the municipal council is the executive and legislative authority of the municipality and must use its resources in the best interests of the local community. The municipal council, as the highest authority in the municipality, has significant powers of approval and oversight responsibilities. As such, the speaker, as the chairperson of the municipal council, fulfils a critical oversight role to hold the political executives to account for their actions. The mayor (if the municipality has an executive committee) or executive mayor (if there is no executive committee) is the political leader who directs the fiscal and financial matters of the municipality. Section 56(3)(e) provides that the executive mayor must oversee service provision in the municipality and ensure that it is sustainable. It was highlighted in this study that, in terms of Section 59 of the *MSA* of 2000, it is incumbent on the municipal council to develop a system of delegation that maximises the administrative and operational efficiency of the municipality. This section also provides for adequate checks and balances and empowers the municipal council to delegate certain powers to perform any of the municipality's duties to any other political structure, political office-bearer, councillor, or staff member of the municipality and, likewise, to withdraw any delegation or instruction. In terms of Section 60 of the *Municipal Financial Management Act (MFMA)*, 2003, the municipal manager (MM) is the accounting officer of the municipality and he/she is accountable for the effective and efficient management of all municipal funds received and all payments made by the municipality. The MM, as the accounting officer of the municipality, fulfils a key accountability role to promote the sound financial management of the municipality.

It is clear that while political office-bearers (mayor or executive mayor, speaker, municipal councillors) are responsible for overseeing the financial and administrative performance of the municipality, the municipal council holds the accounting officer and relevant municipal officials to account for the manner in which they manage the financial and administrative matters of the municipality. Despite numerous legislative prescripts and the establishment of mandated oversight

and accountable structures, all the municipalities in the Free State province failed to provide accountable local government to their communities. This was attested by the 2017-2018 Auditor-General's audit report that the financial positions of all the municipalities (100%) of the Free State province had deteriorated to the extent of total breakdowns in financial controls. The Auditor-General reports for 2016-2017 and 2017-2018 warned that the blatant disregard for controls and compliance with key legislation have led to deteriorating accountability and leadership failures (AGSA, 2018:55; AGSA, 2019:12). The deterioration of all the Free State province municipalities' financial position is proof that citizens failed to hold functionaries to account for poor performance. It was argued in this study that the weak control environment in municipalities in the Free State province led to a lack of consequences and poor oversight and accountability. Thus, there is an urgent need to ensure that the political oversight structures and MM give effect to the constitutional obligations to involve community members and community organisations in the affairs of local government.

The aim of the study was to positively contribute to instituted oversight and accountability in municipalities in the Free State province by developing a framework for oversight and accountability that promotes democratic local governance. The objective with this proposed framework was to provide a holistic and coherent approach by identifying key statutory and legislative frameworks, policies, regulations, structures, role players as well as support and enforcement structures required to promote political, financial, administrative and social oversight and accountability within municipalities of the Free State province.

Oversight structures must ensure consequences for non-compliance with legislation, policies, regulations, serious maladministration in connection with the affairs of municipalities, and other transgressions and irregularities. To be effective, enforcement agencies should conduct investigations of any reported transgressions and take required disciplinary steps. The proposed framework promotes consequences for non-compliance and non-performance in that mayors, accounting officers, chief financial officers (CFOs) and relevant officials in municipalities should be accountable for any financial losses incurred by municipalities during their term in office. As indicated in the framework, political office-bearers should give effect to the constitutional mandate to promote accountable local government to local communities.

In addition to the proposed framework for oversight and accountability, this study contained specific recommendations to promote effective oversight and accountability. The first was that all municipalities in the Free State province should comply with the provisions of the Constitution of 1996 together and other applicable local government legislative frameworks, policies and supply chain management (SCM) regulations, with defaulters held accountable for their actions. Thus, there must be consequences for non-compliance with the afore mentioned. In addition, municipal councillors should adhere to Section 11(a) of the Code of Conduct of Councillors as provided in Schedule 1 of the *MSA*, 2000 which stipulates that a councillor may not, unless determined by law and mandated by council, interfere in the management or administration of any department of the municipal council. Here also, defaulters should be held to account for their actions. Moreover, municipal councils should adhere to Section 152(1) of the *Constitution*, 1996 which provides the objectives of local government. Furthermore, the oversight roles of the speaker, municipal council, mayor or executive mayor and municipal public accounts committee (MPAC) should be strengthened in municipalities of the Free State province to hold the executive to account and to ensure efficient and effective use of municipal resources. Likewise, the MM, as the accounting officer, should personally be held accountable for any loss of allocated funds or assets as a result of any deficiency in the administrative or managerial arrangements of the municipality. Consequently, failure to execute assigned responsibilities should result in the removal of the MM from office.

The *Public Audit Amendment Act, 2018*, states that if the accounting officer fails to implement remedial action, the Auditor-General may issue a certificate of debt in the name of the relevant accounting officer. As a result, it is crucial that internal controls intended to prevent irregularities and deviations from the *MFMA*, 2003, and SCM regulations be strengthened in all municipalities of the Free State province. It was therefore recommended that more should be done to empower ward committees and strengthen their role to promote participatory governance and accountable local governance. Also, the South African Local Government Association (SALGA) should investigate the possibility to establish an independent local government ombudsperson to address the crisis of perennial service delivery protests in municipalities. Although no legislative prescripts make provision for a recall procedure, SALGA should investigate the possibility of the

implementation of the recall procedure of councillors and mayors as a mechanism to improve public accountability in local government. In this way, delinquent political office-bearers could be recalled. Yet another step to ensure sound administrative and financial management within the municipality of the Free State province is the filling of key positions, such as senior manager, which are increasingly vacant. Lastly, provincial government should ensure that it supports and effectively monitors the performance of all municipalities within the Free State province.

Specific recommendations were made from the empirical study to promote effective oversight and accountability in municipalities in the Free State province. One recommendation was that CoGTA should investigate a possible recall procedure. Concerns included that municipal elections could be used to revoke the electoral mandate of an elected official and that voters did not have any direct way of holding elected municipal representatives to account during the term for which were elected. This could be addressed by SALGA ensuring that all municipal councillors clearly understand their oversight role and the important role of portfolio committees, MPACs, audit committees and municipal performance audit committees in promoting oversight and accountability in the municipalities. As such, municipal councillors should receive training regarding the difference between oversight and political interference in the administration of the municipality. Speakers, mayors, executive mayors and municipal councillors should also receive training regarding key municipal legislations and SCM regulations to fulfil their oversight role effectively and ensuring that the municipal administration implements them.

National and Provincial Treasury should ensure that functionaries unequivocally understand the MFMA of 2003. Mayors should understand their respective oversight roles in municipal financial management and administration and MMs ensure that the actions and conduct of administrative municipal staff agrees with the Code of Conduct for Municipal Staff Members in Schedule 2 of the MSA of 2000. The 2015-2016 Auditor-General report urged the Free State local government political and administrative leadership to take accountability for, and address, control weaknesses to improve audit outcomes. It is incumbent on the municipal council and mayor to ensure that the MM implements these recommendations as continued inaction weakens oversight and accountability of the financial affairs of most municipalities. Undoubtedly, more should be done to educate and inform local communities about the mandate of the local sphere.

ACKNOWLEDGEMENTS

I wish to express my sincere appreciation and gratitude to the following individuals for their assistance and encouragement in the development and completion of this study:

- My promoter, Professor Tryna van Niekerk, for her positive guidance, support and availability throughout the study. Her tireless efforts and motivation in ensuring that I complete this research study are truly appreciated.
- My wife, Mmaditsela Glorious Sebakamotse, who stood beside me even when it was really tough. This study took away valuable family time, but she always encouraged me to carry on without complaining.
- My mother-in-law, Mrs. Alice Moroba Gouws, who helped with following-up on the collection of research questionnaires from various municipal officials in the Free State province. Her job as a long-time financial consultant and her persuasive business and marketing skills came in handy in getting responses from busy municipal officials.
- The staff of the Free State Government Library who availed their time help me get the best material for my literature review chapters. Mr. Le Roux was particularly outstanding as he constantly kept me updated on the latest material relevant to my research topic. This information was invaluable as it enabled me to stay on course with the literature chapters.
- The Free State Department of Education for its partial financial support towards the completion of this study. The financial injection helped me to concentrate on my studies without worrying too much about funding.
- The Postgraduate Department of the CUT, with the efforts of Prof. Van Niekerk, for sourcing funds to augment the funds for my studies.
- My children, Dudu, Palesa and Realeboha for their support. The refreshments they provided while I laboured for hours over volumes of reading material, really helped to carry on.
- My siblings, only sister Ntswaki and brothers Senkoane, Motsiri and Thabo who never ceased to urge me to raise the bar for the upcoming generations of the clan.
- Lastly, my late parents, Mrs. MmaKhahliso Anna and Mr. Phakiso Johannes Sebakamotse and my late grand-mother, Mrs. Ellie Notatse “MmaMoshoeshoe” Sebakamotse, who took

interest in my early basic education and supported me at various intervals throughout my academic journey. Without these people I would not be where I am today.

LIST OF ACRONYMS

CDW:	Community development worker
CDWP:	Community Development Worker Programme
CGU:	Comptroller General
CMTP:	Consolidated Municipal Transformation Programme
CoGTA:	Department of Co-operative Governance and Traditional Affairs
DCEC:	Directorate on Corruption and Economic Crime
FDI:	Foreign Direct Investment
IDP:	Integrated Development Plan/Integrated Development Planning
JF:	Federal Justice
LED:	Local Economic Development
LGTAS:	Local Government Turnaround Strategy
MDB:	Municipal Demarcation Board
MDG:	Millennium Development Goal
MEC:	Member of the Executive Council
MFMA:	Municipal Finance Management Act, 2003
MISA:	Municipal Infrastructure Support Agency
MM:	Municipal Manager
MMM:	Mangaung Metropolitan Municipality
MoE:	Municipal-owned Entity
MPF:	Federal Public Prosecutor's Office
MSA:	Local Government: Municipal Systems Act, 2000
MPAC:	Municipal Public Accounts Committee
NDP:	National Development Plan
ORS:	Objective Responsibility System
PAC:	Performance Audit Committee
PF:	Federal Police
PGDP:	Provincial Growth and Development Plan
PGG:	Principles of Good Governance
PMS:	Performance Management System

PMSC:	Performance Management Steering Committee
PRS:	Performance Reward Scheme
RRC:	Recognition and Rewards Committee
PR councillor:	Proportional Representative Councillor
SALGA:	South African Local Government Association
SCM:	Supply Chain Management
SCOPA:	Standing Committee on Public Accounts
WPLG:	White Paper on Local Government

LIST OF FIGURES

- Figure 1.1: Conceptual framework for the study
- Figure 1.2: Map of the district and local municipalities of the Free State province
- Figure 6.1: Population group of the municipal officials (n = 17)
- Figure 6.2: Gender of the municipal officials (n = 17)
- Figure 6.3: Language commonly used (n = 17)
- Figure 6.4: Age group (n = 17)
- Figure 6.5: Highest level of education completed (n = 17)
- Figure 6.6: Municipal elections are a good tool to ensure accountability and transparency for political office-bearers (n = 16)
- Figure 6.7: Municipal council meetings are always well attended by councillors (n = 16)
- Figure 6.8: Municipal councillors interfere in the normal administrative functions of the municipality (n = 16)
- Figure 6.9: Local government legislative acts and policies are understood by all political officials (n = 17)
- Figure 6.10: Local government legislations, rules and policies are always implemented by all political officials (n = 17)
- Figure 6.11: Academic qualifications are important for municipal councillors (n = 17)
- Figure 6.12: Reports of corruption at local government sphere are grossly exaggerated (n = 17)
- Figure 6.13: State capture reports at local government sphere are a creation of the agents of the white monopoly capital (n = 17)
- Figure 6.14: Municipal councillors clearly do not understand the role of portfolio committees, audit committees and municipal performance audit committee (n = 17)
- Figure 6.15: There is no consequence management for breaking the code of conduct for municipal councillors
- Figure 6.16: I have not heard or read about cases of corruption being experienced in my municipality in the past year
- Figure 6.17: Municipal political and administrative officials have a proper understanding of the *MFMA*, 2003 (n=16)

- Figure 6.18: The Free State Provincial Treasury is assisting local municipality councils with compliance with the *MFMA*, 2003 (n = 15)
- Figure 6.19: Municipal mayors clearly understand their respective oversight roles in municipal financial management and administration (n=15)
- Figure 6.20: The executive mayor or committee oversees the performance of its officials by taking budgetary monthly reports seriously (n=15)
- Figure 6.21: The non-executive councillors always hold the executive mayor or committee accountable by monthly, quarterly and annual financial reports (n = 15)
- Figure 6.22: The municipal executive mayor or committee implements the recommendations of the Auditor-General
- Figure 6.23: Municipal budget is always aligned to the IDP of the municipality (n = 16)
- Figure 6.24: Municipal council does not do proper oversight function concerning municipal SCM
- Figure 6.25: Municipal manager as accounting officer is responsible for all funds managed by the municipality (n = 16)
- Figure 6.26: Mayor or councillor can authorize the spending of municipal funds (n = 16)
- Figure 6.27: The report of the Auditor-General is accessible to all stakeholders in the municipality (n = 16)
- Figure 6.28: The municipality holds public meetings on the Auditor-General's report on the municipality every financial year-end (n = 16)
- Figure 6.29: The municipal manager is responsible and accountable to the executive mayor for the management and administration of the municipal council (n = 16)
- Figure 6.30: The municipal manager is responsible for the appointment of municipal staff
- Figure 6.31: The municipal manager is tasked with advising of the political structures and political office-bearers (n = 16)
- Figure 6.32: The chief financial officer (must advice the municipal manager on his/her accounting duties (n = 15)
- Figure 6.33: The Municipal Performance Management System for the municipal manager and other Section 56 managers are effectively implemented (n = 15)

- Figure 6.34 Local communities fully understand the mandate of the local government sphere (n = 15)
- Figure 6.35 Local communities and their organisations fully participate in activities organised by ward committees and ward councillor (n = 15)
- Figure 6.36 The IDP is an effective tool for local community participation (n = 14)
- Figure 6.37 Municipal councillors regularly report back at least quarterly to their constituencies on the performance of the municipality (n = 14)
- Figure 6.38 Your local government is characterized by patronage politics, weak leadership and capacity, financial mismanagement and corruption (n = 14)
- Figure 6.39 There have been no service delivery conflicts/protests within the local municipality (n = 14)
- Figure 6.40 Population Group (n = 5)
- Figure 6.41 Gender (n = 5)
- Figure 6.42 Disability (n = 5)
- Figure 6.43 Language most commonly used (n = 5)
- Figure 6.44 Age Group (n = 5)
- Figure 6.45 Highest level of education completed (n = 5)
- Figure 6.46 How the local community is informed about municipal council meetings
- Figure 6.47 Attendance of local municipal council meetings
- Figure 6.48 Local municipal council forums for community participation
- Figure 6.49 Attendance in the forums for community participation in the past year
- Figure 6.50 Effectiveness of the forums for community participation
- Figure 6.51 Ward committee give recommendations to municipal council regarding development priorities
- Figure 6.52 Ward committees' representativeness
- Figure 6.53 Knowledge of the co-ordinator of community participation
- Figure 6.54 Number of budget consultative meeting with local communities
- Figure 6.55 Conflict within local municipal council in the past year
- Figure 7.1 Proposed framework for oversight and accountability in municipalities of the Free State Province

LIST OF TABLES

- Table 4.1: Financial governance framework applicable to local government
- Table 6.1: Population group of the municipal officials (n = 17)
- Table 6.2: Gender of the municipal officials (n = 17)
- Table 6.3: Language commonly used (n = 17)
- Table 6.4: Age group (n = 17)
- Table 6.5: Highest level of education completed (n = 17)
- Table 6.6: Municipal elections are a good tool to ensure accountability and transparency for political office-bearers (n = 16)
- Table 6.7: Municipal council meetings are always well attended by councillors (n = 16)
- Table 6.8: Municipal councillors interfere in the normal administrative functions of the municipality (n = 16)
- Table 6.9: Local government legislative acts and policies are understood by all political officials (n = 17)
- Table 6.10: Local government legislations, rules and policies are always implemented by all political officials (n = 17)
- Table 6.11: Academic qualifications are important for municipal councillors (n = 17)
- Table 6.12: Reports of corruption at local government sphere are grossly exaggerated (n = 17)
- Table 6.13: State capture reports at local government sphere are a creation of the agents of the white monopoly capital (n = 17)
- Table 6.14: Municipal councillors clearly do not understand the role of portfolio committees, audit committees and municipal performance audit committee (n = 17)
- Table 6.15: There is no consequence management for breaking the code of conduct for municipal councillors
- Table 6.16: I have not heard or read about cases of corruption being experienced in my municipality in the past year
- Table 6.17: Municipal political and administrative officials have a proper understanding of the MFMA, 2003 (n=17)

- Table 6.18: The Free State Provincial Treasury is assisting local municipality councils with compliance with the *MFMA*, 2003 (n = 15)
- Table 6.19: Municipal mayors clearly understand their respective oversight roles in municipal financial management and administration (n=15)
- Table 6.20: The executive mayor or executive committee oversees the performance of its officials by taking budgetary monthly reports seriously (n=15)
- Table 6.21: The non-executive councillors always hold the executive mayor or committee accountable by monthly, quarterly and annual financial reports (n = 15)
- Table 6.22: The municipal executive mayor or executive committee implements the recommendations of the Auditor-General
- Table 6.23: Municipal budget is always aligned to the IDP of the municipality (n = 16)
- Table 6.24: Municipal council does not do proper oversight function concerning municipal SCM
- Table 6.25: Municipal manager as accounting officer is responsible for all funds managed by the municipality (n = 16)
- Table 6.26: Mayor or councillor can authorize the spending of municipal funds (n = 16)
- Table 6.27: The report of the Auditor-General is accessible to all stakeholders in the municipality (n = 16)
- Table 6.28: The municipality holds public meetings on the Auditor-General's report on the municipality every financial year-end (n = 16)
- Table 6.29: The municipal manager is responsible and accountable to the executive mayor for the management and administration of the municipal council (n = 16)
- Table 6.30: The municipal manager is responsible for the appointment of municipal staff
- Table 6.31: The municipal manager is tasked with advising of the political structures and political office-bearers (n = 16)
- Table 6.32: The chief financial officer must advise the municipal manager on his/her accounting duties (n = 15)
- Table 6.33: The Municipal Performance Management System for the municipal manager and other Section 56 managers is effectively implemented (n = 15)
- Table 6.34: Local communities fully understand the mandate of the local government sphere (n = 15)

- Table 6.35: Local communities and their organisations fully participate in activities organised by ward committees and ward councillor (n = 15)
- Table 6.36: The IDP is an effective tool for local community participation (n = 14)
- Table 6.37: Municipal councillors regularly report back at least quarterly to their constituencies on the performance of the municipality (n = 14)
- Table 6.38: Your local government is characterized by patronage politics, weak leadership and capacity, financial mismanagement and corruption (n = 14)
- Table 6.39: There has been no service delivery conflicts/protests within the local municipality (n = 14)

TABLE OF CONTENTS

	Page No.
DECLARATION OF INDEPENDENT WORK	ii
ABSTRACT	iii
ACKNOWLEDGEMENTS	viii
LIST OF ACRONYMS	ix
LIST OF FIGURES	xi
LIST OF TABLES	xv
TABLE OF CONTENTS	
CHAPTER 1: INTRODUCTION AND BACKGROUND TO THE STUDY	1
1.1 INTRODUCTION AND BACKGROUND	1
1.2 ROLE PLAYERS AND COMMITTEES RESPONSIBLE FOR EXERCISING POLITICAL ACCOUNTABILITY AND OVERSIGHT WITHIN MUNICIPALITIES	1
1.2.1 Municipal councils	2
1.2.2 Mayor or executive mayor	2
1.2.3 Mayoral committees	3
1.2.4 Municipal councillors (proportional representative councillors) and ward councillors	3
1.3 ROLE PLAYERS RESPONSIBLE FOR EXERCISING ADMINISTRATIVE ACCOUNTABILITY AND OVERSIGHT WITHIN MUNICIPALITIES	4
1.3.1 Municipal manager	4
1.4 MEASURES AND CONTROL MECHANISMS TO PROMOTE FINANCIAL ACCOUNTABILITY AND OVERSIGHT IN LOCAL GOVERNMENT SPHERE	5
1.4.1 Portfolio and Municipal Accounts Committees (MPACs)	6
1.4.2 Audit Committee	7
1.5 ROLE OF PUBLIC PARTICIPATION TO STRENGTHEN SOCIAL ACCOUNTABILITY IN LOCAL GOVERNMENT SPHERE	7
1.6 DEFINITIONS	8
1.6.1 Accountability	8
1.6.2 Political accountability	8

	Page No.
1.6.3 Administrative accountability	9
1.6.4 Financial accountability	9
1.6.5 Social accountability	10
1.6.6 Oversight	10
1.6.7 Transparency	11
1.6.8 Good Governance	11
1.6.9 Responsibility	11
1.7 Previous research/Parallel Studies	11
1.8 Conceptual framework	13
1.9 Theoretical framework, theories and approaches to the study of local government affairs	14
1.10 BACKGROUND TO THE PROBLEM AND PROBLEM STATEMENT	16
1.10.1 Background to the problem	16
1.10.2 The Problem Statement	17
1.11 AIM AND OBJECTIVES	18
1.11.1 Research Aim	18
1.11.2 Research objectives	18
1.12 RESEARCH QUESTIONS	18
1.13 RESEARCH METHODOLOGY AND DESIGN	19
1.13.1 Research philosophy/paradigm	19
1.13.2 Epistemology	20
1.13.3 Ontology	20
1.13.4 Research approach/design	21
1.13.5 Population	21
1.13.6 Sampling	22
1.13.7 Research Instruments	23
1.13.8 Data Collection	24
1.13.9 Data Analysis	25
1.13.10 Pilot Study	26

	Page No.
1.14 THE CASE OF THE FREE STATE DISTRICT MUNICIPALITIES	26
1.15 ETHICAL CONSIDERATIONS	28
1.16 LIMITATIONS	29
1.17 FORMAT OF THE STUDY	29
1.18 SUMMARY	31
CHAPTER 2: THEORETICAL OVERVIEW OF OVERSIGHT AND ACCOUNTABILITY IN SOUTH AFRICAN PUBLIC SECTOR AND INTERNATIONAL AND NATIONAL BEST PRACTICES AND MODELS OF OVERSIGHT AND ACCOUNTABILITY	
2.1 INTRODUCTION	32
2.2 CONCEPTS OF OVERSIGHT AND ACCOUNTABILITY	32
2.3 FUNCTIONS OF OVERSIGHT AND ACCOUNTABILITY	37
2.4 ACCOUNTABILITY AND RESPONSIBILITY	38
2.5 STATUTORY AND REGULATORY FRAMEWORK AND POLICY GUIDELINES OF OVERSIGHT AND ACCOUNTABILITY	39
2.5.1 The Constitution of the Republic of South Africa 1996	39
2.5.2 <i>Public Finance Management Act, 1999</i> (Act 1 of 1999)	47
2.5.3 The <i>Public Audit Act, 2004</i> (Act 25 of 2004) and <i>Public Audit Amendment, 2018</i> (Act 5 of 2018)	50
2.5.4 The <i>White Paper on the Transformation of Public Service Delivery, 1997</i> (Batho Pele)	51
2.5.5 The <i>White Paper on Local Government (WPLG), 1998</i>	52
2.5.6 <i>Local Government: Municipal Demarcation Act, 1998</i> (Act 27 of 1998)	54
2.5.7 <i>Local Government: Transition Second Amendment Act, 1996</i> (Act 97 of 1996)	55
2.5.8 <i>Local Government: Municipal Structures Act, 1998</i> (Act 117 of 1998)	56
2.5.9 <i>Local Government: Municipal Systems Act, (MSA) 2000</i> (Act 32 of 2000), and <i>Amendment Act 2011</i> (Act 7 of 2011)	59

	Page No.
2.5.10 Local Government: Municipal Planning and Performance Management Regulations of 2001	64
2.5.11 Local Government: Municipal Performance Regulations for MMs and Managers Directly Accountable to the MM of 2006	65
2.5.12 <i>Local Government: Municipal Finance Management Act, 2003</i> (Act 56 of 2003)	65
2.5.13 <i>Local Government: Municipal Fiscal Powers and Functions Act, 2007</i> (Act 12 of 2007)	69
2.5.14 <i>Local Government: Municipal Property Rates Act, 2004</i> (Act 6 of 2004)	69
2.5.15 <i>Intergovernmental Fiscal Relations Act, 2007</i> (Act 97 of 1997)	70
2.5.16 <i>Intergovernmental Relations Framework Act, 2005</i> (Act 13 of 2005)	70
2.5.17 National Treasury <i>MFMA, 2003</i> Circular 32, of 2006 and guidelines for establishment of Municipal Public Accounts Committees (MPACS) of 2012	72
2.5.18 National Treasury, <i>MFMA, 2003</i> , Municipal Supply Chain Management (MSC) Regulations (27636 of 2005) and National Treasury, Guide for Accounting Officers of Municipalities and Municipal Entities, 2005	72
2.5.19 <i>Division of Revenue Act</i> (DoRA)	73
2.5.20 Delivery Agreement for Outcome 9: A Responsive, Accountable, Effective and Efficient Local Government System	74
2.5.21 National Development Plan (NDP) 2030	76
2.6 THE ROLE OF SOUTH AFRICAN LOCAL GOVERNMENT ASSOCIATION (SALGA)	77
2.7 INTERNATIONAL BEST PRACTICES, MODELS OR FRAMEWORKS OF OVERSIGHT AND ACCOUNTABILITY OF LOCAL GOVERNMENT	79
2.7.1 Britain: A shared services model for local government to enhance oversight and accountability	79
2.7.2 Local government in Botswana: central government oversight and accountability	82
2.7.3 Namibia: A hybrid of autonomous and centrally dependent local municipality oversight and accountability arrangement	86
2.7.4 Kenya: Strong central government financial oversight in local government	88

	Page No.
2.7.5 Malawi: local government accountability tool	89
2.7.6 Central government incentive targets: Model for oversight and accountability in China	90
2.7.7 Brazil: Established oversight institutions to hold local government officials accountable	92
2.8 NATIONAL FRAMEWORKS/MODELS TO PROMOTE OVERSIGHT AND ACCOUNTABILITY IN SOUTH AFRICAN PUBLIC SECTOR	93
2.8.1 The South African Legislative Sector Oversight Model	93
2.8.2 The comprehensive framework of accountability for government departments	94
2.8.3 Consequence and Accountability Framework for Local Government	95
2.9 FACTORS INHIBITING OVERSIGHT AND ACCOUNTABILITY IN THE SOUTH AFRICAN PUBLIC SECTOR	97
2.9.1 Failure by legislatures to fulfil their oversight role to hold executives to account	98
2.9.2 State capture and corruption	99
2.9.3 Ignorance of citizens	101
2.9.4 Other reasons for oversight and accountability failures	101
2.10 CURRENT CHALLENGES CONCERNING OVERSIGHT AND ACCOUNTABILITY IN LOCAL GOVERNMENT	102
2.11 SUMMARY	106
 CHAPTER 3: THEORETICAL OVERVIEW OF LEGISLATIVE AND POLITICAL OVERSIGHT AND ACCOUNTABILITY IN THE CONTEXT OF SOUTH AFRICAN LOCAL GOVERNMENT	
3.1. INTRODUCTION	111
3.2. LEGISLATIVE OVERSIGHT AND ACCOUNTABILITY	111
3.2.1 Separation of powers	112
3.3 LEGISLATIVE MECHANISMS TO PROMOTE OVERSIGHT AND ACCOUNTABILITY	116

	Page No.
3.4 CONSTITUTIONAL BODIES TO STRENGTHEN OVERSIGHT AND ACCOUNTABILITY	117
3.4.1 The Auditor-General	118
3.4.2 The Public Protector	122
3.4.3 Public Service Commission (PSC)	124
3.4.4. National Prosecuting Authority	125
3.4.5 Other anti-corruption institutions or agencies	126
3.5 POLITICAL ACCOUNTABILITY AND OVERSIGHT	127
3.5.1 Mechanisms to promote political oversight and accountability	128
3.5.1.1 Elections to promote political and representational accountability	128
3.5.1.2 Municipal Elections	129
3.5.1.3 Internal political mechanisms to promote accountability	133
3.6 MUNICIPAL COUNCILS AND COUNCILLORS	134
3.6.1 Metropolitan Sub-councils	142
3.7 MAYOR OR EXECUTIVE MAYOR	142
3.8 THE SPEAKER	147
3.9 OTHER MUNICIPAL OVERSIGHT STRUCTURES/COMMITTEES	149
3.9.1 Council portfolio committees	149
3.9.2 Ward Committees	151
3.9.3 Municipal Public Accounts Committees (MPACs)	152
3.10 CODE OF CONDUCT FOR MUNICIPAL COUNCILLORS	153
3.11 CURRENT CHALLENGES OF LEGAL AND POLITICAL ACCOUNTABILITY	154
3.12 SUMMARY	156
 CHAPTER 4: THEORETICAL OVERVIEW OF FINANCIAL OVERSIGHT AND ACCOUNTABILITY IN THE CONTEXT OF SOUTH AFRICAN LOCAL GOVERNMENT	
4.1 INTRODUCITON	158

	Page No.
4.2 STATUTORY AND REGULATORY FRAMEWORK FOR FINANCIAL MANAGEMENT IN SOUTH AFRICAN MUNICIPALITIES	158
4.3 FINANCIAL OVERSIGHT AND ACCOUNTABILITY	160
4.4 THE OVERSIGHT ROLE OF NATIONAL TREASURY AND PROVINCIAL TREASURIES	162
4.4.1 National Treasury Financial Circulars and Regulations to ensure accountability and oversight	163
4.5 CO-OPERATIVE GOVERNANCE AND FINANCIAL ACCOUNTABILITY	166
4.6 INTERVENTIONS OF PROVINCIAL GOVERNMENT OVER MUNICIPALITIES	167
4.7 MUNICIPAL FINANCIAL REPORTS AND RETURNS	168
4.8 ROLE PLAYERS AND INTERNAL MECHANISMS TO PROMOTE FINANCIAL OVERSIGHT AND ACCOUNTABILITY IN MUNICIPALITIES	171
4.8.1 The financial oversight and accountable role of the municipal council	172
4.8.2 Financial and oversight and accountable role of mayor or executive mayor	174
4.8.3 Accountable role of the municipal manager (MM)	175
4.8.4 Accountable role of the chief financial officer (CFO)	179
4.8.5 Code of Conduct for Municipal Councils regarding Supply Chain Management (SCM)	181
4.9 INTERNAL AUDIT UNITS AND INTERNAL AUDIT COMMITTEES	183
4.10 MUNICIPAL PERFORMANCE AUDIT COMMITTEE	186
4.11 MUNICIPAL PUBLIC ACCOUNTS COMMITTEES (MPAC) AS A KEY MUNICIPAL OVERSIGHT STRUCTURE	186
4.12 OVERSIGHT REPORTS ON ANNUAL REPORTS	189
4.13 ACCOUNTABILITY AND RISK MANAGEMENT OF MUNICIPALITIES	190
4.14 OTHER INTERNAL FINANCIAL CONTROL SYSTEMS	193
4.15 CURRENT OVERSIGHT AND ACCOUNTABILITY CHALLENGES OF FINANCIAL MANAGEMENT OF MUNICIPALITIES IN THE FREE STATE PROVINCE	195

4.16 SUMMARY	197
CHAPTER 5: THEORETICAL OVERVIEW OF ADMINISTRATIVE AND SOCIAL ACCOUNTABILITY IN THE SOUTH AFRICAN LOCAL GOVERNMENT CONTEXT	
5.1 INTRODUCTION	200
5.2 STATUTORY AND LEGISLATIVE FRAMEWORK FOR ADMINISTRATIVE ACCOUNTABILITY AND OVERSIGHT	201
5.2.1 <i>Constitution of the Republic of South Africa</i> , 1996	201
5.2.2 <i>Intergovernmental Relations Framework Act (IGFA)</i> , 2005	203
5.2.3 Local Government: <i>Municipal Systems Act (MSA)</i> , 2000 (as amended by Act 7 of 2011)	204
5.2.4 Local Government: <i>Municipal Finance Management Act (MFMA)</i> , 2003	205
5.2.5 Local Government: <i>Municipal Structures Act</i> , 1998 (as amended by Act 51 of 2002)	206
5.2.6 Local Government: <i>Municipal Performance Regulations</i> , 2006 and <i>Performance Management Guide for Municipalities</i> , 2001	206
5.2.7 <i>Promotion of Access to Information Act</i> , 2000 (Act 2 of 2000)	207
5.2.8 <i>Promotion of Administrative Justice Act</i> , 2000 (Act 3 of 2000)	207
5.3 NATIONAL AND PROVINCIAL SUPPORT TO LOCAL GOVERNMENT	208
5.4 INSTITUTIONAL ARRANGEMENTS TO PROMOTE ADMINISTRATIVE OVERSIGHT AND ACCOUNTABILITY IN LOCAL GOVERNMENT	210
5.4.1 Administrative oversight of the administration of a municipality	212
5.4.2 Administrative structures and the accountable role of the Municipal Manager as the head of the municipal administration	216
5.4.2.1 The Municipal Manager (MM)	216
5.4.2.2 Senior managers	218
5.5 OTHER MECHANISMS TO PROMOTE ADMINISTRATIVE ACCOUNTABILITY IN MUNICIPALITIES	219

	Page No.
5.5.1 Code of Conduct for Municipal Officials	219
5.5.2 Integrated Development Plan (IDP) and the Service Delivery and Budget Implementation Plan (SDBIP)	221
5.5.3 Performance management	224
5.6 STAFF DEVELOPMENT AND TRAINING TO PROMOTE ADMINISTRATIVE ACCOUNTABILITY	227
5.7 CURRENT CHALLENGES OF ADMINISTRATIVE OVERSIGHT AND ACCOUNTABILITY	229
5.8 AN OVERVIEW OF SOCIAL ACCOUNTABILITY	232
5.9 THE ROLE OF COMMUNITY PARTICIPATION TO PROMOTE SOCIAL ACCOUNTABILITY	234
5.10 THE LEGISLATIVE AND POLICY FRAMEWORK TO PROMOTE SOCIAL ACCOUNTABILITY	237
5.10.1 <i>The Constitution of the Republic of South Africa, 1996</i>	237
5.10.2 <i>White Paper on Local Government (WPLG) , 1998</i>	238
5.10.3 <i>Municipal Structures Act, 1998</i>	239
5.10.4 <i>Municipal System Act (MSA), 2000</i>	240
5.10.5 <i>Municipal Finance Management Act (MFMA), 2003</i>	241
5.10.6 <i>Municipal Property Rates Act, 2004 (Amended in 2009)</i>	242
5.10.7 <i>The National Policy Framework for Public Participation, 2007</i>	242
5.10.8 <i>The South African National Development Plan, 2030</i>	243
5.11 COMMUNITY PARTICIPATION MECHANISMS TO PROMOTE SOCIAL ACCOUNTABILITY IN MUNICIPALITIES	244
5.11.1 Local elections as a community participation mechanism to promote social accountability	247
5.11.2 Citizen interest groups and other stakeholders	248
5.11.3 Ward Committees	251
5.11.4 Traditional leaders	256
5.11.5 Open Municipal council meetings and councillors	258

5.11.6 Other mechanisms for consultation, participation and to provide information	260
5.12 PUBLIC PARTICIPATION IN THE MUNICIPAL INTEGRATED DEVELOPMENT PLAN (IDP)	260
5.12.1 Phase 1. The situation analysis phase	261
5.12.2 Phase 2: Strategies to define local vision and the objectives phase	262
5.12.3 Phase 3: The project phase	262
5.12.4 Phase 4: The integration phase	267
5.12.5 Phase 5: Approval of the municipality’s Integrated Development Plan (IDP)	263
5.13 CURRENT CHALLENGES CONCERNING PARTICIPATORY LOCAL GOVERNANCE AND SOCIAL ACCOUNTABILITY	263
5.14 SUMMARY	267

CHAPTER 6: RESEARCH METHODOLOGY, DESIGN AND FINDINGS OF RESULTS OF THE EMPIRICAL STUDY

6.1 INTRODUCTION	271
6.2 RESEARCH METHODOLOGY AND DESIGN	271
6.3 Research population and sampling	273
6.4 RESEARCH INSTRUMENT	275
6.4.1 Validity and Reliability	276
6.4.2 Reliability (Cronbach’s alpha)	277
6.4.2.1 Results of the Cronbach’s alpha of the semi-structured questionnaire	278
6.4.2.2 Results of the Cronbach’s alpha of the semi-structured interview schedule	279
6.5 LITERATURE REVIEW	279
6.6 DATA COLLECTION	280
6.7 DATA ANALYSIS	282
6.8 DATA PRESENTATION AND ANALYSIS OF FINDINGS OF THE SELF-ADMINISTERED SEMI-STRUCTURED QUESTIONNAIRE COMPLETED BY SELECTED MUNICIPAL OFFICIALS	283
6.8.1 Section A: Biographical Information of senior municipal officials	284

6.8.1.1 Population group	284
6.8.1.2 Gender	285
6.8.1.3 Disability	286
6.8.1.4 Language commonly used	286
6.8.1.5 Age group	286
6.8.1.6 Highest level of education completed	287
6.8.1.7 Summary on the interpretations of questions 6.8.1.1- 6.8.1.6	288
6.8.2 Section B: Political oversight and accountability	289
6.8.2.1 Municipal elections are a good tool to ensure accountability and transparency for political office-bearers	2289
6.8.2.2 Municipal council meetings are always well attended by councillors	290
6.8.2.3 Municipal councillors interfere in the normal administrative functions of the municipality	291
6.8.2.4 Local government legislative acts and policies are understood by all political officials	293
6.5.2.5 Local government legislations, rules and policies are always implemented by all political officials	294
6.8.2.6 Academic qualifications are important for municipal councillors	296
6.8.2.7 Reports of corruption at local government sphere are grossly exaggerated	297
6.8.2.8 State capture reports at local government sphere are a creation of the agents of the white monopoly capital	299
6.8.2.9 Municipal councillors clearly do not understand the role of Portfolio Committees, Audit Committees and Municipal Performance Audit Committee	301
6.8.2.10. There is no consequence management for breaking the code of conduct for municipal councillors	302
6.8.2.11. I have not heard or read about cases of corruption being experienced in my municipality in the past year	304
6.8.2.12. Summary on the interpretations of questions 6.8.2.1 – 6.8.2.11	306
6.8.3 Section C: Municipal financial oversight and accountability	310
6.8.3.1. Municipal political and administrative officials have a proper understanding of the <i>Municipal Finance Management Act, 2003</i>	310

	Page No.
6.8.3.2. The Free State Provincial Treasury is assisting local municipality councils with compliance with the <i>MFMA</i> , 2003	312
6.8.3.3. Municipal mayors clearly understand their respective oversight roles in municipal financial management and administration	313
6.8.3.4. The executive mayor or executive committee oversees the performance of its officials by taking budgetary monthly reports seriously	315
6.8.3.5. The non-executive councillors always hold the executive mayor or committee accountable by monthly, quarterly and annual financial reports	316
6.8.3.6. The municipal executive mayor or committee implements the recommendations of the Auditor-General	317
6.8.3.7. Municipal budget is always aligned to the Integrated Development Plan (IDP) of the municipality	319
6.8.3.8. Municipal council does not do proper oversight function concerning municipal Supply Chain Management (SCM)	320
6.8.3.9. Municipal manager (MM) as accounting officer is responsible for all funds managed by the municipality	322
6.8.3.10. Mayor or councillor can authorise the spending of municipal funds	323
6.8.3.11 The report of the Auditor-General is accessible to all stakeholders in the municipality	324
6.8.3.12 The municipality holds public meetings on the Auditor-General's report on the municipality every financial year-end	325
6.8.3.13. Summary on the interpretations of questions 6.8.3.1-6.8.3.12	327
6.8.4. Section D: Municipal administrative oversight and accountability	330
6.8.4.1. The municipal manager (MM) is responsible and accountable to the executive mayor for the management and administration of the municipal council	330
6.8.4.2. The municipal manager (MM) is responsible for the appointment of municipal staff	331
6.8.4.3. The municipal manager (MM) is tasked with advising of the political structures and political office-bearers	332

6.8.4.4. The chief financial officer (CFO) must advise the municipal manager (MM) on his/her accounting duties	333
6.8.4.5. Municipal Performance Management System for the municipal manager (MM) and other Section 56 managers is effectively implemented	334
6.8.4.6. Summary on the interpretations of questions 5.5.4.1 to 5.5.4.5.	335
6.8.5 Section E: Municipal social oversight and accountability	336
6.8.5.1. Local communities fully understand the mandate of the local government sphere	337
6.8.5.2. Local communities and their organizations fully participate in activities organized by ward committees and ward councillor	338
6.8.5.3. The Integrated Development Plan (IDP) is an effective tool for local community participation	339
6.8.5.4. Municipal councillors regularly report back at least quarterly to their constituencies on the performance of the municipality	340
6.8.5.5. Local government is characterised by patronage politics, weak leadership and capacity, financial mismanagement and corruption	342
6.8.5.6. There had being no service delivery conflicts/protests within the local municipality	344
6.8.5.7. Summary on the interpretations of questions 6.8.5.1- 6.8.5.6	345
6.9 RESULTS AND FINDINGS OF THE SEMI-STRUCTURED INTERVIEW SCHEDULE WITH SELECTED WARD COMMITTEE MEMBERS	347
6.9.1 Section 1: Biographical Information	347
6.9.1.1 Population Group (n = 5)	347
6.9.1.2 Gender	348
6.9.1.3 Disability	348
6.9.1.4 Language most commonly used (n=5)	349
6.9.1.5 Age Group	349
6.9.1.6 Highest level of education completed (indicate only one of the following)	350
6.9.1.7 Summary on the interpretations of questions from 6.9.1 – 6.9.1.6	351
6.9.2 Section 2: Theme 1: Public Participation (10 Sub-themes)	351

	Page No.
6.9.2.1 Findings on the question how your local community is informed about municipal council meetings	351
6.9.2.2 Findings on the question how often you attend local council meetings	353
6.9.2.3 Findings on the questions about local community participation forums	353
6.9.2.4 Findings on the questions about recommendations made by ward committee members to the municipal council and about the representativeness of ward committees	356
6.9.2.5 Findings on the questions about co-ordination of community participation and consultative meetings regarding the municipal budget and conflicting matters	358
6.9.2.6 Summary on the interpretations of questions 6.9.2.1 to 6.9.2.5	360
6.9.3 Section 3: Administrative Accountability Theme 3: Quality of Service Delivery (8 Sub-themes)	363
6.9.3.1 Statement 1. Sub-theme 1: Employees of the municipality have the knowledge to answer the questions of the local community.	363
6.9.3.2 Statement 2. Sub-theme 2: The local municipal council has employees who give members of the local community personal attention	364
6.9.3.3 Statement 3. Sub-theme 3: When the local municipal council promises to do something by a certain time it does so	364
6.9.3.4 Statement 4. Sub-theme 4. The local municipal council make repairs the first time and quickly when reported	364
6.9.3.5 Statement 5. Sub-theme 5: The local municipal council has adequate resources (vehicles, personnel etc.) to perform its functions	365
6.9.3.6 Statement 6. Sub-Theme 6: Employees of the municipality are always willing to help members of the local community	365
6.9.3.7 Statement 7. Sub-theme 7: Employees of the local municipal council are always punctual and willing to work extra hours to help members of the local community	365
6.9.3.8 Statement 8. Sub-theme 8: The local municipal area/environment is clean, and refuse is collected regularly	366
6.9.3.9 Summary on the interpretations of administrative accountability theme 2, quality of service delivery	366

	Page No.
6.9.4 Section 4: Administrative Accountability. Theme 3: Current Service Delivery Performance of municipal council (15 Sub-themes)	366
6.9.4.1. Statement 1. Sub-theme 1: Overall cleanliness of town/street (refuse removal)	367
6.9.4.2 Statement 2. Sub-theme 2: Quality of roads and streets	367
6.9.4.3 Statement 3. Sub-theme 3: Provision of housing	368
6.9.4.4 Statement 4. Sub-theme 4: Overall provision and control of water	368
6.9.4.5 Statement 5. Sub-theme 5: Quality of water	368
6.9.4.6 Statement 6. Sub-theme 6: Assistance to small-scale communal farmers	369
6.9.4.7 Statement 7. Sub-theme 7: Provision of electricity	369
6.9.4.8 Statement 8. Sub-theme 8: Recreational facilities (parks, playing grounds etc)	369
6.9.4.9 Statement 9. Sub-theme 9: Provision of sanitation	369
6.9.4.10 Statement 10. Sub-theme 10: Public facilities (toilets, taxi/bus ranks)	370
6.9.4.11 Statement 11. Sub-theme 11: Provision of primary health services	370
6.9.4.12 Statement 12. Sub-theme 12: Wi-Fi and internet connectivity	370
6.9.4.13 Statement 13. Sub-theme 13: Assistance to informal traders and small businesses e.g. trading spaces	371
6.9.4.14 Statement 14. Sub-theme 14: Provision of fire services	371
6.9.4.15 Statement 15. Sub-theme 15: Provision of site-and service residential sites for middle income groups	371
6.9.4.16 Summary of the interpretations of theme 3 - current service delivery performance of the municipality	372
6.10 SUMMARY	373
CHAPTER 7: CONCLUSION AND RECOMMENDATIONS	379
7.1 INTRODUCTION	379
7.2 THE RESEARCH PROCESS	379
7.2.1 Step One	379
7.2.2 Step Two	380
7.2.3 Step Three	380

	Page No.
7.2.4 Step Four	380
7.3 RESEARCH OBJECTIVES AND RESEARCH QUESTIONS	381
7.3.1 Achievement of the research aim, research objectives of this study	382
7.3.1.1 The aim and main objective of the study	382
7.3.1.2 Secondary objective 1	382
7.3.1.3 Secondary objective 2	384
7.3.1.4 Secondary objective 3	385
7.3.1.5 Secondary objective 4	392
7.3.1.6 The last secondary objective	395
7.4 REVIEW OF THE CHAPTERS	395
7.5 RECOMMENDATIONS FROM LITERATURE REVIEW	399
7.6 RECOMMENDATIONS FROM EMPIRICAL STUDY	403
7.7 PROPOSED FRAMEWORK FOR OVERSIGHT AND ACCOUNTABILITY IN THE MUNICIPALITIES OF THE FREE STATE PROVINCE	405
7.7.1 Statutory and regulatory legislative framework, policies and regulations to promote oversight and accountability in local government	407
7.7.2 Political Oversight and Accountability	414
7.7.3 Financial oversight and accountability	418
7.7.4 Administrative oversight and accountability	423
7.7.5 Social Oversight and Accountability	425
7.8 LIMITATIONS OF THE STUDY	427
7.9 IMPLICATIONS FOR FURTHER RESEARCH	428
7.10 SUMMARY	428
 BIBLIOGRAPHY	 431

Annexure A: Permission letter

Annexure B: Semi- Structured Questionnaire

Annexure C: Semi-Structured Interview Schedule with Ward Committee members

CHAPTER 1: INTRODUCTION AND BACKGROUND TO THE STUDY

1.1. INTRODUCTION AND BACKGROUND

Public accountability is increasingly becoming one of the main requirements of good governance in all spheres of government. Ijeoma and Sambumbu (2013:282) maintain that effective accountability and oversight improve good corporate governance, the management of public finances and service delivery. According to Normanton (in Thornhill, 2015:79), accountability can be traced back to classical Athens where Demosthenes declared that he had been subject to “public audit” for his actions and conduct. Thornhill (2015:79) explains that accountability refers to “a statutory obligation to provide independent and impartial observers who have the right to report findings at the highest levels of state with any available information they may request about financial administration”.

Thus, oversight entails the proactive control mechanisms initiated by the legislature with the executive and administrative organs of state to encourage compliance with the statutory and legislative frameworks to ensure effective delivery on agreed upon objectives for the achievement of government priorities (South African Legislative Sector, 2008:4). This study sought to determine how oversight and accountability was applied in order to identify current challenges within municipalities in the Free State province. The study further aimed to develop oversight and accountability guidelines for these municipalities to promote good governance and effective service delivery.

1.2. ROLE PLAYERS AND COMMITTEES RESPONSIBLE FOR EXERCISING POLITICAL ACCOUNTABILITY AND OVERSIGHT WITHIN MUNICIPALITIES

According to Khalo (2013: 583), the role-players and committees below are responsible for overseeing municipal officials and their accountability in ensuring that municipalities meet their constitutional obligation to provide democratic and accountable government to local communities within their jurisdiction.

1.2.1 Municipal councils

Fourie and Opperman (2011:68) maintain that the municipal council is a municipality's executive and legislative authority that should use the resources of the municipality in the best interest of the community. In terms of section 7 of the Constitution of the Republic of South Africa, 1996 (herewith after referred to as the *Constitution*, 1996), a municipal council must conduct its business in an open manner and may close its sittings, or those of its committees, only when it is reasonable to do so based on the nature of the business being transacted. SALGA (2011:180) declares that municipal councillors have an oversight role that focusses on accountability as it requires transparency and consultation. As such, municipal councillors are not only accountable to their party structures but also to the communities they serve. Their role is essentially to improve the quality of life for all by overseeing governance and service delivery in the local sphere of government (SALGA, 2011:77). Williams, (2012:6) describes this oversight role of councillors as an essential part of any democratic dispensation.

The *Local Government: Municipal Structures Act* (Act 117 of 1998) (herewith after referred to *Municipal Structures Act*, 1998) makes provision for the appointment of the speaker as the chairperson of the municipal council in Section 36 who is elected amongst the municipal councillors of the municipal council. The speaker fulfils a key oversight role to ensure oversight of the political executive authority of a municipality (De Visser in Siddle, 2011:139).

1.2.2 Mayor or executive mayor

According to Khalo (2013:584-585), the mayor or executive mayor of a municipality must in accordance of Section 52(a) the *Municipal Finance Management Act*, 2003 (herewith after referred to *MFA*, 2003) provide general political guidance over the fiscal and financial affairs of the municipality and to establish a linkage between the processes required to review the Integrated Development Plan and the budget. Khalo (2013:585) further states that the mayor must ensure that within seven months after the end of the financial year an annual audit report must be tabled before the municipal council for consideration. The accounting officer of the municipality must then make public the report and invite members of the local community to make presentations regarding the municipalities' annual financial report.

1.2.3 Mayoral committees

Thornhill and Cloete (2014:77), state that only certain types of metropolitan, local and district councils may have executive mayors. Therefore, the executive mayor is elected by the council. Section 56(2) of the *Municipal Structures Act*, 1998 makes provision for the following functions of an executive mayor:

- To receive reports from the committees of the council and to forward them with recommendations to council except if the executive mayor can dispose of a matter in terms of his or her delegated powers;
- To identify the needs of the municipality;
- To review and evaluate the needs into priorities;
- To make recommendations to the municipal council concerning strategies, programmes and services, to ensure address the identified priority needs of the community;
- To bear in mind any national and provincial development plans such as the National Developmental Plan of 2030; and
- To recommend the most effective way to deliver the identified strategies, programmes and services to the benefit of the whole community (Thornhill and Cloete, 2014:77-78).

1.2.4 Municipal councillors (proportional representative councillors) and ward councillors

Municipal councillors are elected public representatives of their constituents and are mandated to make decisions on behalf of their constituencies. There are no specific requirements for a person to become a municipal councillor in terms of level of education, experience or skills. In terms of the Section 21 of the *Municipal Structures Act*, 1998 every citizen who is qualified to vote for a particular municipal council has the right to stand as a candidate in an election for the council, except a person disqualified in terms of Section 158(1)(9c) of the *Constitution* of 1996. The *Local Government: Municipal System Act* (Act 32 of 2000) (herewith after referred to *MSA*, 2000) and the *MFMA*, 2003, emphasise the oversight roles of municipal councillors.

From the above it is clear that municipal councillors are responsible to represent the needs and interests of local communities through the making of municipal based policies, but are also

involved in the management of municipalities by virtue of their involvement in the allocation and management of resources in order to achieve the municipalities policy intentions (Du Plessis and Lues, 2011:108). Furthermore, municipal councillors are also responsible to provide effective oversight of municipal executive and council officials and accounting officers. Thus, councillors are not only responsible for political leadership but should have certain management skills and competencies to fulfil these functions effectively.

Ward councillors on the other hand are directly elected to represent a specific ward (Joseph, 2002:20). In terms of the *Municipal Structures Act*, 1998, only metropolitan municipalities and local municipalities may have ward committees. Section 73(1) and (2) of this Act stipulates that a ward committee must consist of the ward councillor representing the ward in the council, who must also be the chairperson of the ward committee.

1.3. ROLE PLAYERS RESPONSIBLE TO EXERCISING ADMINISTRATIVE ACCOUNTABILITY AND OVERSIGHT WITHIN MUNICIPALITIES

1.3.1 Municipal manager

According to Section 60 of the *MFMA*, 2003, the MM of a municipality is the accounting officer of a municipality. Section 62 of the Act further provide that the accounting officer is responsible for managing the financial administration of the municipality and must take all reasonable steps to ensure that the resources of the municipality are used effectively, efficiently and economically and to ensure that the municipality has and maintains effective, and efficient and transparent systems. According to Craythorne (2006:193-194), the MM is responsible and accountable for the following:

- The development of an economically, effective and efficient and accountable administration who are operating in accordance with the municipalities performance management system;
- To implement the municipalities integrated development plan (IDP) as well as monitoring the process;
- Management of the municipalities administration in terms of the *MSA*, 2000 and other legislations;

- The management of the provision of services to the local community in a sustainable and equitable way;
- The appointment of staff other than those senior managers accountable to the MM in accordance with the *Employment Equity Act, 1998 (Act 55 of 1998)*;
- The management, effective utilisation and training of staff;
- The maintenance and discipline of staff members;
- The promotion of sound labour relations.

Based on Section 21(a) of the *MSA, 2000*, the MM is responsible publicising the oversight report adopted by the municipal council regarding the annual report.

1.4 MEASURES AND CONTROL MECHANISMS TO PROMOTE FINANCIAL ACCOUNTABILITY AND OVERSIGHT IN LOCAL GOVERNMENT SPHERE

According to Fourie and Opperman (2011: 501), the *MFMA, 2003* provides that the National and Provincial Treasury must fulfil their oversight responsibilities over local government financial management. The National Treasury may monitor and assess compliance by municipalities with the *MFMA, 2003* and any applicable standards, recognised accounting practice, uniform expenditure and revenue classification systems. Whereas, provincial Treasuries must fulfil their oversight responsibilities in terms of the *MFMA, 2003* to monitor compliance with the *MFMA, 2003* by municipalities, as well as to monitor the preparation of the municipal budgets, submissions of reports and may take any appropriate steps if a municipality commits a breach of the *MFMA, 2003*.

Section 47 of the *MSA, 2000* provides that the Member of Executive Council (MEC) for Local Government must annually compile and submit to the provincial legislature and the Minister of Co-operative Governance and Traditional Affairs (CoGTA), and to the national Council of Provinces (NCOP) a consolidated report on the performance of all municipalities in a particular province. The Member of Executive Council (MEC) for Local Government must assess all the annual financial statements of municipalities within a specific province, the audit reports on such statements and any responses by municipalities to such audit reports (Fourie and Opperman, 2011:503).

According to Kraai, Holtzhausen and Malan (2017:63-64), the municipal council of the municipality regulates and delegates functions and powers of oversight to portfolio committees, which were outlined below.

1.4.1 Portfolio and Municipal Accounts Committees (MPACs)

Portfolio committees are classified as Section 80 committees and are permanent structures in the municipal council. They advise executive committees on policy matters and make recommendations to the municipal council. Section 80 committees or portfolio committees report to and are therefore accountable to the mayoral committee (Kraai *et al.*, 2017:64). According to Kraai *et al.* (2017:64-65), Section 79 oversight committees such as the municipal public accounts committee (MPAC) is one of the key portfolio oversight committee. The MPAC committee report to the municipal council. MPACs have the power to request departments and members of the executive to account for their actions or inactions. In terms of Section 79 of the *Municipal Structures Act*, 1998, the MPAC is responsible for overseeing the executive functionaries of the municipal council and to promote good governance within the municipality. Khalo (2013:589-560) agrees that the MPAC is used to support and promote the municipal councillors oversight function of municipal financial management, to improve performance and service delivery, safeguard against corruption, mismanagement of resources and abuse of power as well as to improve integrity and confidence in local government. In terms of the *MFMA*, Circular 32, 2006 MPACs must assist the municipal council to hold the executive and municipal administration to account, and to ensure effective and efficient utilization of municipal resources. The Auditor-General (AGSA, 2013:95) states that the primary functions of the municipal accounts committee include the following:

- Promote good governance, transparency and accountability in the use of the municipalities financial resource;
- To consider and evaluate the contents of the municipalities annual report and to make recommendations to the municipal council when adopting on the oversight report and annual report;
- To review information to past recommendations in the municipalities annual report.
- To examine the municipalities' financial statements, audit reports and to consider improvements based on previous statements and reports.

- To evaluate the extent to which the recommendations of the South African Auditor-General and those of audit committees have been implemented.

Thus, the MPAC as a Section 79 oversight committee is a key oversight committee to assist the municipal council to hold the executives and municipal administration to account with the aim to promote good governance, effective and efficient use of the municipalities financial and administrative resources.

1.4.2 Audit Committee

Another important oversight committee is the Audit committee. In terms of Section 166 of the *MFMA*, 2003 each municipality must have an audit committee that needs to act as an independent advisory body which must advise the council, the political office-bearers, the accounting officer and the management of the municipality on matters relating to internal financial control and internal audits, risk management, accounting policies, financial reporting, performance management, effective governance, compliance with the *MFMA*, the annual *Division of Revenue Act* (DoRA) and other legislation. The audit committee should report to the municipal council on any issues raised by the Auditor-General of South Africa (AGSA) and should carry out any investigation into the financial affairs of the municipality or a municipal entity (Fourie and Opperman, 2011:99).

1.5 ROLE OF PUBLIC PARTICIPATION TO STRENGTHEN SOCIAL ACCOUNTABILITY IN LOCAL GOVERNMENT SPHERE

Section 16 of the *MSA*, 2000 requires the municipal council to develop a culture of municipal governance that promotes formal representative government with a system of participatory government. It requires from municipalities to create conditions for the local community to participate in the affairs of the municipality, including in the preparation, implementation and review of the municipalities integrated development plan, and the municipality's performance. Section 17 of the *MSA*, 2000 requires that municipalities have to establish appropriate mechanism, processes and procedures to enable the local community to participate in the affairs of the municipality.

Raga and Taylor (2005:143) aver that the ward committee is a key mechanism with which municipalities can communicate with local communities and promote and enhance efficient and effective service delivery. Ward committee's objectives includes the following; to enhance participatory local governance; to assist the ward councillor on matters of the ward; to contribute to the improvement of the quality of life of all its residents; to make recommendations to the ward councillor or to the other structures of the metropolitan council; and to engage residents in matters of local governance.

1.6 DEFINITIONS

1.6.1 Accountability

Van der Waldt, Van Niekerk, Doyle, Knipe and du Toit (2002:264) maintain that traditionally the term accountability refers to "being answerable for one's behaviour or actions" whereas, the classical approach which is the dominant approach in the South African public sector requires that rules, regulations, orders and instructions be adhered to. Hussein (1999:10-11) defines accountability as the obligation to answer for the fulfilment of the assigned and accepted duties within the framework of authority and resources provided. Dwivedi and Jabbara (in Van der Waldt *et al.*, 2002:267) define public accountability as a process by which the public sector fulfils its duties and obligations through which the officials are required to account for their actions and omissions. Hussein (1999:10-11) defines accountability as the obligation to answer for the fulfilment of the assigned and accepted duties within the framework of authority and resources provided. It can be deduced that accountability occurs when political and public officials (functionaries) are answerable and responsible for their actions and the fulfilment of their duties within the framework of authority.

1.6.2 Political accountability

Political accountability also known as democratic accountability or democratic responsibility involves a responsive relationship between politicians such as municipal councillors and officials such as mayors or executive mayors (Hussein, 1999:12). Schedler (in Compte, 2008:20) avers that political accountability refers to the political accountability of politicians to the public for representing them. The author argues that political accountability includes representational accountability and financial accountability (Schedler in Compte, 2008:20).

Representational accountability concerns municipal councillors as representatives of the party to give account to the constituents to whom they are accountable. Financial accountability concerns both the municipal councillors as political representatives and officials and it requires that all public resources entrusted to the municipality be used for the programmes and projects they were intended and that public funds not be diverted for private use. Thornhill (2015:80) states that political accountability requires political office-bearers to render account to the citizens for the way in which they fulfil their functions and responsibilities assigned to them.

1.6.3 Administrative accountability

According to Botha and Khan in Hussein (1999:42), administrative accountability refers to all the control mechanisms created to keep the bureaucracy under surveillance and in check. Romzek *et al.* (in Hussein 1999:410) argues that bureaucratic and professional accountability are synthesised into administrative accountability. Whereas, professional accountability entails all the internal control of the institution and respect to the discretionary decision-making power of the chief financial officer, public officials, accountants while bureaucratic accountability focus on power and control of supervisory managers such as heads of departments. Thus, administrative accountability refers to all the internal controls mechanisms, the relationships among the administrative structures, and appropriate lines of accountability and reporting, systems and processes of interaction within a municipality to keep the bureaucracy under surveillance and in check.

1.6.4 Financial accountability

Khalo (2013:581) is of the opinion that financial accountability refers to an account how municipal funds were used to implement municipal policies as approved by the council. Gildenhuis (1997:17) avers that financial accountability involves holding councillors and municipal officials responsible for their actions and funds placed under their control. Sabela in Hussein (1999:360) explains that financial accountability in local government requires that all public resources entrusted to the municipalities should be judiciously used for the programmes and projects they were intended and that all public funds should not be diverted for private use. Gildenhuis (1997:26) further avers that councillors as elected political representatives are individually and collectively held responsible for the collection, safeguarding and the efficient and effective use of public funds.

1.6.5 Social accountability

Accountability in general can be defined as giving account to and answerability for one's decisions and actions (Van der Waldt, *et al.*, 2018: 214). Thornhill (2015:77-78) opines that accountability requires that a governing body provide reasons for their actions to the electorate and allows for a community to raise an opinion on the body's governing ability. Compte (2008:44) points out that social accountability is an approach that relies on citizen engagement. Compte (2008:45) maintains that social accountability refers to citizen participation by assessing or generating relevant information and building a credible evidence that will serve to hold public officials accountable for their actions.

Raga *et al.* (2011:154) aver that public accountability can be promoted through citizen participation, representativeness, responsibility and transparency. An effective system of accountability is critical to ensure that citizens or local communities are assured that resources or municipalities are not abused. Therefore, public accountability or social accountability refers to citizen or local communities, engagement in the affairs of local government, with the aim to hold officials to account for their actions or inactions.

1.6.6 Oversight

According to the South African Legislative Sector (2008:4), oversight entails the proactive interaction initiated by a legislature with the executive and administrative organs of state to encourage compliance with the constitutional obligations on the Executive and administration to ensure effective delivery on agreed objectives for the achievement of government priorities. The concept oversight entails the informal and formal, watchful, strategic and structured scrutiny exercised by legislatures in respect of the implementation of legislation, the application of budgets, and the strict observance of statutes and statutory and legislature frameworks (South African Parliament, 2004:3). Kraai *et al.* (2017: 63) agree that oversight is used to define numerous activities executed by legislatures to hold executives to account. For the purpose of this study oversight refers to all the activities of legislature to hold executives and administrative organs of state to account for their actions or inactions.

1.6.7 Transparency

Kuye, Thornhill and Fourie (2002:2010) see transparency as one of the basic principles of the *Constitution*, 1996 that places the public in a position to contribute to the improvement of service delivery by obtaining the correct information to enable them to assess the government's performance. Transparency and openness are hallmarks of a democratic government and are fundamental to the public service transformation process.

1.6.8 Good Governance

Matshabaphala (2014:1009-1010) explains that good governance is democratic, participatory, responsive, transparent, equitable and consensus-oriented. Olum (2014:604) concurs and argues that good governance is about the inclusion of civil society and the private sector in the management of public affairs

1.6.9 Responsibility

Thornhill (2015:78-79) maintains that in the context of the South African public sector authority is delegated to public officials to fulfil a specific duty that places a responsibility on them that includes aspects such as consent to perform a specific duty or job, obedience to higher authority, accountability and liability to be answerable to someone or an authority. This, public officials are responsible for their actions and conduct while performing a specific duty or tasks.

1.7 Previous research/Parallel Studies

Numerous master studies were previously conducted about accountability in South African provincial and local governments. A doctoral study was conducted during 2009 about the external control systems in the enhancement of accountability in local government: The case of Uganda. The study investigated the role of two cardinal external control agencies, the Office of the Auditor-General and the Inspectorate of government (IG) in the enhancement of accountability in Uganda's local government (LG). The study found that by reforming local government requires changes in the approach of individual and organisational culture. Those who inspect, audit and review local governments should be able to recognise the inherent system challenges, but also appreciate the challenges and constraints under which the public

servants operate. It was argued that improved performance and accountability depend on the extent to which people appreciate them as legitimate goals, both within the administration and within the external control agency system.

Another doctoral study was conducted about financial control and accountability by local authorities in South Africa during 2008. The study found financial control and accountability serve as important building blocks for a democratic dispensation relying on effective and efficient municipal government and administration. The study emphasised that there should be continuous financial control by guiding and guarding how financial resources are or have been spent. This must be reported to the municipal council who in turn must report to the inhabitants of the municipality. The study further found that in order to account to the inhabitants regarding the functions and activities of municipal officials it is an imperative that a municipal council should execute sound control over the activities of its officials. Accountability is the responsibility of everyone in a position of authority. It relates to the accepted way in which an acquired responsibility is executed. The study further emphasised that the effective and efficient enforcement of financial control measures of public accountability can ameliorate the occurrence of corruption and financial mismanagement at municipalities. A study was conducted during 2008 till 2011 by the World Bank in partnership with the South African National Treasury, Intergovernmental Relations Division about Accountability in Public Services in South Africa. The study examines the accountability relationships among citizen-users, policy makers, and service providers. The fundamental question posed by the study focussed on whether the organisations in charge of deciding what services to deliver and how those services should be delivered are accountable to the citizens they are meant to serve. The study also assessed whether the eight Batho Pele principles attempts to strengthen accountability between citizens and service provides.

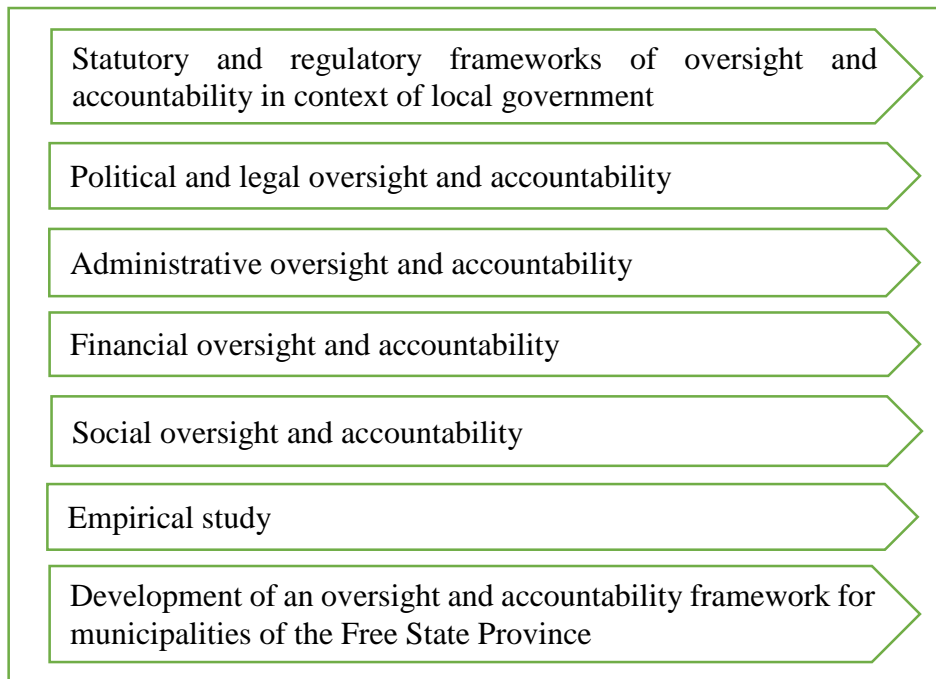
The main finding of the study was that despite the Batho Pele principles and best intentions to choose participatory approaches, implementation has sapped power from citizens by emphasising delivery through supply-driven sector programs. This has led to breakdowns in citizens' participation in both the short and long route to accountability and to a government unable to respond to citizens, including an inability to provide quantity and quality services as demanded by the population. Since 2000, numerous master and doctoral studies were conducted in South Africa related to accountability in the South African public sector. However, there was no studies conducted pertaining to the development of oversight and

accountability guidelines for municipalities in the context of municipalities in the Free State province or any other province in South Africa.

1.8 Conceptual framework

According to Badenhorst (2012:21), the conceptual framework provides the key concepts used in the research and identifies the relationships between them. It also gives a basic outline of data analysis and how to draw conclusions. This means conceptualising the precise course to be followed when pursuing the study. This study sought, firstly, to investigate the specific statutory and legislative guidelines, principles and requirements for accountability in municipalities; secondly, to determine the current state of accountability in Free State municipalities; thirdly, to evaluate the current administrative, financial and social accountable structures, internal and external control mechanisms and measures in place in these municipalities; and lastly, to determine specific guidelines to strengthen accountability in Free State municipalities. The information from the literature and empirical study was used to develop oversight and accountability guidelines for municipalities in the Free State province. The conceptual framework for this study is illustrated in Figure 1.1 below.

Figure 1.1 Conceptual framework for the study



(Source: Researcher’s own interpretation)

The figure illustrates the various pillars of accountability in local government. Firstly, the statutory and regulatory legislative frameworks guide accountability and oversight within local government. Secondly, political officials such as proportional representative councillors, mayors or executive mayors must give account to the constituents to whom they are accountable. Thirdly, administrative accountability and oversight refers to all the internal controls mechanisms, measures, the relationships among structures, the leadership and appropriate line of accountability and reporting, systems and processes of interaction within a municipality to keep the bureaucracy under surveillance and in check. Fourthly, financial accountability and oversight in local government requires that all public resources entrusted to the municipalities should be judiciously used for the programmes and projects they were intended and that all public funds should not be diverted for private use.

Financial accountability and oversight refer to all the internal and external control mechanisms, measures and systems to promote effective oversight and accountability. Lastly, social accountability and oversight refers to public participation mechanisms to hold councillors and officials accountable for their actions.

1.9 Theoretical framework, theories and approaches to the study of local government affairs

According to Van der Waldt (in Landsberg and Graham 2017:162), a theory refers to a set of interrelated concepts, definitions and propositions that present a view of a phenomenon by specifying the relationships among variables by explaining, describing and predicting a particular phenomenon. The following theories are some of the descriptive theories to direct scientific enquiry into local government, namely; social contract theory; democratic participatory theories; efficiency of service theories; state integrationist theories; and developmental local government.

- **Social contract theory.** The notion of the social contract theory of Jean-Jacques Rousseau's lies in the idea that there is a so called "contract" between political authority resides in the municipal council and the citizens. It entails that political authorities are based on consent and voluntary acts of members of society to be subjected to it, in exchange for benefits that political authority should bring to society. It further, means that if the political authority does not meet the requirements or obligations of the

“contract” it would become illegitimate and citizens have the justification to resist that political authority and elect a new political authority to act in their best interest (Van der Waldt, in Landsberg and Graham, 2017:162).

- **Democratic-participatory theories.** Theron and Mchunu (2016:17) argues that supports of the participatory theories mean that the most important role player in any developmental process should be the beneficiaries. Whereas, Van der Waldt (in Landsberg and Graham 2017:162) contend that supporters of the democratic-participatory theories are of the opinion that local government exist basically to bring the people closer to government and to promote democracy and participation at the lowest spheres of government. Thus, from a democratic-participatory viewpoint it is critical important to promote responsive, accountable and democratic local governance for the communities.
- **Efficiency of service theories.** Supporters of the efficiency of service theories argues that the rationale for local government is to provide basic services. The supporters of this theory argue that some of the services can only be provided efficiently by local government (Van der Waldt in Landsberg and Graham, 2017:162).
- **Developmental local government theory.** The White Paper of Local Government (*WPLG*) (1998:37) mandated the notion of developmental local government. The *WPLG* (1998:37-38) states that the developmental local government has four interrelated characteristics, namely; to maximise social development and economic growth; integration and co-ordinating; democratise development and the role of leadership and learning. The notion of developmental local government means that that the powers and functions of local government should be exercised in such a manner that it maximises the impact on the social and economic development of its communities. The *WPLG* (1998:39) further requires that municipalities must provide a vision and leadership to achieve developmental local government and to involve citizens to achieving local development and prosperity. Effective co-ordination and integration can be achieved by involving local communities in the affairs of local government such as the Integrated Development Plans (IDP), which can be seen as a powerful tool for municipalities to facilitate integrated and co-ordinated delivery within their locality (Taaibosch, 2015:38-40).

According to Henning *et al.* (2004:24-25), the theoretical framework assists the researcher to position himself/herself in the specific field of study, discipline or subject in which the research is conducted. The theoretical framework further supports the researcher in theorising the research from which assumptions would be made. These assumptions would then be used for the development of guidelines to promote accountability within municipalities within the Free State province. This study is grounded in the theory of developmental local government. Other theories that will be used for the purpose of this study include municipal government and administration, municipal financial management, public accountability studies, public administration and management as it involves the review of past and current oversight and accountability practices.

1.10 BACKGROUND TO THE PROBLEM AND PROBLEM STATEMENT

1.10.1 Background to the problem

Nombembe, reported (in the *Free State Times*, 23 July 2012:1) that municipalities in the Free State performed below the expected standards and that leads to poor service delivery protests by various communities. A report released by the Auditor-General of South Africa (AGSA) showed that no municipality in the Free State has received a clean audit report during 2011 and 2012 financial year (AGSA, 2013:10-11). The report of the Auditors General for 2013-2013 (AGSA, 2014:37) states that no municipality in the Free State province received a clean audit report during the 2012/2013 financial year.

The report further showed that only four municipalities in the province showed improvements in that one municipality moved to an unqualified opinion with findings, while three municipalities moved from a disclaimer of opinion to a qualified opinion. Another concern is that the Mangaung Metropolitan Municipality audit report was still outstanding with the publication of the Auditor-General report for 2012-2013 (AGSA, 2014:28-29). Three of the four district municipalities in the province remained unqualified with findings, while one of the district municipalities regressed from an unqualified opinion with findings to a qualified opinion.

The Auditor-General further reported further reported that the main root causes of poor audit outcomes in local government includes the following:

- A slow response of political leadership to embracing their responsibility to guide and direct development performance, improving oversight and accountability, demonstrating effective leadership, strengthening the municipal public accounts committee and reporting mechanism;
- A lack of consequences for poor performance and transgression of local government due to inadequate response to high levels of unauthorised irregular as well as fruitless and wasteful expenditure; and
- Key positions, or key officials lacking appropriate competencies (AGSA, 2014:28-29).

The Auditor-General further states that key role players in municipalities did not provide the necessary assurance and did not show any substantial improvements from the previous year, in that half of the mayors or executive mayors did not have the impact they should have to improve the performance of their municipalities; municipal councils did not provide the necessary oversight and monitoring, which includes investigating and acting on poor performance and transgressions such as financial misconduct and unauthorised, irregular as well as fruitless and wasteful expenditure and the impact of established municipal accounts committees is not sufficient to promote transparency, good governance and public accountability (AGSA, 2014:29).

1.10.2 The Problem Statement

Based on the above discussion, the problem statement of this study is: Despite many legislative prescripts, structures and mechanisms the continued poor audit reports of all municipalities in the Free State province is a threat in promoting effective oversight and accountability in municipalities.

1.11 AIM AND OBJECTIVES

1.11.1 Research Aim

The main aim of the study was to positively contribute to instituted oversight and accountability in municipalities of the Free State province by developing a framework for oversight and accountability to promote democratic local governance.

1.11.2 Research objectives

Emerging from the above aim the study has the following main and subsidiary objectives: The main objective of the study was to develop the proposed oversight and accountability framework to promote oversight and accountability within municipalities of the Free State province based on literature analysis and an empirical study. The following subsidiary objectives were:

- To investigate, through an extensive literature study the statutory and regulatory legislative framework, principles and requirements of oversight and accountability in the South African public sector with particular reference to local government.
- To investigate through an extensive literature, study the political, administrative, financial and social accountability structures, requirements, principles, internal, and external control mechanisms and measures to promote oversight and effective accountability within municipalities.
- To determine the current practices and challenges of oversight and accountability (political, administrative, financial and social accountability) in selected municipalities of the Free State province.
- To determine the current challenges pertaining to public participation and social accountability in selected municipalities of the Free State province.
- To make specific recommendations based on research findings with a view to improving oversight and accountability in municipalities of the Free State province.

1.12 RESEARCH QUESTIONS

The following empirical research questions will attempt to achieve the objectives as stated above. The main research question of this study was: What aspects should be taken into account based on literature analysis and an empirical study to development the proposed oversight and accountability framework to promote oversight and accountability in municipalities in the Free State province?

The following subsidiary questions were:

- What are the principles and requirements of the statutory and regulatory legislative framework related to oversight and accountability in the South African public sector with particular reference to local government?
- What structures, principles, requirements, internal and external control mechanisms and measures are available based on the extensive literature study to promote oversight and effective political, administrative, financial and social accountability within municipalities?
- What are the current challenges of oversight and accountability (political, administrative, financial and social accountability) in selected municipalities of the Free State province?
- What are the current challenges pertaining to public participation and social accountability in selected municipalities of the Free State province?
- What specific recommendations based on research findings based on research findings could be made with a view to improving oversight and accountability in municipalities of the Free State province?

1.13 RESEARCH METHODOLOGY AND DESIGN

1.13.1 Research philosophy/paradigm

According to Du Plooy-Cilliers, Davis, and Bezuidenhout (2014:23-27), the three most popular research paradigms are positivism, post-positivism or interpretivist and pragmatism or mixed method paradigms. Welman, Kruger and Mitchell (2005:6-7) maintain that the positivism paradigm (quantitative) implies that research must follow the natural scientific methods when collecting and interpret data. The post-positivism paradigm or interpretivist (qualitative research) assumes that there are many ways to acquire knowledge about human behaviour or to add meaning to individuals or communities' experiences besides using scientific methods. While pragmatism combines quantitative and qualitative research (Du Plooy-Cilliers *et al.*, 2014:24-33; Maree, Crewell, Ebershöhn, Eloff, Ferreira, Ivankova, Jansen, Nieuwenhuis, Pietersen and Plano Clark 2017:22-23). This study was based on a comprehensive descriptive study as such a post-positivism (qualitative research) was applied by answering the research questions for this study.

Bless and Highson-Smith and Sithole (2014:390) state that descriptive research refers to social research with the primary aim of describing a particular phenomenon. Descriptive research aims to explain occurrences such as human behaviour in administrative sciences, by indicating how the variables relate to one another. In addition, it aims to clarify how and in what manner one variable affects another (Welman, Kruger and Mitchell, 2005:23). The descriptive research also assists the researcher to present evidence of interest and significant patterns in existing or new data (Mouton, 2006:113).

1.13.2 Epistemology

According to Bless *et al.* (2014:391), epistemology refers to the study of different ways in which people develop and validate knowledge about themselves and the world. Mouton (2005:138) agrees with this by explaining that epistemology refers to the truth or truthful knowledge and how it was acquired. The term is derived from episteme, which is the Greek word for ‘truthful knowledge’. Mouton, (2005:138) further argues that it is not possible to produce scientific results that are infallible and absolutely true for all times and within all contexts.

Therefore, researchers have to strive for the most truthful and the most valid results while conducting research. In view of the latter, this study was based on the epistemological assumptions about oversight and accountability within municipalities of the Free State province.

1.13.3 Ontology

According to Du Plooy-Celliers, Davis and Bezuidenhout (2014:27-28), ontology is the study of being, existence or reality. It includes the assumptions made about certain phenomena. In this study the ontological assumptions refer to the nature of the objective facts regarding oversight and accountability that exist in the municipalities of the Free State province.

1.13.4 Research approach/design

Research design can be seen as a general plan or blueprint on how the researcher goes about answering the research questions (Cooper and Schindler, 2003:149). This study was based on a post-positivism or interpretive paradigm that focused on qualitative research. Mouton (2005:161) and Welman *et al.* (2005:6-7) contend that qualitative research methods reflect certain approaches to knowledge production and include any research that makes use of qualitative data. This was pertinent to this study, which was concerned with data and information about oversight and accountability within municipalities in the Free State province. Welman *et al.* (2005:188) are of the opinion that the qualitative approach is fundamentally a descriptive form of research.

The following research designs are linked to qualitative research namely; narrative studies; phenomenology; grounded theory; ethnography; and case study design (Maree *et al.* 2017:75-76; Du Plooy- Cilliers *et al.* 2014:175-178). According to Zainal (2007:3), there are three types of case studies namely exploratory, descriptive and explanatory case studies. This study was based on a descriptive case study design to be able to answer the research questions of this study. A case study design recounts a real-life context or situation by describing the specific circumstances of a specific occurrence or trend. A descriptive case study design describes an intervention or phenomenon and the real-life context in which it occurred.

A comprehensive descriptive literature study which included relevant statutory and regulatory legislative frameworks, journal articles, books, conference papers, internet sources and government reports about oversight and accountability of local government was provided in Chapter 1 to Chapter 5 of this study. An empirical study as provided in Chapter 6 of this study was conducted by means of a self- administering semi- structured questionnaire and a semi-structured interview schedule which were used to conduct semi-structured interviews with selected ward committee members of the selected local municipalities.

1.13.5 Population

Since the purpose of this study was to develop an oversight and accountability framework for municipalities' in the Free State province the population comprised the Mangaung

Metropolitan Municipality, the 4 district municipalities, and the eighteen affiliated local municipalities within the Free State province.

1.13.6 Sampling

Sampling is defined as the process of choosing a small group of respondents from a larger, defined target population. The supposition is that the results discovered about the small group will allow the researcher to draw conclusions relating to the larger group (Hair, Bush and Ortinau, 2003:3-33).

The researcher made use of non-probability sampling methods namely the purposive or judgemental sampling method to select a sample size of nine local municipalities, out of a total population of 18 local municipalities of the Free State province. Other than the nine local municipalities, all four district municipalities and the one metropolitan municipality formed part of the sampling as indicated below:

- Mangaung Metropolitan Municipality
- Xhariep District Municipality
- Lejweleputswa District Municipality
- Fezile Dabi District Municipality
- Thabo Mofutsanyane District Municipality
- Mohokare Local Municipality
- Kopanong Local Municipality
- Letsemeng Local municipality
- Tokologo Local Municipality
- Tswelopele Local Municipality
- Nala Local Municipality
- Moqhaka Local Municipality
- Ngwathe Local Municipality
- Metsimaholo Local Municipality

A self-administered semi-structured questionnaire was distributed to elicit information from the applicable MMs (MM), Chief Financial Manager (CFO), Mayor or Executive mayor of the

above metropolitan municipality, the four district municipalities and nine of the 18 affiliated local municipalities in the Free State province.

In addition, the researcher used the convenience sampling method which is also a non-probability sampling method to select representatives from the ward committees of two of the affiliated local municipalities of the Lejweleputswa District Municipality namely, Tokologo Local Municipality and Tswelopele Local Municipality to conduct the semi-structured interviews. Convenience sampling means that elements of the population are selected because they are easily and conveniently available (Maree *et al.* 2017:197).

1.13.7 Research Instruments

According to Saunders *et al.* (2009:395), the selection of a research instrument depends on the purpose of the research. Saunders *et al.* (2009:395-396) further explains that there are two types of questionnaires, namely self-administered questionnaires and interviewer- administered questionnaires (Interview schedule). A self-administered questionnaire is a data collection strategy in which the respondents read the questions, then choose their preferred answer and record it, in the absence of the interviewer. In this study a self-administered semi-structured questionnaire was used to collect information the relevant MMs, chief financial officers and mayors from the selected municipalities that form part of the sample.

Except for the above a semi-structured interview schedule was used to conduct semi-structured interviews with selected ward committee members of the two affiliated local municipalities namely, Tokologo Local Municipality and Tswelopele Local Municipality of the Lejweleputswa District Municipality to collect information about community participation (social accountability), quality of service delivery and the performance of service delivery of these local municipalities. According to Salkind (2009:144-145), semi-structured interviews are more flexible to both the interviewer and the interviewee. This flexibility allows for the interviewer to probe for more information to get a better understanding of the information, facts and uncertainties, provided by the interviewee. Tsatsire (2008:230) suggests that the following be taken into consideration when compiling a questionnaire:

- Confidentiality must be assured;

- Preferably a choice of answers should be given on the questionnaire;
- The layout and appearance of the questionnaire is important, suitable provision and adequate space for answers should be made; and
- The questions must be short, simple and care should be taken that questions/statements must not be offensive, and questions or statements should not give cause for emotive language;

Both the self-administered semi-structured questionnaire and the semi-structured interview schedule consisted of close-ended and open-ended questions/statements. A five-point Likert scale was used with the close-ended questions. Confidentiality was assured and obtained by using a covering letter for both instruments.

1.13.8 Data Collection

Bless *et al.* (2014:184) maintain that the collection of data can be classified into primary or secondary data sources. Primary sources refer to original report of original work or experiences including abstracts, journal articles, scholarly books, while, secondary source refers to information which were removed from the original or actual research including papers, syntheses of other work in a particular area, textbooks and encyclopaedias. On the other hand, general sources provide an overview about a topic and provides more information where more information can be found (Salkind 2018:46).

In this study recent information and literature about oversight and accountability in local sphere of government were also collected from both primary and secondary sources. Specific information concerning oversight and accountability in the South African public sector and in particular local sphere of government was extracted from recent research reports, scholarly journals, scholarly textbooks, government reports and documents. Data were also collected from the semi-structured questionnaire and the semi-structured interviews. Consequently, the data obtained from the literature study as well as from the empirical study, contributed to the development of the oversight and accountability framework of municipalities in the Free State province.

1.13.9 Data Analysis

According to Leedy and Ormrod (2005:148-150), data analysis is a continuous process of describing, classifying and interpreting data. Maree *et al.* (2017:108-109) agree that data analysis is about the systematic analysis of data which is aimed at examining meaningful and symbolic content of qualitative data. Henning, van Rensburg and Smit (2004:6-7) maintain that the process of data analysis will assist the researcher to answer the research questions, and also to achieve the purpose of the research. In the course of organising the data trends, themes and or contradictions may emerge. These patterns will be highlighted for readers to note and for the researcher to follow up on (Brassington and Petit, 2013:1-2).

In this study the researcher was assisted by an experienced statistician to analyse the data of the semi-structured questionnaire and the semi-structured interview schedule. The data analysis includes descriptions as well as a summary of the information obtained from the semi-structured questionnaire and semi-structured interviews. Simple, graphs, bar charts, tables and percentages were used to present data which could be viewed from different perspectives. In doing so, anomalies were identified and pursued. The Statistical Package for social Sciences programme (SPSS) was used to analyse the data. An Excel spreadsheet was used to summarise the data created by tables that report how often certain sections of the data appear in the data set. Presenting raw data in a table can make even the most comprehensive collection of data more readily understandable. The data obtained from the semi-structured interviews was categorised into different themes and sub-themes or groups of meaning. The questions/statements were grouped into sub-themes to ensure a logical flow of information. The data analysis included a description as well as a summary of the information obtained from the semi-structured questionnaire and interview schedule. In this study only descriptive statistics were used to analyse the data of the semi-structured questionnaire (qualitative) and in particular Section A of the semi-structured interviews. Bless *et al.* (2014: 348) confirms that descriptive statistics can be used on qualitative data as long as inferential statistical tests were not used. The reason for this is that it is very unlikely that qualitative data meets the assumptions demanded by inferential statistics.

In this study the researcher will be assisted by an experienced statistician in qualitative and quantitative research methodologies. The statistician will assist the researcher to firstly, develop the questionnaire and the interview schedule, secondly to provide guidance in

collating, interpreting and analysing the results from the data collection instruments. As indicated in the sample, the instruments referred to in this study, are the self-administered questionnaires and one interview schedule.

1.13.10 Pilot Study

A pilot study will be conducted to assess the research instrument and data feedback. According to Robson (2002:59), a pilot study is a trusted method of establishing “what is happening, to seek new insight, to ask questions and to assess phenomena in a new light, prior to the substantive research”. In this regard, assistance from experts in the field of oversight and accountability will be sought to complete the questionnaire and the interview schedule. The expert will be the Director-General of the Free State Provincial Government who is an expert of local government, ethics, good governance, oversight and accountability with more than ten years’ experience as the Director-General in the Free State Department of Co-operative Governance and Traditional Affairs (CoGTA). Any inconsistencies, ambiguities and uncertainties regarding the instruments will be corrected before the actual research is conducted. The purpose of this exercise is to ensure the validity and reliability of the questionnaires and the interview schedule.

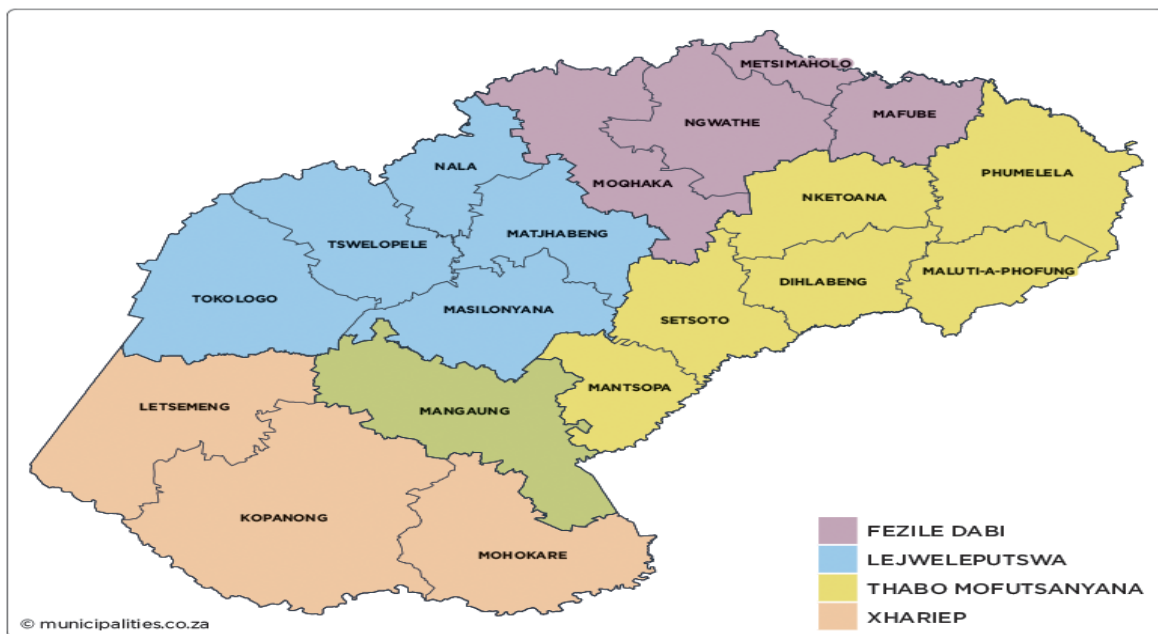
1.14 THE CASE OF THE FREE STATE DISTRICT MUNICIPALITIES

As indicated in Section 1.13.4, a descriptive case study design was followed to achieve the objectives of this study, based on a comprehensive descriptive literature study an empirical study. A case study refers to a real-life situation by describing the specific circumstances of a specific occurrence or trend. In the case of this study the Mangaung Metropolitan Municipality, the four district municipalities of the Free State province namely, Lejweleputswa District Municipality, Thabo Mofutsanyana District Municipality, Xhariep District Municipality and Fezile Dabi District Municipality, the 18 local municipalities who are affiliated to each of the four district municipalities form part of the case study. Figure 1.2 below illustrates a map of the district municipalities of the Free State province.

The four district municipalities and the affiliated local municipalities include the following:

- **Thabo Mofutsanyana District Municipality:** Affiliated local municipalities are Setsoto Local Municipality; Dihlabeng Local Municipality; Phumelela Local Municipality; Matsopa Local Municipality; Nketoana Local Municipality; and Maluti-A-Phofung Local Municipality.
- **Xhariep District Municipality:** Affiliated local municipalities include Letsemeng Local Municipality; Kopanong Local Municipality and Mohokare Local Municipality.
- **Fezile Dabi District Municipality:** Affiliated local municipalities are Metsimaholo Local Municipality; Moqhaka Local Municipality and Ngwathe Local Municipality.
- **Lejweleputswa District Municipality:** Matjhabeng Local Municipality, Masilonyana Local Municipality; Nala Local Municipality, Tokologo Local Municipality and Tswelopele Local Municipality.

Figure 1.2 Map of the district and local municipalities of the Free State province



(Source: Anon, 2019, Available: <https://municipalities.co.za>, Accessed 31 August 2018).

The Free State province is the third-largest province in the country with the second-smallest population density at 2834714 which is only 5.1% of the national population. It covers an area of 129,825 square km and has only one metropolitan municipality, the Mangaung Metropolitan Municipality, located in Bloemfontein the capital city of the province and the judicial capital of the country. However, the Free State is the fourth poorest in the country in terms of the GDP per capita and the economy is focussed mostly on mining, agriculture and manufacturing

(Anon, 2019. Available: <https://www.gov.za/aboutgovernment/contact-dictionary/fs-municipalities>. Accessed: 31 March 2019; Anon, 2019. Available: <https://www.worldatlas.com/articles/the-richest-and-porest-province-of-south-africa-html>. Accessed: 31 March 2019).

The results and findings of the empirical study based on oversight and accountability within the municipalities of the Free State province will be discussed in Chapter 6, followed by the conclusions and recommendations in Chapter 7 of this study.

1.15 ETHICAL CONSIDERATIONS

According to Bless and Higson-Smith (1995:102-103), ethical issues in research are universal, specific norms, cultures and values which play an important role, must be considered. Informed consent was obtained from the respondents. The participants participated on a voluntary basis

In this regard, the nature and purpose of the semi-structured interviews and semi-structured questionnaire was provided to ensure that the respondents were fully informed of what was expected of them and why. Therefore, the researcher, and the participants were aware and observed the following ethical standards:

- Informed consent: The participants consent to participate in the research was voluntary.
- Letters of consent: A letter was sent to the the Member of Executive Council (MEC) (Local Government), and the Director General Department of Co-operative Governance and Traditional Affairs (CoGTA FS) to gain permission to conduct the research. A letter was also sent to the MMs of the selected municipalities and their consent for the voluntary completion of questionnaire was sought. It was requested that the questionnaire was completed anonymously. Telephonic permission was granted by the MEC for Local Government, Free State province and by the Director General Department of CoGTA FS to conduct the research within the selected district municipalities of the Free State province.
- Privacy: The confidentiality of information and anonymity of participants were protected throughout.

1.16 LIMITATIONS

There are various external factors that the study may be subjected to, such as the assurance and readiness of the participants to take part in the study. All these factors may have a possible influence on this study which is beyond the control of the researcher.

The following were identified as factors that hampered and acted as limitations of the research study:

- **General limitations.** Collecting data was very costly as Free State province is vast and with poor roads infrastructure. Travelling between municipalities was also time-consuming.
- **Generalisation of findings.** The findings of the study are restricted to respondents based in one particular geographical location, namely the Free State province. Therefore, caution should be exercised regarding the generalisation of the findings to other provinces or municipalities in the country and beyond.
- **Participants willingness to participate.** There was a sense of fear and mistrust from the respondents (municipal officials) as some officials wrongly interpreted academic research as some form of investigation. A letter requesting permission to conduct academic research was given to officials and the purpose of the study were clearly outlined. Most municipal officials were not co-operative, even though they did not openly show it. It took a visit to a municipal council and several telephone calls to get a response.
- **Municipal officials' unavailability and lack of commitment or honesty.** Municipal officials' unavailability and their lack of commitment due to fear that they may be caught for certain non-compliance issues could also mean that some of the municipal officials resolved not to tell the truth. The latter could have an effect on the respondent's perceptions and the manner in which the municipal officials answer the questions in the self-administered structured questionnaire.

1.17 FORMAT OF THE STUDY

The research was structured as follows:

- **Chapter 1: Introduction and background to the study.** The general introduction and background of the study was outlined. This chapter included an overview of accountability and oversight, the problem statement, the research question, research objectives, methodology, the case study, ethical considerations and limitations of the study.
- **Chapter 2: Theoretical overview of the statutory and regulatory legislative framework, principles and requirements of oversight and accountability within municipalities.** This chapter gave an overview of the statutory and regulatory legislative framework, principles and requirements of oversight and accountability within municipalities. It included statutory and regulatory legislative frameworks, policies and related regulations, published and unpublished works, scholarly books, journal articles, government reports and related documents on the subject matter.
- **Chapter 3: Theoretical overview of legal and political oversight and accountability.** This chapter provided an overview of the legal and political structures, to promote political oversight and effective accountability within municipalities.
- **Chapter 4: Theoretical overview of financial oversight and accountability.** This chapter provided an overview of the financial structures that promote political oversight and effective accountability within municipalities.
- **Chapter 5: Theoretical overview of administrative oversight and accountability and social accountability.** This chapter provided an overview of the administrative and social accountability structures that promote oversight and effective accountability within municipalities.
- **Chapter 6: Research design and methodology and findings of results.** In this chapter the research methodology, the research design, the population, sample data collection techniques employed, and the analysis of data were discussed. The findings and results were presented through tables and graphs followed by a statement of the findings and the analysis of the data. Major themes and sub-themes were also presented, followed by a discussion on the responses and interpretations of the semi-structured interview schedule
- **Chapter 7: Conclusion and recommendations.** In this chapter the conclusions were drawn and recommendations made. This contained specific recommendations based on research findings with a view to improving oversight and accountability in municipalities of the Free State province. Recommendations for future research were

made and the proposed oversight and accountability framework of municipalities of the Free State province illustrated and discussed.

1.18 SUMMARY

The aim of the study was to positively contribute to instituted oversight and accountability in municipalities of the Free State province by developing a framework for oversight and accountability to promote democratic local governance. The study assessed the statutory and regulatory framework and policies concerning, political, financial, administrative and social oversight and accountability and how it relates to the promotion of effective oversight and accountable local government. Chapter 1 provided background information on the research problem, research objectives and questions, the research methodology and research design. The next chapter provided the theoretical overview of oversight and accountability in the south African public sector with specific reference to local government.

CHAPTER 2: THEORETICAL OVERVIEW OF OVERSIGHT AND ACCOUNTABILITY IN SOUTH AFRICAN PUBLIC SECTOR AND INTERNATIONAL AND NATIONAL BEST PRACTICES AND MODELS OF OVERSIGHT AND ACCOUNTABILITY

CHAPTER 2: THEORETICAL OVERVIEW OF OVERSIGHT AND ACCOUNTABILITY IN THE SOUTH AFRICAN PUBLIC SECTOR WITH SPECIFIC

2.1 INTRODUCTION

In the South African context, oversight and accountability are constitutionally mandated functions of legislatures to scrutinise and oversee executive actions of any organ of state. Oversight entails the informal and formal, watchful, strategic and structured scrutiny exercised by legislatures, including Parliament, in respect of the implementation of laws, the application of the budget, and the strict observance of statutes and the *Constitution*, 1996. Oversight further entails overseeing the effective management of government departments by individual members of the relevant executive authority in pursuit of improved service delivery for the achievement of a better quality of life for all people (South African Legislative Sector, 2012:8).

In this chapter, the statutory and regulatory legislative frameworks, principles and requirements of oversight and accountability within the three spheres was outlined and discussed. An emphasis will be on how these statutory legislative frameworks should be applied to enhance accountability and oversight within the local government sphere. Followed by an overview of international best practices, models and frameworks of oversight and accountability, followed by a discussion of national oversight and accountable models or frameworks. Lastly, the current challenges of oversight and accountability in local government were discussed.

2.2 CONCEPTS OF OVERSIGHT AND ACCOUNTABILITY

In Chapter 1 of this study definitions of oversight and accountability were provided. However, in this Chapter the concept of oversight and accountability had been discussed and described in more detail. Mphaisha (2015:88) maintain that the oversight function of the legislature is a central tenet of democracy. The legislature as an organ of state must ensure that the executive

organ of state is carrying out its mandate by monitoring the implementation of its legislated policy and drawing on experiences for future law-making. Whereas, accountability is designed to encourage transparent government. It enhances public confidence in government and ensures that the government is responsive to the people it governs. This is achieved through the activities of oversight committees which gather and analyse information on the functioning of the executive branch. Mphaisha (2015:88) further indicate that the executive branch is accountable to the legislature to justify its policies, decisions and actions. Therefore, monitoring and evaluating service delivery is the most important part of the activities of portfolio and oversight committees.

According to Van Niekerk and Dalton-Brits (2016:117-118), oversight refers to the proactive initiated by the legislature with the executive and administrative organs of state to ensure compliance with statutory and regulatory frameworks to ensure delivery on agreed objectives and priorities of government. Oversight is a constitutionally mandated function of legislative organs of state to scrutinise and oversee executive action and any organ of state. It follows that oversight entails the informal and formal, watchful, strategic and structured scrutiny exercised by legislatures in respect of the implementation of legislation, the application of the budget, and the strict observance of statutes and relevant statutory and regulatory frameworks (South African Legislative Sector, 2012:4-9). For the purpose of this study the above description of oversight was used, namely that oversight as a constitutionally mandated function of legislative organs of state to oversee and scrutinise the actions of executive organs and any other organs of state.

Munzhedzi (2016) concurs that one of the cornerstones of civilisation is that each public functionary (political office-bearer and public officials) are accountable for everything they do. Stated differently, functionaries can be called upon to answer for their actions in public. The supremacy of the legislatures is one of the guidelines of public administration. This requires the legislatures to enforce accountability in the executive institutions and functionaries. Mafunisa (2002:192) define accountability as the obligation to answer for the fulfilment of assigned duties within the framework of the authority and resources provided. Therefore, accountability entails the following; a responsibility conferred, an obligation to report back on the discharge of that responsibility, optional monitoring to ensure accountability and possible sanctions for non-performance.

Gibson and Hoffman (2006:2) aver that over the past two decades, development policies such as the National Development Plan, 2030, have changed radically from a narrow focus on economic issues to a broader concern and emphasise on political accountability. The new approach to development demands that development practitioners, including political and public officials have to understand the interface between accountability and development but, more importantly, the imperatives of accountability.

In light of the above, Fox (2000:4), emphasises that the concept of accountability and democracy is caught in a definitional tension, whether is it a process or an outcome. Accountability and democracy do not refer to the same processes and outcomes. Accountability forms part of many definitions of political democracy. Such definitions, according to Fox (2000:4), implicitly suggest that democratic processes inherently generate accountable outcomes.

According to Lindberg (2009:3), the concept of accountability has a long tradition in both political science and financial accounting. From political science viewpoint, Lindberg (2009:3) points out that John Locke's theory of the superiority of representational democracy built on the notion that accountability can only be achieved when the governed are separated from the governors. Lindberg (2009:3) emphasises that when decision-making powers is transferred from the public to an organ of state it requires a mechanism that must be in place for holding the organ of state to account for the decisions made by public and political officials and if needed sanctions should be imposed and the applicable political official should be removed from office.

Mavee (2014:209) avers that the concept of democracy has its roots from the combination of Greek words "demos" that means "the people" and "kratien" that means "to rule" and "kratos" that refers to "power". Democracy as a type or form of government that function in accordance with the principles of majority rule, sovereignty, political equality and it refers to consultation with the people. In terms of Section 1 of the *Constitution*, 1996, South Africa is a sovereign democratic state Swilling (in Mavee 2014:209).

Thornhill (2016:130) warns that democracy alone not succeed unless there are suitable mechanisms in place to curb any attempts by political office-bearers to misuse their power. Chapter 9 of the *Constitution*, 1996 provides for specific constitutional mechanism such as

Public Protector, the Auditor-General, the South African Human Rights Commission, the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities, the Commission for Gender Equality and the Electoral Commission. Mavee (2014:210-212) points out that accountability is one of the most important principles of democratic countries, it means that political office-bearers who were elected and appointed officials have to be accountable to the people of that country. Good governance is also one of the corner stones of democracy. Mavee (2014:212) further points out that good governance refers to aspects such as participatory governance, transparent governance, responsibility and accountability.

According to Mafunisa (2002:193), there are five dimensions to the concept of accountability. These are dimensions are legal dimensions, that is the rule of law; fiscal dimensions, that is the use of public funds; policy and performance dimensions, that is meeting goals, promises and expectations. The other dimensions are the democratic dimensions that are amongst other things, democratic legitimacy, respecting democratic processes and informing and consulting legislatures and the public, and lastly the ethical dimensions, that is behaving in accordance with codes of conduct or general moral standards. Bekker (2009:15) sums it up by pointing out that accountability is universally and generally defined as holding responsible elected or appointed individuals and organisations charged with public mandate to account for specific actions, activities or decisions to the public, from which they derive their authority.

According to Olum (2014:604), accountability is a variable concept denoting a social relationship in which an actor feels an obligation to explain and justify his or her conduct to some significant other. Accountability ensures that actions and decisions taken by public officials are subject to oversight to guarantee that government initiatives meet their stated objectives and respond to the community's needs, thereby contributing to better governance and poverty reduction. Nealer in Van der Waldt (2018:214) aver that accountability means to give account and being answerable for one's decisions and actions. Gildenhuis (2018:18) maintain that the notion of accountability on its own does not imply public accountability. Whereas, Mfene (2013:6) states that public accountability is the cornerstone of any democracy. In this regard Gildenhuis (2018:18) further argues that that accountability goes hand in hand with representative democracy. In this context public accountability implies that those responsible should also report not only to immediate higher authority but also to other bodies, including the public as the taxpayers for their actions and activities and non-performance. For

the purpose of this study accountability occurs when political and public officials is answerable and responsible for their actions and the fulfilment of their duties within the framework of authority.

In this study as discussed in Section 1.6 of Chapter 1, a distinction was drawn between political, administrative, financial and social accountability. It was mentioned in Section 1.6 of this study that political accountability means that political office-bearers must render account to the public for the way in which they fulfil their functions and responsibilities assigned to them (Thornhill, 2015:80). For the purpose of this study political accountability refers to the accountability role of political office-bearers such as municipal councillors, mayors or executive mayors to render account to the public for the way in which the municipality fulfil their assigned functions as well as to hold public officials to account for the manner in which they achieved assigned functions and used public resources entrusted to them. Chapter 3 of this study provides a comprehensive discussion about the legislative and political accountability.

Financial accountability in the context of a municipality requires that both political office-bearers and municipal officials must be held to account for the manner in which public funds entrusted to the municipality been used for the programmes and projects they were intended and that public funds not be diverted for private use (Compte, 2008:20). Whereas, Gildenhuis (2018:26-27) is of the opinion that municipal council(councillors) represented by the elected politicians are individually and collectively held responsible for the collection, safeguarding and the efficient and effective use of public resources. Gildenhuis (2018:27) further argues that the municipal council is responsible for taxing, collection, safe guarding and allocation of public resources and the fact that individual members of council are accountable to the communities it is clear that there must be financial control over the executive committee of the municipality. Therefore, the executive committee of a municipality must be held to account by the municipal council to promote public accountability. Thus, for the purpose of this study financial accountability requires that both the political and municipal officials must be accountable on how municipal funds were used to implement municipal policies and to achieved assigned duties. It further means that municipal officials must account to the municipal council the way municipal funds were used. Councillors are individually and collective accountable to the community or public for how municipal resources are collected, safeguarded and used. Chapter 4 of this study provided a comprehensive discussion about financial oversight and accountability in the context of local government.

Administrative accountability as mentioned by Hussein (1999:42) refers to all the control mechanisms created to keep the bureaucracy under surveillance and in check. For the purpose of this study administrative accountability as indicated in Section 1.6 of this study refers to all the internal control mechanisms, structures, systems and processes within a municipality to keep the bureaucracy under surveillance and in check. Chapter 4 of this study provides a comprehensive discussion about administrative oversight and accountability in local government.

Lastly, social accountability as mentioned in Chapter 1, Section 1.6 of this study refers to public or community participation by assessing or generating relevant information and building a credible evidence that will serve to hold both municipal officials and councillors to account for their actions. In Chapter 4 of this study social oversight and accountability was discussed in more detail.

2.3 FUNCTIONS OF OVERSIGHT AND ACCOUNTABILITY

The function of oversight means to hold the government to account in respect of how the taxpayers' money is used. The focus is to detect wasteful and fruitless expenditure, to improve the efficiency, economy and effectiveness of government operations. The function of oversight is to discover and avert misuse or uninformed behaviour or illegal and unconstitutional conduct on the part of the government and public agencies. The focus is the protection of the rights and liberties of citizens. The function of oversight is to ensure compliance with legislative and regulatory frameworks. This function includes monitoring the achievement of goals set by legislation and the government's own programmes and lastly to improve the transparency of government operations and to promote public trust in the government, which is itself a condition for effective policy delivery (South African Legislative Sector, 2012:16).

Reddy, Sing and Moodley (2003:87) argue that accountability is considered as key to every political, governmental and administrative system, irrespective of its precise organisational structure and its mandate. Reddy *et al.* (2003:87) point out that in South Africa, good local government is accountable and is answerable to, and recallable by the people. Accountability is regarded as one of the constitutional prerequisites for a democratic dispensation as provided in the *Constitution*, 1996.

The functions of accountability are to increase the integrity and public trust of public governance to safeguard government against aspects such as corruption, nepotism, abuse of power and other forms of inappropriate actions. Accountability is an institutional arrangement, to promote democratic control and to promote effective performance of all government departments with the aim to ensure effective service delivery. Lastly, the function of accountability is to promote transparency, responsiveness and answerability, to assure public trust and confidence in government and to enable the public to scrutinise and judge the performance of the government by ensuring that the government give account in public (South African Legislative Sector, 2012:16).

2.4 ACCOUNTABILITY AND RESPONSIBILITY

In the South African context, accountability originated in the *Constitution*, 1996 and is an essential requisite for a democratic dispensation. As such public officials have to account to political executive office-bearers and political executive office-bearers and political executive office-bearers have to account to parliament (Legislature), and provincial legislatures are mandated to oversee the activities of the executive and in the context of local government to the municipal council (Malapane, 2015:863-864). Accountability implies answerability to various levels of control, including the legislature and judiciary. This goes beyond procedural compliance to rules and orders as parliamentary oversight and judicial review of actions of the executive are indispensable condition of the doctrine of separation of powers. Parliament composed of elected office-bearers who account to the electorate, while the elected office-bearers in municipalities have to account to the electorate within the municipal area (Munzhedzi, 2016:1; Mphaisha, 2015:92).

On the other hand, the president allocates specific responsibilities to ministers. Some of the elements of the notion of responsibility are authority and accountability. In a democratic state authority is a prerequisite of responsibility as it suggests that ministers are empowered to act on behalf of their departments (Mphaisha, 2015:92). Responsibility refers to an assigned duty to perform. Responsibility places an obligation on a person assigned with the responsibility to fulfil a duty to behave in a such a manner that assumes that the person has the capacity to perform the assigned duty while accepting the moral and ethical obligation to give effect to the duty (Thornhill, 2015:82-83). Thus, accountability means that elected office-bearers are answerable to the legislature and other bodies for their conduct, while responsibility refers to

the assigned duty to perform, while accepting the moral and ethical obligation to give effect to the duty.

2.5 STATUTORY AND REGULATORY FRAMEWORK AND POLICY GUIDELINES OF OVERSIGHT AND ACCOUNTABILITY

The specific statutory and regulatory framework provisions concerning political, financial, administrative oversight, accountability and social accountability of local government were discussed in more detail in chapter 3 to chapter 5 of this study. The general statutory and regulatory framework and policy guidelines of the three spheres of government were outlined below. The general statutory and regulatory framework and policy guidelines establish a basis for accountability and oversight within the three spheres of government.

2.5.1 The *Constitution of the Republic of South Africa 1996*

The *Constitution, 1996* as the supreme law in South Africa sets out clear directions on ensuring accountability and oversight in the three spheres of government. The main legal source of accountability and oversight is found in the *Constitution, 1996*.

According to Cloete (1997:18), Chapter 3, Section 40(1) of the *Constitution, 1996* provides that government is constituted as national, provincial and local spheres of government which are distinctive, interdependent and interrelated. Section 41(1)(g) outlines that all spheres of government and all organs of state within each sphere must exercise their powers and perform their functions in a manner that does not encroach on the geographical functional or institutional integrity of government in another sphere.

According to Kahn, Madue and Kalema (2016:252), Section 41(1) of the *Constitution, 1996* provides that all spheres of government and all organs of state within each sphere must cooperate with one another in mutual trust and good faith by promoting friendly relations, each sphere should assist each other and to consult and inform one another on matters of common interest, each sphere of government has to co-ordinate their actions and legislation with one another, and each sphere of government has to adhere to agreed procedures and strive to avoid legal proceedings against one another. The paragraphs that follow outlined constitutional

provisions that refer directly and indirectly to oversight and accountability across the three spheres of government in South Africa.

Section 41(2) of the *Constitution*, 1996 requires that an Act of Parliament must establish or provide for structures and institutions to promote and facilitate intergovernmental relations and must provide for appropriate mechanisms and procedures to expedite settlement of intergovernmental differences. Section 42(3), 1996, specifically sets out that the National Assembly is elected to represent and to ensure government by the people. The National Assembly is responsible for choosing the President, to provide a national forum for public consideration of issues, by passing legislation and scrutinizing and overseeing executive action.

According to Khalo (2013:583), Section 152 of the *Constitution*, 1996 local government as established to provide democratic and accountable government for local communities. National Treasury (2005:4), Section 55(2) of the *Constitution*, 1996 outlines the oversight powers of the National Assembly, by requiring that national parliament monitor activities of the executive branch to ensure that all executive organs of state in the national sphere of government are accountable to it; and to maintain oversight of the exercise of national executive authority, including the implementation of legislation; and any organ of state.

National Treasury (2005:4) further reiterates that provincial legislatures are provided with similar oversight powers as the National Assembly in Section 114(2), but over provincial executive organs of state. The National Assembly is also empowered with the power of scrutinizing and overseeing executive action by Section 42(3) of the *Constitution*, 1996. Section 56, of the *Constitution*, 1996 requires that the National Assembly or any of its committees may summon any person to appear before it to give evidence on oath or affirmation, or to produce documents; and may require any person to or institution to report to it; or compel, in terms of national legislation or the rules and orders, any person or institution to comply with a summon or requirement in terms of the above two subsections; and to receive petitions, representations or submissions from any interested persons or institutions (South African Legislative Sector, 2012:9).

The South African Legislative Sector (2012:10) indicates that Section 66(2), of the *Constitution*, 1996 requires that the NCOP may require a cabinet member, a deputy minister or an official in the national executive or provincial executive to attend a meeting of the council

or a committee of the council. Section 67 provides that no more than ten part-time representatives designated by organised local government representing the different categories of municipalities may participate in the proceedings of the NCOP when necessary and may not vote. In terms of Section 42(4), of the *Constitution*, 1996 the NCOP represents the provinces to guarantee that provincial interests are taken into account in the national sphere of government. It does this by mainly by participating in the national legislative process and by providing a national forum for public consideration of issues affecting provinces.

The NCOP as set out in Section 69, of the *Constitution*, 1996 may also summon any person to appear before it to give evidence on oath or affirmation, or to produce documents; or to require any person or institution to report to it. It may also compel, any person or institution to comply with a summon or requirement in terms of the above two subsections; and to receive petitions, submissions or representations from any interested persons or institutions. In Section 70(1), accountability is further reinforced in that it requires the NCOP to determine and control its internal arrangements, proceedings and procedures; and make rules and orders concerning its business, to promote representative and participatory democracy, accountability, transparency and public involvement.

Thornhill (2012:277) avers that the supremacy of the legislatures is one of the guidelines of public administration. The legislatures are required to enforce accountability on executives and its officials with the three spheres of government. Thornhill (2012:277) further states that Section 89(1), of the *Constitution*, 1996, provides for the impeachment and removal of the President. It states that the National Assembly, by a resolution adopted with supporting vote of at least two thirds of its members, may remove the President from office only on the following grounds: a serious violation of the *Constitution*, 1996; or the law; or serious misconduct; or inability to perform the functions of office. Section 89 (2) provides that anyone who has been removed from the office of President in terms of Subsection (1) may not receive any benefits of that office and may not serve in any public office.

The South African Legislature Sector (2012:11) further stresses that Section 92(2), of the *Constitution*, 1996, requires that members of the cabinet are accountable collectively and individually to Parliament for the exercise of their powers and the performance of their functions in accordance with the code of conduct prescribed for national legislation. While

Section 93(2), of the *Constitution*, 1996, requires that deputy ministers are accountable to Parliament for the exercise of their powers and the performance of their functions.

The South African Legislative Sector (2012:12) states that Section 100(2), of the *Constitution*, 1996, provides that the national executive intervenes in a province by assuming responsibility for the relevant obligation which that province cannot or does not fulfill by submitting a written notice of the intervention to the NCOP within 14 days after the intervention began; and that the intervention must end if the Council disapproves the intervention within 180 days after the intervention began or by the end of that period has not approved the intervention; and the council must, while the intervention continues, review the intervention regularly and may make any appropriate recommendations to the national executive.

According to Fourie and Opperman (2015:557), Section 102(1), of the *Constitution*, 1996, asserts that if the National Assembly, by a vote supported by a majority of its members, passes a motion of no confidence in the Cabinet (excluding the President), the President must reconstitute the cabinet. Section 102(2) states that the National Assembly, by a vote supported by a majority of its members, passes a motion of no confidence in the President, the President and the other members of the cabinet and any deputy ministers must resign (South African Legislative Sector, 2012:12).

The *Constitution*, 1996, places significant emphasis on promoting accountability and oversight in provincial governments. Firstly, Section 114(2), of the *Constitution*, 1996, makes provision for the mechanisms of a provincial legislature in order to ensure that all provincial executive organs of state in the province are accountable to it; and to maintain oversight of regarding the exercise of provincial executive authority in a province and oversee that the national legislation is implemented. Secondly, Section 125(4), of the *Constitution*, 1996, requires that any dispute concerning the administrative capacity of a province about any of its function must be referred to the National Council of Provinces for resolution within 30 days of the date of the referral the Council. Thirdly, Section 127(1), of the *Constitution*, 1996, points out that the premier of a province has the powers and functions entrusted to that office by the Constitution and any legislation. Whereas, Section 127(2) of the *Constitution*, 1996 provides that the premier of a province is responsible for assenting to and signing Bills; referring a Bill back to the provincial legislature for reconsideration of the Bill's constitutionality; referring a Bill to the Constitutional Court for a decision on the Bill's constitutionality; (d) summoning the

legislature to an extraordinary sitting to conduct special business by appointing commissions of inquiry; and calling a referendum in the province in accordance with national legislation. Lastly, Section 130(3) of the *Constitution*, 1996 makes provision for the impeachment and removal of the provincial premiers from office by the legislature. Section 132(1) sets out that the executive councils of a province must consist of the premier that is also the head of the council, and no fewer than five and no more than ten members appointed by the premier from among its members of the provincial legislature. Section 132(2) further provides that the premier of a province appoints the members of the executive council among the members of the provincial legislature and may assign their powers and functions and may dismiss them.

Another significant provision on ensuring accountability in a province is Section 133(1) that requires that members of executive council of a province are accountable and responsible for the performance of their functions of the executive assigned to them by the Premier. Section 133(2) clearly provides that members of the executive council of a province are accountable collectively and individually to the legislature for the exercise of their powers and the performance of their functions. National Treasury (2005:4) maintains that in order to facilitate Parliament's oversight of the national executive organs of state, Section 92(3)(b) of the Constitution of 1996 requires that members of cabinet must provide Parliament with full and regular reports concerning matters under their control. The parallel section for the provincial sphere of government is Section 133(3)(b) of the *Constitution*, 1996, which requires that members of the executive council of a province must provide the legislature with full and regular reports concerning matters under their control.

Fourie and Opperman (2015:557-558) indicate the duty of the provincial government to get involved in local governments that are in distress. Section 139(1) of the *Constitution*, 1996, states that when a municipality cannot or does not fulfill an executive obligation in terms of the *Constitution*, 1996 or other applicable legislation, the relevant provincial executive may intervene by taking any appropriate steps to ensure fulfillment of that obligation. It requires that the relevant provincial executive must issue directive to the municipal council, describing the extent of the failure to fulfill its obligations and stating any steps required to meet its obligations (Koma, 2017:27).

Thornhill and Cloete (2014:45-46) further argue that, according to Section 44(2) and Section 139 of the *Constitution*, 1996, the aim of the intervention is to maintain essential national

standards or meet established minimum standards for the rendering of a service and to prevent that municipal council from taking unreasonable action that is prejudicial to the interests of another municipality or to the province as a whole; or maintain economic unity; or dissolving the municipal council and appointing an administrator until a newly elected municipal council has been declared elected, if exceptional circumstances warrant such a step.

Craythorne (2006:36) states that the primary power of intervention, and the corresponding duty to do so, rests in the hands of relevant provincial executive. In terms of Section 139(2) of the *Constitution*, 1996 if a provincial executive intervenes in a municipality, it must submit a written notice of the intervention to the Cabinet member responsible for local government affairs; as well as to the relevant provincial legislature and the NCOP, within 14 days after the intervention began. This intervention must end if the cabinet member responsible for local government affairs disapproves the intervention within 28 days after the intervention began or by the end of that period has not approved the intervention, or the council disapproves the intervention within 180 days after the intervention began or by the end of that period has not approved the intervention.

According to Fourie and Opperman (2015:557-559), the municipal council must, while the intervention continues, review the intervention regularly and may make any appropriate recommendations to the provincial executive. Section 139(4), further states that if a municipality, as a result of a crisis in its financial affairs, is in serious or persistent material breach of its obligations to provide basic services or to meet its financial commitments, or admits that it is unable to meet its obligations or financial commitments, the relevant provincial executive must enforce a recovery plan with the aim to secure that municipality's ability to provide basic services or to fulfill its financial commitments, in accordance with national legislation. It also binds the municipality in the exercise of its legislative and executive authority, with the aim to solve the crisis in its financial affairs, as well as to dissolve the municipal council. This is on condition if the municipality cannot or does not approve legislative measures, including a budget or any revenue-raising measures, necessary to give effect to the recovery plan.

Nkuna and Sebola (2014:3) emphasise that local government management takes place within a policy framework that is regulated by law in South Africa. Section 139(4) of the *Constitution*, 1996 provides that the relevant provincial executive has to appoint an administrator until a

newly elected municipal council has been declared elected. The relevant provincial executive also has to approve a temporary budget or revenue-raising measures or any other measures giving effect to the recovery plan to provide for the continued functioning of the municipality. If the municipal council is not dissolved the relevant provincial executive assume responsibility for the implementation of the recovery plan to the extent that the municipality cannot or does not otherwise implement their recovery plan. The *Constitution*, 1996, Section 139(6) stresses that if a provincial executive intervenes in a municipality in terms of Subsection (4) or (5), it must submit a written notice of the intervention to the cabinet member responsible for local government affairs, as well as to the relevant provincial legislature and the NCOP, within seven days after the intervention began (Legislative Sector, 2012:15). This, legislation must be in line with the provisions of the *Constitution*, 1996.

According to Van der Waldt (2011:49), Section 151 of the *Constitution*, 1996 confers a municipal council with legislative and executive powers. Fourie and Opperman (2011:33) maintain that Section 151(4) of the *Constitution*, 1996, provides that the national and provincial governments may not impede or compromise local governments' right to perform its functions effectively. Gildenhuis (2018:14) and Van der Walt (in Van der Waldt *et al.*, 2018:58), maintain that the *Constitution*, 1996, provides in Section 152(1) the objects of local government is to provide democratic and accountable government for local communities; to ensure the provision of services to communities in a sustainable manner; to promote social and economic development and a safe and healthy environment; and local government must also encourage the involvement of communities and community organisations in the matters of local government. Except for the above constitutional objects of local government, the *Constitution*, 1996 makes provision in Section 195 for the basic values and principles necessary to govern public administration which applies to administration in all three spheres of government. Gildenhuis (2018:14) points out that Section 195 of the *Constitution*, 1996, makes provision for the following basic democratic values and principles to govern public administration namely:

- To promote and maintain a high standard of professional ethics;
- To promote the efficient, economic and effective use of resource;
- To ensure that public administration is development-oriented;
- To ensure that services are provided in an equitable, fair and impartial manner;

- To respond to people's needs and to encourage the public to participate in policy making;
- To ensure that public administration is accountable; and
- To foster transparency by providing the public with accurate, timeously and assessable information.

Thus, in terms of municipal service delivery one could argue that Section 195 of the *Constitution*, 1996, stipulates that public administration of all municipalities should adhere to the number of basic principles and values, including that services should be provided impartially and equitably and that resources should be utilised in an efficient, economical and effective manner. In this regard, municipal councillors of all municipalities must be responsive to the needs of the citizens and the public must be encouraged to participate in policy making processes of the municipality. Furthermore, municipal officials must be held to account for their actions including the economically, efficient effective use of municipal resources.

In light of the above, there is no doubt that all three spheres of government of which local government cannot be excluded must govern public administration in accordance with the constitutional basic values and principles as well as to provide democratic and accountable government and to involve the local communities and community organisations in the matters of local government.

According to Section 153 of the *Constitution*, 1996, a municipality must structure and manage its administration, budgeting and planning processes to give priority to the basic needs of the community, and to promote the social and economic development of the community (Van der Waldt, 2011:50). Section 154(1) of the *Constitution*, 1996, provides that the national government and provincial governments, by legislative and other measures, must support and strengthen the capacity of municipalities to manage their own affairs, to exercise their powers and to perform their functions (South African Legislative Sector, 2012:15).

Fourie and Opperman (2011:33) state that Section 154(4) of the *Constitution*, 1996 compels national and provincial government to assign to local government by means of agreement and subject to conditions the administration of a matter relates to local government and provided in Schedule 4 and Schedule 5. Van der Waldt (2011:51), postulates that the oversight role of

provinces is further outlined in Section 155(6) which requires the provincial government to monitor and give support to local governments in the province, as well as to promote the development of local government capacity in such a way that it will enable all municipalities to perform their functions and manage their own affairs in an effective manner. Section 217 of the *Constitution*, 1996 provides that when an organ of state in the three spheres of government, contracts for goods or services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost-effective. Thus, the *Constitution*, 1996 clearly makes provision for oversight and accountability structures and mechanisms within all three spheres of government, to promote democratic and accountable governance. In particular, in terms of Section 152 of the *Constitution*, 1996 local government is mandated to provide democratic and accountable government for local communities

2.5.2 Public Finance Management Act, 1999 (Act 1 of 1999)

The aim of the *Public Financial Management Act (PFMA)*, 1999 (herewith after referred to *PFMA*, 1999) is to modernise the system of financial management in the public sector and the key objectives are to enable accountable public management and to eliminate waste and corruption. It further aims to ensure all revenue, expenditure, assets and liabilities of those governments are managed efficiently and effectively, as well as to provide for the responsibilities of persons entrusted with financial management in those governments (Fourie, 2015:275). The *PFMA*, 1999, gives effect to Section 216 of the *Constitution*, 1996, and is applicable to national and provincial spheres and public entities under their ownership and control. In addition, the *PFMA*, 1999, gives effect to financial management reforms that place greater implementation responsibility on managers in the public service, and makes them more accountable for their performance (Fourie, 2018: 275).

Section 65 of the *PFMA*, 1999, requires that Ministers or MECs table the annual reports for the departments and public entities for which they are responsible by 30 September. It is proposed that 30 September be designated the day of delivery. The latter will enable portfolio and Public Accounts Committees to start their oversight processes sooner (National Treasury, 2005:6). The *PFMA*, 1999, provides measurable improvements in financial management in both national and provincial spheres of government, which include, requiring national and provincial departments to submit monthly expenditure reports on actual expenditure incurred, and on projected expenditure for the remainder of the financial year. The aim is to improve risk

management and to establish internal-audit functions and audit committees in all national and provincial departments and standardising accounting standards set in accordance with best accounting practices and tabling. Finally, to submit financial statements to the Auditor-General (South Africa Yearbook, 2009:228).

In strengthening oversight and accountability in the public sector, the *PFMA*, 1999, Section 36(1), provides that every department and every constitutional institution must have an accounting officer. Accounting officers must monitor progress on the department's operational plan which includes the budget. Fourie (2018:288) states that Section 38 of *PFMA*, 1999 provides that the accounting officer of national or provincial department, must ensure that department, promotes effective, efficient and transparent systems of financial and risk management and internal control. The accounting officer must manage a system of internal audit under the control and direction of an audit committee, regulating as provided in the *PFMA*, 1999, Sections 76 and 77. The accounting officer must also manage an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective and manage a system that is responsible for all major capital projects.

The *PFMA*, 1999, makes specifically provision in Section 38 for the promotion of accountability and oversight in national and provincial departments. The accounting officer must collect all money due to the department or constitutional institution and to prevent unauthorised, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct and has to manage available working capital in an efficient and economical manner. He/she is responsible for the management assets as well as to safeguard and maintain all the assets. The *PFMA*, 1999, further requires that the accounting officer has to manage all liabilities of the department in an effective manner.

Provision is made in Section 38(1)(g), that the accounting officer of national or provincial department has to report immediately in writing on discovery of any unauthorized, irregular or fruitless and wasteful expenditure, particulars of the expenditure to the relevant treasury and in the case of irregular expenditure involving procurement of goods and services to the relevant tender board.

Another significant provision to further strengthen accountability is contained in Section 38(1)(h), of the *PFMA*, 1999. It outlines that the accounting officer of national and provincial

department, must take effective and appropriate disciplinary steps against any public official in the service of the department who contravenes and fails to comply with a provision of the Act or a public official who commits an act which undermines the financial management and internal control system of the department. The provision of the *PFMA*, 1999, further requires that the accounting officer has to ensure that there is no an unauthorized, irregular or fruitless and wasteful expenditure in any national or provincial departments. Accountability and oversight is further reinforced in that Section 38(j), of the *PFMA*, 1999, emphasises that the accounting officer of department, before transferring any funds, other than funds in terms of annual Division of Revenue Act or to a constitutional institution, to an entity within or outside government, must obtain written assurance from an entity that that entity implements effective, efficient and transparent financial management and internal control systems. Section 38(1)(l), of the *PFMA*, 1999 points out that the accounting officer of department, a trading entity or constitutional institution, must take into account all financial considerations including issues of propriety, regularity and value for money when policy proposals affecting the accounting officer's responsibility are considered, and when necessary, bring those considerations to the attention of the responsible executive authority.

Firstly, Section 40(1)(a), of the *PFMA*, 1999, provides that an accounting officer must keep full and proper records of the financial affairs of the department. Secondly, the accounting officer of the department must prepare financial statements for each financial year in accordance with generally recognised accounting practice. Thirdly, the *PFMA*, 1999, states that an accounting officer of a national or provincial department, or trading entity must submit those financial statements after the end of the financial year to the Auditor-General for auditing and the relevant treasury. The relevant treasury has to prepare consolidated financial statements in terms of Section 8 and 19 of the Act.

Fourthly, the *PFMA*, 1999, provides in Section 40(1)(d), that an accounting officer must submit within five months of the end of a financial year to relevant treasury and also to the executive authority of the responsible department or trading entity an annual report on the activities of that department including the financial statements of that financial year after those statements have been audited, and the specific the Auditor-General's reports. Lastly, Section 40(2), the *PFMA*, 1999, further provides that the Auditor-General must audit the financial statements and must submit an audit report on those statements to the accounting officer within two months of receipt of statements.

2.5.3 The *Public Audit Act, 2004 (Act 25 of 2004)* and *Public Audit Amendment, 2018 (Act 5 of 2018)*

Section 2 of the *Public Audit Act, 2004* makes provision of the following objectives:

- To give effect to the constitutional requirements of auditing of institutions and accounting entities in the public sector;
- To makes provision for an oversight mechanism by assisting, protecting and promoting the independence, impartiality, dignity and effectiveness of the Auditor-General; and
- To provide advice to the National Assembly (Fourie and Opperman, 2015:13).

The *Public Audit Act, 2004*, further prescribes the formal control functions of the Auditor-General. In terms of Section 3 of the *Public Audit Act*, the Auditor-General is the supreme independent audit institution of the Republic of South Africa subject only to the *Constitution, 1996* laws and which is accountable to the National Assembly. Section 20 of the *Public Audit Act, 2004* requires that the Auditor-General's report "must reflect such opinions and statements as may be required by any legislation applicable to the auditee which is the subject of the audit." Section 20 of the *Public Audit Act* further sets out the minimum requirements that should be covered in the Auditor-General's report.

The *Public Audit Amendment (Act 5 of 2018)* empowers Auditor-General not to just recommend remedial action for public financial mismanagement and abuse but to enforce them. The *Public Audit Amendment Act, 2018* Section 3(b) state that the Auditor-General may, as prescribed, refer any suspected material irregularity identified during an audit performed under this Act to a relevant public body for investigation, and the relevant public body must keep the Auditor-General informed of the progress and the final outcome of the investigation. *Public Audit Amendment Act, 2018*, Section 3(1B) further indicates that the Auditor-General has the power to (a) take any appropriate remedial action; and (b) issue a certificate of debt, as prescribed, where an accounting officer or accounting authority has failed to comply with remedial action.

According to Makwetu (2019:5), once a material irregularity has been identified or suspected under the *Public Audit Amendment Act, 2018* the Auditor-General may take the following extended actions:

- Refer a suspected material irregularity to a public body such as the Public Protector, Special Investigating Unit or South African Police Service. The agencies would deal with the matter within their own legal mandate and take appropriate action when necessary.
- Make recommendations in the audit report on how material irregularity should be addressed, within a stipulated period. If these recommendations have not been implemented by the stipulated time, the Auditor-General must take binding remedial action; and, if the material irregularity involves a financial loss, issue a directive to the accounting officer to quantify and recover the loss from the responsible person.
- Lastly, if the accounting officer fails to implement the remedial action, the Auditor-General may issue a certificate of debt in the name of the relevant accounting officer (Makwetu, 2019:5).

2.5.4 The White Paper on the Transformation of Public Service Delivery, 1997 (Batho Pele)

The White Paper on the Transformation of Public Service Delivery, 1997 provides eight Batho Pele principles, namely consultation, service standards, access, courtesy, information, redress, value for money, openness and transparency. According to Chetty (2015:44-45), municipalities must at all times uphold the eight Batho Pele principles as follows:

- **Consultation.** Consultation requires that municipalities should consult and involve the communities in the affairs of the municipality such as the quality of services provided, the Integrated Development Plan (IDP), budgetary process, open council meetings, audit outcomes and relevant matters.
- **Service standards.** Chetty (2015:45) contends that municipal councillors should be honest when communicating to communities about the quality of services to be offered by the municipality, such honesty will ensure that the public is aware of the service standards and level of services to be expected.
- **Access.** The whole community including the indigent or poor communities should have access to the services provided. In this regard the municipality should ensure that the disabled or people with special needs have physical access to municipal facilities.

- Courtesy. The municipality should ensure that the public are treated with courtesy, dignity and consideration including the manner of answering the telephone and assisting the public at municipal facilities.
- Information. Councillors and municipal officials should ensure that the public have access to accurate information about the services and information about other relevant municipal matters.
- Openness and transparency. Council meetings should be open to the public in particular when discussion the budget, audit outcomes and other relevant municipal matters which requires openness and transparency.
- Redress. Thornhill and Cloete (2014:111) confirm that councillors should communicate with communities in a timely manner about any challenges or delays in service delivery.
- Value for money. Chetty (2015:45) further points out that municipalities should give effect to the constitutional requirement to ensure that municipal services are provided in an economically, efficient and effective manner.

In light of the above, the Batho Pele principles set out the standards that needs to be observed by local government in the view of promoting accountable municipal services. The communities must hold the councillors and other political office-bearers to account for the quality of services provided.

2.5.5 The *White Paper on Local Government, 1998 (WPLG)*

The drafting of the *WPLG* (1998:6) necessitated by the lack of oversight systems and the need to have legislative structures and systems in place to hold local government officials to account. Craythorne (2006:12) points out that although the *WPLG*, 1998 process preceded the local government legislations. The *WPLG* (1998:6) spells out the framework in terms of which the local government system will be radically transformed. The *WPLG* (1998:6) further established the basis for a system of local government which is centrally concerned with working with local citizens and communities to find sustainable ways to meet their needs and improve the quality of their lives.

Van der Waldt (2011:52) articulates that the developmental local government as stated in the WPLG, 1998 requires municipalities to become strategic, visionary and ultimately influential in the way they operate. In this way, they can impact on the lives of their communities. Siddle and Koelble (2012:74) point out that the *WPLG*, 1998 proposed three inter-related tools to assist municipalities to become more developmental, namely, integrated planning and budgeting, performance management and working together with local citizens and partners.

Section A of the *WPLG*, 1998 provides a complete overview of the history of local government under apartheid, which points to the origins of many of the problems currently faced by local government in South Africa. It highlights the history of community mobilisation and locates the current transition process in its broader historical context. While, Section B, of the *WPLG* (1998:23) discusses four characteristics of developmental local government. The four characteristics of developmental local government requires that municipal powers and functions must be exercise in such a manner that it maximises the impact on social development and economic growth; playing an integrating and co-ordinating role to ensure alignment between public and private investment within the municipal area; democratising development; and building social capital through providing community leadership and vision, and seeking to empower marginalized and excluded groups within the community.

Section C, of the *WPLG* (1998:37-49) provides a preliminary outline of the roles and responsibilities of national and provincial government with respect to local government. Section D, of the *WPLG* (1998:50-57), deals with municipal institutional systems. Two types of metropolitan government were proposed: Metropolitan government with metropolitan substructures, and metropolitan government with ward committees. The *WPLG* (1998:57-65), proposes three forms of category (B) municipality, that is urban municipalities, rural municipalities, and amalgamated urban-rural municipalities.

Section E, of the *WPLG* (1998:66-72) is concerned with municipal political systems and begins by highlighting the importance of dynamic local political leadership. It discusses the advantages of allowing for the delegation of executive powers by a municipal. Section F, of the *WPLG* (1998:73-83) introduces the issue of municipal administrative systems. It notes that the local-level transition process has largely been concerned with the amalgamation of previously separated municipalities, and that significant changes to administrative systems have not yet taken place. Section G, of the *WPLG* (1998:84-96) deals with municipal finance.

The *WPLG*, 1998 put's forward a set of principles to guide the development of a new framework for municipal finance, and then elaborates the key aspects of that framework. These include local revenue instruments and policies, where it is noted that while existing sources of municipal revenue should remain, some regulation of the property taxation system and the regional and establishment levies is required. Municipalities are encouraged to develop clear tariff policies and credit control mechanisms, to ensure that poor households have access to basic services and that services are provided on a sustainable basis. Finally, Section H, of the *WPLG*, (1998:97) puts forward an approach to municipal transformation. Municipalities are encouraged to think critically about how they operate and relate to local communities, and to develop their own strategies for meeting local needs and promoting the social and economic development of communities in their areas of jurisdiction.

In light of the above, the *WPLG*, 1998 clearly provides that llocal government as the sphere of government closest to the local communities must provide services and infrastructure which are so essential to local communities wellbeing, and further provided that local government is tasked with the responsibility to ensure that the growth and development of communities takes place in a manner that enhances accountability.

2.5.6 Local Government: Municipal Demarcation Act, 1998 (Act 27 of 1998)

According to Nkuna and Sebola (2014:4), the *Local Government: Municipal Demarcation Act*, (Act 27 of 1998) (hereafter refer to as the *Municipal Demarcation Act*, 1998) was enacted by Parliament to provide for criteria and procedures for the determination of municipal boundaries by an independent authority, and to provide for matters connected thereto. The authority here is the Municipal Demarcation Board that is established to, from time to time; determine categories and size of municipalities. Such category and size of a municipality will therefore have a bearing on the extent to which it manages its finances in the foundries that cover the municipal area to a large extent a determinant of spatial planning for such a municipality.

Section 24 of the *Demarcation Act*, 1998 provide that when the Demarcation Board determines a municipal boundary, its objective must be to establish an area that would enable the municipality to fulfil its constitutional obligations including namely to; promote a democratic and accountable government for the local communities; to deliver services to the communities in an equitable and sustainable manner; to promote social and economic development; to

promote a safe and healthy environment and to encourage the involvement of communities and community organisations in matters of local government; to promote good governance; to enable integrated development; and to ensure that municipalities have a tax base as inclusive as possible (Taaibosch, 2015:43).

The *Demarcation Act*, 1998 has led to changes in the size of local government in South Africa. During 1995 the number of municipality was reduced from 843 to 293. In terms of the Act the number was further reduced to 284 and later in 2011 to 283 (Thornhill and Cloete, 2015:32). The number of municipalities was further reduced in 2016 to 257 municipalities in the country.

2.5.7 The Local Government: Transition Second Amendment Act, 1996 (Act 97 of 1996)

In terms of Section 10 of the *Local Government: Transition Second Amendment Act*, 1997 (herewith after referred to as the *Transition Second Amendment Act*, 1996) each municipality should conduct its affairs in an effective, economical, efficient way by addressing the needs of the society. The Act further provides that municipalities have to conduct its financial affairs in an accountable and transparent manner by preparing its budget in accordance with the IDP. The *Transition Second Amendment Act*, 1997 further requires that municipalities must structure and manage its administration, budgeting and planning processes to deliver services and to promote social and economic development to all communities. The Act further provides that municipalities must support the implementation of national and provincial development programmes. It is also required from municipalities to manage their financial resources in such a way that it strives to meet and sustain developmental objectives, monitor and assess performance against its IDP, and to report and receive comments annually from its community.

2.5.8 Local Government: Municipal Structures Act, 1998 (Act 117 of 1998)

The *Municipal Structures Act*, 1998, guided the rationalisation of municipal administrations. The legislation provides provincial MECs with the powers to determine the type of municipality that will exist within each demarcated boundary.

Thornhill (2008:499) states that Municipal Structures Act of 1998, provides for the establishment of municipalities in accordance with the requirements relating to categories and types of municipality. In terms of Chapter 1, of the *Municipal Structures Act*, 1998, there are

three types of municipalities. First, Category A municipalities (Metropolitan municipalities): they have exclusive legislative and executive authority throughout their area of jurisdiction. Secondly, Category B municipalities (local municipalities): they share executive and legislative authority with Category C municipalities (district municipalities).

Thornhill (2008:499) further illustrates that the *Municipal Structures Act, 1998*, makes provision for the type of executive available to each category. Although the Municipal council possesses both the legislative and the executive authority, executive actions can be performed on behalf of council by a collective executive system; a mayoral executive system; a plenary executive system; sub council participatory system; and a ward participatory system. Cloete and Thornhill (2005:78) point out that Section 2(a), of the *Municipal Structures Act, 1998*, provides that an area must have a single Category A municipality if that area can reasonably be regarded as an urban area featuring areas of high population density; an intense movement of people goods and services; extensive development; and multiple business districts and industrial areas. Van der Waldt *et al.* (2018:8) explain that a Category A municipality refers to metropolitan municipalities with exclusive municipal executive and legislative authority in their areas.

Section 2(b)(c)(d), of the *Municipal Structures Act, 1998*, provides that an area must have a single Category A municipality if that area can reasonably be regarded as a conurbation featuring a center of economic activity with a complex and diverse economy; that it must have a single area for which integrated development planning is desirable; and that it must have strong interdependent social and economic linkages between its constituent units. Section 3, of the *Municipal Structures Act, 1998*, entails that an area that does not comply with the criteria set out in Section 2 must have municipalities of both Category C and Category B (Van der Walt in Van der Waldt *et al.*, 2018:62).

In terms of Section 9 of the *Municipal Structures Act, 1998* a category B municipality can be a municipality with a collective executive system; or a municipality with a collective executive system combined with a ward participatory system; or a municipality with a mayoral executive system; or a municipality with a mayoral executive system combined with a ward participatory system; or a municipality with a plenary executive system; or a municipality with a plenary executive system combined with a ward participatory system. Section 10, of the *Municipal Structures Act, 1998*, provides that a category C municipality refers to a municipality with a

collective executive system; or a municipality with a mayoral executive system; or a municipality with a plenary executive system (Thornhill and Cloete, 2014:57; Van der Waldt, 2018:8).

Section 22(1) of the *Municipal Structures Act*, 1998, provides that the municipal council of a metropolitan or local municipality consists of councillors elected in accordance with Schedule 1 by voters registered on that municipality's segment of the national common voters roll, to proportionally represent the parties that contested the election in that municipality; and by voters registered on that municipality's segment of the national common voters roll in the respective wards in that municipality, to directly represent the wards (Van der Walt in Van der Waldt *et al.*, 2018:63-64).

Schedule 1(2) of the *Municipal Structures Act*, 1998 further provides that the Demarcation Board after consultation with the Electoral Commission, for purposes of an election must delimit all metropolitan municipalities and all local municipalities that must have wards, into wards. Craythorne (2006:65) points out that the delimitation of wards by the Demarcation Board cannot be done until the Demarcation Board knows the total number of councillors will be. The reason is that the number of ward councillors in a metropolitan or local council must be equal to 50 per cent of the number of councillors determined for the municipality. If the number of councillors determined; in terms of Section 20 of the *Municipal Structures Act*, 1998; is an uneven number, the fraction must be rounded off upwards.

Van der Waldt *et al.* (2018:64-65) maintain that the *Municipal Structures Act*, 1998, provides for the delegation of powers and functions by municipal councils to committees. Section 32(1) of the *Municipal Structures Act*, 1998, submits that a municipal council must develop a system of delegation that will maximise administrative and operational efficiency and provide for adequate checks and balances and in accordance with that system may delegate appropriate powers, excluding the power to approve its integrated development plan. These powers and functions may be delegated to its executive committee, if it has an executive committee; executive mayor, if it has an executive mayor; metropolitan sub-councils, if it has such sub-councils; ward committees if it has ward committees; other committees or elected office-bearers; and MM or any of its other officials.

Section 32(2) of the *Municipal Structures Act*, 1998, maintains that a delegation or instruction as is normal practice must be in accordance with the Constitution of 1996 and this Act and must be in writing; is subject to any limitations, conditions and directions the municipal council may impose; may include the power to sub-delegate a delegated power; does not divest the council of the responsibility concerning the exercise of the power or the performance of the duty; and must be reviewed when a new council is elected or if it is a district council, elected and appointed. Section 43(1) of the *Municipal Structures Act*, 1998, further provides that if the council of a municipality establishes an executive committee, it must elect a number of councillors necessary for effective and efficient government, provided that no more than 20 per cent of the councillors or 10 councillors, whichever is the least are elected. An executive committee may not have less than three members. Section 44(1) of the *Municipal Structures Act*, 1998 further provides that an executive committee is the principal committee of the council of a municipality of a type that is entitled to establish an executive committee and the committee of a municipal council which receives reports from the other committees of the council and which must forward these reports together with its recommendations to the council when it cannot dispose of the matter in terms of its delegated powers.

Thornhill and Cloete (2014:73) state that the mayor must not be confused with the executive mayor. The mayor is the chairperson of the executive committee. In terms of Section 49(1) presides at meetings of the executive committee and performs the duties including any ceremonial functions, and exercises the powers delegated to the mayor by the municipal councillor the executive committee and the deputy mayor exercises the powers and performs the duties of the mayor if the mayor is absent or not available or if the office of the mayor is vacant. The mayor may delegate duties to the deputy mayor.

Van der Waldt *et al.* (2018:66) explain that in terms of Section 55(1) of the *Municipal Structures Act*, 1998, if a municipal council chooses to have an executive mayor, it must elect an executive deputy mayor and if the MEC for local government in the province so approves, also an executive deputy mayor from among its member sat a meeting held within 14 days of the councils election; or if it is a district council, within 14 days after the last of the local councils have appointed its representatives to the district council. The executive mayor is entitled to receive reports from committees of the municipal council and to forward these reports together with a recommendation to the council when the matter cannot be disposed of by the executive mayor in terms of the executive mayors delegated powers.

Section 56(2) of the *Municipal Structures Act*, 1998 provides that the executive mayor must identify the needs of the municipality and review and evaluate those needs in order of priority. The executive mayor must recommend to the municipal council strategies, programmes and services to address priority needs through the integrated development plan, and the estimates of revenue and expenditure considering any applicable national and provincial development plans. Lastly, the executive mayor must recommend or determine the best way including partnership and other approaches to deliver those strategies, programmes and services to the maximum benefit of the community (Van der Walt in Van der Waldt *et al.*, 2018:66).

The *Municipal Structures Act*, 1998 Section 60(1) avers that if a municipal council has more than nine members, its executive mayor must appoint a mayoral committee from among the councillors to assist the executive mayor; may delegate specific responsibilities to each member of the committee; may delegate any of the executive mayor's powers to the respective members; and may dismiss a member of the mayoral committee. According to Kraai *et al* (2017:63-64), in Section 79 of the *Municipal Structures Act*, 1998 makes provision for the most important oversight structure in the municipality namely, Section 79 committees that consist of the speaker who is the chairperson of the committee and its members. Section 79 oversight committees have the power to request directorates or departments and members of the mayoral committee to account on the outputs and performance of their functions, whereas Section 80 portfolio committees serve at the sole discretion of the executive mayor. Sibanda (2017:313) agrees that Section 79 of the *Municipal Structures Act*, 1998 makes provision for the establishment of municipal public accounts committees (MPACs) to perform an oversight function on behalf of the municipal council.

In light of the above, it is clear that the *Municipal Structures Act*, 1998 predominantly makes provision for the establishment of the different categories of municipalities, the division of powers and functions among the categories of municipalities and in particular to regulate the internal structures of political office-bearers and senior municipal officials. According to Sibanda, (2017:316), the *Municipal Structures Act*, 1998 in particular makes provision for the delegation of functions to committees including the establishment of Section 79 oversight committees such as the MPACs. The role and responsibilities of the mayor or executive mayor, the MM and the chief financial officer, as well as Section 79 oversight committees and Section 80 portfolio committees, were discussed in detail in Chapter 3 and Chapter 4 of this study.

2.5.9 Local Government: Municipal Systems Act (MSA), 2000 (Act 32 of 2000), and Amendment Act, 2011 (Act 7 of 2011)

Fourie and Opperman (2011:6) state that the *MSA*, 2000 sets down the core principles, mechanisms and processes that are necessary to enable municipalities to move progressively towards the social and economic development of local communities and ensure universal access to essential services that are affordable to all. According to Mathane (2013:60-61), the *Municipal Systems Amendment Act* (Act 7 of 2011) (herewith after referred to as the *Systems Amendment Act*, 2011) strives to professionalize local government by ensuring that senior municipal officials have the appropriate qualifications and that there is no conflict of interest between political office-bearers and local government administration by barring political office-bearers from holding senior positions in municipalities. In this regard Section 56A (1) of the *Systems Amendment Act*, 2011 provides that a MM or a manager who is directly accountable to a MM may not hold any political office in a political part, whether it is in an acting, temporary or permanent capacity. In addition, Section 57A (3) of the *Systems Amendment Act*, 2011 provides that any staff member who was dismissed for any misconduct may only be re-employed in any municipality after the prescribed period. Furthermore, Mathane (2013:61) avers that the *Systems Amendment Act*, 2011 provided that any staff member dismissed for any type of financial misconduct may not be re-employed in any municipality for a period of ten years.

According to Fourie and Opperman (2011:6), Section 3 of the *MSA*, 2000, provides that municipalities must exercise their executive and legislative authority within the constitutional system of co-operative government. The *MSA* of 2000 further requires that the national and provincial spheres of government must, in terms of Section 41 of the *Constitution*, 1996 exercise their executive and legislative authority in a manner that does not compromise or impede on the municipalities' ability or right to exercise its executive and legislative authority.

Cloete and Thornhill (2005:141) and Fourie and Opperman (2015:6-7) point out that the *MSA*, 2000 provides for the rights and duties for municipal councils. Section 4(2) of the *MSA*, 2000 relates that the municipal council of the municipality has the duty to exercise the municipality's executive and legislative authority and use their resources of the municipality in the best interests of the local community. As well as to provide municipal service without favour or prejudice, and to promote a democratic and accountable local government. The *MSA*, 2000 in

Section 4(2) further encourage municipalities to involve local communities in the affairs of the municipality and to ensure that municipal services are provided to the local community in a financially and environmentally sustainable manner.

Van der Waldt *et al.* (2011:59) state that *MSA*, 2000, could be regarded as the foundation on which the implementation of the local government system is built. Section 5(1)(a) of the *MSA*, 2000 provides that members of the local community have the right to contribute to the decision-making processes of the municipality and submit written or oral recommendations, representations and complaints to the municipal councillor to another political structure or a political office-bearer or the administration of the municipality. While, Section 5(1)(c) of the *MSA*, 2000 indicates that members of the local community have the right to be informed of decisions of the municipal council, or another political structure or any political office-bearer of the municipality, affecting their rights, property and reasonable expectations.

In addition to the above Section 6(2) of *MSA*, 2000 emphasises that the administration of a municipality must be responsive to the needs of the local community; facilitate a culture of public service and accountability amongst officials and councillors and must take measures to prevent corruption. It further outlines the establishment of clear relationships and facilitation of co-operation and communication between it and the local community. Lastly, it proposes giving members of the local community full and accurate information about the level and standard of municipal services they are entitled to receive and informing the local community how the municipality is managed.

Section 16(1)(a) of the *MSA*, 2000 outlines that a municipality must develop a culture of municipal governance that complements formal representative government with a system of participatory governance, and must for this purpose encourage, and create conditions for, the local community to participate in the affairs of the municipality. In this regard Van der Waldt *et al.* (2018:69), states that performance management is critical to the management of a municipality, to ensure that plans are being implemented. Therefore, performance management system must be established in line with the priorities, objectives, indicators and targets contained in the IDP.

According to Fourie and Opperman (2015:72), a MM must in terms of Section 21a of the *MSA*, 2000 must within seven days of the adoption of the oversight report make the oversight report

available to the public. In terms of Section 38 of the *MSA, 2000*, a municipality must administer its affairs in an economical, effective, efficient and accountable manner. While, Section 39 of the *MSA, 2000*, performance management system must measure the performance of the municipality. In terms of Section 11 of the *Local Government: Laws Amendment Act, (Act 19 of 2008)* political office-bearer in the context of local government refers to the speaker, executive mayor, deputy executive mayor, mayor, deputy mayor or a member of the executive committee as provided in the *Municipal Structures Act of 1998*. In this regard Kraai *et al.* (2017:64) maintain that Section 53 of the *MSA, 2000* defines the specific governance roles and areas of accountability of each political structure and political office-bearers. Section 53(5) of the *MSA, 2000* emphasises that when defining the respective roles and areas of responsibility of each political structure and political office-bearer and of the MM, the municipality must determine the relationships among those political structures and political office-bearers and the MM, and the manner in which they must interact. Appropriate lines of accountability and reporting for those political structures and political office-bearers and the MM should be outlined. In this regard Okafor, Matiwane, and Onuigbo (2015:55) argue that the executive mayor accounts to the speaker who is obliged to report to the municipal council which is a body that holds the executive mayor to account for the execution of council decisions.

Siddle and Koelble (2012:101) state that the MM forms part the administration rather than the municipal council. They also point out that the office is a vital one, and together with that of the mayor, provides the link between the municipal council and the administration. In addition, Section 55(1)(a) of the *MSA, 2000* provides that as head of administration the MM of a municipality is, subject to the policy directions of the municipal council, responsible and accountable to the formation and development of an economical effective, efficient and accountable administration. Siddle and Koelble (2012:101) emphasise that the MM; as outlined in Section 56 of the *MSA, 2000* is appointed by the municipal council, as are the managers directly accountable to him or her. A person appointed as a manager in terms of the above sentence must have the relevant skills and expertise to perform the duties associated with the post in question.

Nealer (in van der Waldt *et al.* (2011:178) states that a Code of Conduct for councillors was established in terms of Schedule 1 of the *MSA, 2000* and covers aspects such as general conduct expected of a councillor, attendance at council meetings, disclosure of interests and the use of council property. Cloete and Thornhill (2005:87) show that the preamble of a Code of Conduct

illustrates the role and responsibilities of a councillor. The Code of Conduct states that councillors are elected to represent local communities on municipal councils, to ensure that municipalities have structured mechanisms of accountability to local communities, and to meet the priority needs of communities by providing services equitably, effectively and sustainably within the means of the municipality. Councillors must be accountable to local communities and report back at least quarterly to constituencies on council matters, including the performance of the municipality in terms of established indicators (Taaibosch and Van Niekerk, 2017:12-13). In this regard Raga and Taylor (2005:104-141) maintain that the governing function of the councillors cannot be delegated as councillors are separately or jointly accountable to the different communities they represent.

Nealer, in Van der Waldt *et al.* (2011:178) illustrates that the Code of Conduct for municipal employees applies to every appointed staff member and covers aspects such as general conduct in the loyal execution of a council's executive policy. Schedule 1 of the MSA OF 2000, Section 2, it is points out that a councillor must perform the functions of office in good faith, honestly and a transparent manner and at all times act in the best interest of the municipality and in such a way that the credibility and integrity of the municipality are not compromised. Schedule 2 of the MSA, 2000, Section 2 states that a staff, a member of a municipality must at all times perform the functions of office in good faith, diligently, honestly and in a transparent manner; act in the best interest of the municipality and in such a way that the credibility and integrity of the municipality are not compromised; and act impartially and treat all people, including other staff members equally without favour or prejudice.

Considering the discussion above, there is no doubt that the MSA, 2000 can be seen as a very important Act that accentuates the importance of a democratic and accountable local government. It was further stresses in the discussion that MSA, 2000 requires that the administration of a municipality must be responsive to the needs of the local community and that local government must facilitate a culture of public service and accountability amongst officials and councillors and further must take measures to prevent corruption. The MSA, 2000 further highlighted that that a municipality must develop a culture of municipal governance that complements formal representative government with a system of participatory governance, and must for this purpose encourage, and create conditions for, the local community to participate in the affairs of the municipality. In addition, in terms of Section 38 of the MSA,

2000, a municipality must administer its affairs in an economical, effective, efficient and accountable manner.

2.5.10 Local Government: Municipal Planning and Performance Management Regulations of 2001

Fourie and Opperman (2015:115-116) point out that the Local Government: Municipal Planning and Performance Management Regulations of 2001 (Hereinafter refer to as MPPMR, 2001) promulgated under the *MSA*, 2000 provides that the municipal council of a municipality must on an annual basis appoints and budgeted for a performance audit committee. The MPPMR, 2001 further provides that the performance audit committee must consist of at least three members, of which the majority of the members may not be involved in the municipality in the capacity as a municipal official or as a councillor. The MPPMR, 2001 provides that the performance audit committee must include at least one person who has expertise in performance management. The municipal council must designate a member who is not a councillor or an official of the municipality to serves as the chairperson of the performance audit committee. Furthermore, the performance audit committee must meet at least twice a year, however, special meetings may be called by any member of the committee (Fourie and Opperman, 2015:115-116).

In terms of Regulations 14(4) of the MPPMR, 2001 the performance audit committee must review the quarterly reports submitted to it. The performance audit committee must review the municipalities performance system with a focus on economy efficiency, efficacy and impact and the committee must make recommendations to the municipal council in this regard. The performance audit committee must have access to any municipal records containing information required from the committee to perform its functions. This committee also may communicate directly with the municipal council, internal and external auditors and MM and may request any person to attend any of its meetings to provide information as requested by the committee. The performance audit committee further may investigate any matter as deem necessary to perform the functions and to exercise its powers.

A municipal council may in terms of Regulation 14(2(h)) may instead of appointing its own performance audit committee make use of the relevant district municipalities performance audit committee. Fourie and Opperman (2015:116) further point out the performance audit

committee which is combined into one committee as required in Section 166 of the *MFMA*, 2003 to ensure and promote effective management, oversight and reporting. Thus, the performance audit committee as provided in the MPPMR, 2001 fulfils an important oversight function to promote effective management, oversight and reporting.

2.5.11 Local Government: Municipal Performance Regulations for Municipal Managers and Managers Directly Accountable to the Municipal Manager of 2006

The MSA OF 2000 provides for the employment of MMs and managers accountable to the MM to be on contractual basis. The Local Government Municipal Performance Regulations for MMs and Managers Directly Accountable to the MM of 2006 regulate for such appointment to assist municipalities in giving effect to the provisions of the *MSA*, 2000 (Nkuna and Sebola, 2014:6).

2.5.12 Local Government: Municipal Finance Management (*MFMA*), 2003 (Act 56 of 2003)

Siddle and Koelble (2012:109) write that the *MFMA*, 2003 was enacted in response to the fiscal crisis that had gripped local government almost continuously under the new dispensation. It imposes tighter central control over the administration of municipal finances. Every aspect of financial management; from the operation of bank accounts and preparation of budgets, incurring of debt, general financial management and supply chain management; is closely regulated by *MFMA*, 2003. In this regard Van der Walldt *et al.* (2018:70) state that the vision of the *MFMA*, 2003 is to modernise budget and financial management practices in municipalities with the aim to maximise the capacity of municipalities to deliver services to all their residents, customers and users. It also gives effect to the principle of transparency.

According to Craythorne (2006:249), Section 2 of the *MFMA*, 2003, state that the object of the Act is also to secure sound and sustainable management of the fiscal and financial affairs of municipalities and municipal entities by establishing norms, standards and other requirements. This is done to ensure transparency, accountability and appropriate lines of responsibility in the fiscal and financial affairs of municipalities and municipal entities; to manage their revenues, expenditures, assets and liabilities and the handling of their financial dealings; to do budgetary and financial planning processes and the co-ordination of those processes with the

processes of organs of state in other spheres of government and to handle financial problems in municipalities.

According to Kraai *et al.* (2017:63), Section 23 of the *MFMA*, 2003 requires municipalities to prepare and adopt annual reports to encourage accountability to the communities for services rendered during the year by the municipality. The *MFMA*, 2003, clearly outlines the oversight and accountable duties and responsibilities of the political officials, councillors and municipal officials. The particular oversight and accountable responsibilities in terms of the *MFMA*, 2003 of the political officials, councillors and municipal officials were discussed in Chapter 4 of this study.

Thornhill and Cloete (2014:113) state that the MM is the accounting officer of the municipality in terms of Section 60 the *MFMA* OF 2003. This implies that the accounting officer is personally responsible for the effectiveness of the municipal administration. If financial losses occur due to a weakness in the administration, the loss could be recovered from the MM as the accounting officer of the municipality.

According to Thornhill and Cloete (2014:113), Section 52 of the *MFMA*, 2003, makes provision for the role of a mayor or executive mayor in municipal financial matters by providing general political guidance over the fiscal and financial affairs of the municipality; monitoring and overseeing the exercise of the responsibilities assigned to the accounting officer and the chief financial officer, but may not interfere in the exercise of these responsibilities. In this regard Okafor (2015:55) avers that the roles and responsibilities of the municipal council should always be carried out with a clear distinction between oversight and interference in the administration as defined in Section 52 and Section 103 of the *MFMA*, 2003, as well as the Code of Conduct for Councillors, which is defined in Schedule 1 of the *MSA*, 2000. In addition, the *MFMA*, Circular 32 of 15 March 2005 provides guidance concerning the oversight process that the municipal council must follow when considering the annual report and producing the oversight report of the municipality.

Section 21(1), of the *MFMA*, 2003, provides that the mayor of a municipality must co-ordinate the processes for preparing the annual budget and for reviewing the municipality's integrated development plan and budget-related policies to ensure that the tabled budget and any revision of the integrated development plan and budget-related policies are mutually consistent and

credible. The *MFMA*, 2003, in Section 22(a), indicates that immediately after an annual budget is tabled in a municipal council the accounting officer of the municipality must make public the annual budget and invite the local community to submit representations in connection with the budget. Craythorne (2006:270) points out that if the municipality faces financial problems, the mayor/executive mayor must promptly respond and initiate remedial or corrective measures. The *MFMA*, 2003, Section 27(1), also points out that the mayor of a municipality must, upon becoming aware of any impending non-compliance by the municipality of any provisions of this Act or any other legislation pertaining to the tabling or approval of an annual budget or compulsory consultation processes, inform the MEC for finance in the province, in writing, of such impending non-compliance.

Section 5 of the *MFMA*, 2003, outlines that the accounting officer of a municipality must submit to the National Treasury the relevant Provincial Treasury and the Auditor-General, in writing, the name of the bank where the primary bank account of the municipality is held, and the type and number of the account. If a municipality wants to change its primary bank account, it may do so only after the accounting officer has informed the National Treasury and the Auditor-General, in writing, at least 30 days before effecting the change. The *MFMA*, 2003, Section 10(1), points out that the accounting officer of a municipality must administer the entire municipality's bank accounts; is accountable to the municipal council for the municipality's bank accounts and must enforce compliance with the Act. The *MFMA*, 2003, Section 11(1), stresses that only the accounting officer or the chief financial officer (CFO) of a municipality or any other senior financial official of the municipality acting on the written authority of the accounting officer may withdraw money or authorize the withdrawal of money from any of the municipality's bank accounts, and may do so only to defray expenditure appropriated in terms of an approved budget.

Van der Waldt *et al.* (2018:71) states that the *MFMA*, 2003, differentiates between the role of executive councillors and officials. The executive mayor or executive committee is responsible for policy and outcomes, while the MM and senior managers are responsible for implementation and outputs. The executive mayor or executive committee must oversee the performance of the officials in relation to the budget and service delivery implementation plan and monitor performance through monthly progress reports. Thus, the *MFMA*, 2003, clearly outlines duties and responsibilities of municipal officials and councillors. Furthermore, the *MFMA*, 2003, makes provision for the oversight role of a mayor or executive mayor in

municipal financial matters. It was also emphasised that the *MFMA*, 2003 provides that the municipal management as the accounting officer of the municipality is not only accountable to the municipal council for financial matters but that the MM is personally responsible for the effectiveness of the municipal administration. It means that if financial losses occur due to a weakness in the municipal administration, the loss could be recovered from the MM as the accounting officer of the municipality.

In terms of Section 81 of the *MFMA*, 2003, the Chief Financial Officer (CFO) is the head and in charge of the Budget and Treasury Office (BTO) of the municipality. The CFO is responsible for advising the municipal manager concerning the assigned powers and duties; assisting the municipal manager concerning the administration of the municipality's bank accounts; assisting the municipal manager with the preparation and implementation of the municipality's budget; and providing advice to senior managers and other senior officials in the exercise of powers and duties assigned to them in terms of the Act or delegated to them by the municipal manager.

According to Sibanda (2017:313), Section 165 of the *MFMA*, 2003 compels municipalities to establish internal audit units to exercise effective financial control. In terms of Section 166 of the *MFMA*, 2003, each municipality and municipal entity is required to establish an audit committee as a committee of the municipal council. MPACs, established in terms of Section 79 of the *Municipal Structures Act*, 1998, must perform an oversight function, which includes financial oversight, on behalf on the municipal council. The roles and responsibilities of the mayor or executive mayor, MM, CFO, and audit committees, were discussed in detail in Chapter 3 and Chapter 4 of this study.

2.5.13 Local Government: *Municipal Fiscal Powers and Functions Act*, 2007 (Act 12 of 2007)

According to Siddle and Koelble (2012:84), the *Local Government: Municipal Fiscal Powers and Functions Act* (herewith after referred to the *Municipal Fiscal Powers and Functions Act*, 2007) is intended to give effect to the provisions of Section 229 of the *Constitution*, 1996 which permits the imposition by municipalities of surcharges on fees and, if authorised by national legislation. The Act also provides for the authorisation of taxes, levies and duties that municipalities may impose under Section 229(1)(b) of the *Constitution*, 1996 (Nkuna and

Sebola, 2014:6). Siddle and Koelble (2012:163) note that to date, no additional tax has been authorised under this Act.

2.5.14 Local Government: Municipal Property Rates Act, 2004 (Act 6 of 2004)

The *Local Government: Municipal Property Rates Act*, (Act 6 of 2004) (herewith after referred to as the *Municipal Property Rates Act*, 2004) was enacted to regulate the power of municipalities to impose rates on property for revenue generation. Certain properties that are for national interest are excluded. In implementing the provisions of the Act, municipalities are required to be transparent and apply a fair system of exemptions as well as reductions and rebates through their rating policies. The Act further makes provision for objections and appeals process whereby property owners may make submissions (Nuka and Sebola, 2014:6; Fourie and Opperman, 2015:12).

Khalo (2011:193) outlines that the *Municipal Property Rates Act*, 2004, provides for municipalities to levy a rate on all properties in their areas. It sets out specific categories of property and allows for different rates to be levied on different properties. The minister of finance may issue guidelines to assist municipalities in the exercise of their power to levy. Siddle and Koelble (2012:83) indicate that income derived from property rates is a critical source of revenue for municipalities to achieve their constitutional objectives. The Act insists that it is essential that municipalities exercise their power to impose rates within a statutory framework that enhances certainty, simplicity and uniformity.

2.5.15 Intergovernmental Fiscal Relations Act, 1997 (Act 97 of 1997)

Nkuna and Sebola (2014:5) indicate that the Intergovernmental Fiscal Relations Act, 1997 seeks to promote co-operation between the national, provincial and local spheres of government on fiscal, budgetary and financial matters through prescribing a process for determining equitable sharing and allocation of revenue raised nationally. The *Intergovernmental Fiscal Relations Act*, 1997 makes provision for the establishment of the Local Government Budget Forum to consult on any fiscal, budgetary and financial matters which affects local government. The Act also makes provision for the Local Government Budget Forum to consult on any proposed legislation or policy which has a financial implication for local government or any matter concerning the monitoring of finances of local

government (Khalo in van der Waldt *et al.* 2018:227; Thornhill and Cloete, 2017:86; Fourie and Opperman, 2015:16-17).

Local government has a share in the revenue raised nationally and it is through this legislation that co-operation among the spheres of government is regulated in respect of sharing such revenue. In this regard, Section 8 of the *Intergovernmental Fiscal Relations Act, 1997*, provides for the process of sharing nationally raised revenue among the national, provincial and local spheres of government. In terms of Section 214(1)(a) of the *Constitution, 1996* makes provision for the division of the provincial share among the provinces. While, Section 214(1)(b) makes provision for any allocation of national raised revenue to the provincial governments. While, Section 214(1)(c) of the *Constitution, 1996* makes provision for the allocation of nationally raised revenue to local government.

2.5.16 *Intergovernmental Relations Framework Act, 2005 (Act 13 of 2005)*

The *Intergovernmental Relations Framework Act, 2005* (herewith after referred to as *IRFA, 2005*) give effect to the constitutional obligation of co-operative governance. Taaibosch (2015:47) explains that the primary objective of co-operative government is to promote effective and efficient co-operation between the three spheres of government. Taaibosch (2015:47) further avers that co-operative governance requires that the three spheres of government co-ordinate and consult with each other concerning strategic planning processes, promote and facilitate co-operative decision making and ensure that policies and activities across all spheres encourage service delivery and meet the needs of citizens in an effective manner.

Section 4 of the *IRFA, 2005* provides within the principle of co-operative government a framework for the three spheres of government, and all organs of state within those governments, to facilitate co-ordination in the implementation of policy and legislation. Section 6(1) of the *IRFA, 2005* indicates that the President's Co-ordinating Council was established consisting of the President and the Deputy President; the Minister in the Presidency; the Minister; the Cabinet member responsible for finance; the Cabinet member responsible for the public service; the Premiers of the nine provinces; and a municipal councillor designated by the national organisation representing organised local government. The President is the chairperson of the Council.

Section 7 of the *IRFA*, 2005 outlines that the President's Co-ordinating Council is a consultative forum for the President to raise matters of national interest with provincial governments and organised local government. It is also a forum to hear their views on those matters and to consult provincial governments and organised local government on the implementation of national policy and legislation in provinces and municipalities.

According to Thornhill and Cloete (2014:49), Section 16 of the *IRFA*, 2005 provides that a Premier's Intergovernmental Forum was initiated to promote and facilitate intergovernmental relations between the province and local governments in the province. Section 17, of the *IRFA*, 2005, outlines that a Premier's Intergovernmental Forum consists of the Premier of the province; the member of the Executive Council of the province who is responsible for local government in the province; any other members of the executive council designated by the premier; the mayors of district and metropolitan municipalities in the province; the administrator of any of those municipalities if the municipality is subject to an intervention in terms of Section 139 of the Constitution; and a municipal councillor designated by organised local government in the province. The Premier is the chairperson of the forum.

Section 18 of the *IRFA*, 2005, provides that the Premier's Intergovernmental Forum is a consultative forum for the Premier of a province and local governments in the province to discuss and consult on matters of mutual interest, including the implementation in the province of national policy and legislation affecting local government interests; matters arising in the President's Co-ordinating Council and other national intergovernmental forums affecting local government interests in the province.

The *IRFA*, 2005, Section 24 informs that there is a District Intergovernmental Forum to promote and facilitate intergovernmental relations between the district municipality and the local municipalities in the district. Section 25(1) of the *IRFA*, 2005, outlines that a district intergovernmental forum consists of the mayor of the district municipality; the mayors of the local municipalities in the district or, if a local municipality does not have a mayor, a councillor designated by the municipality; and the administrator of any of those municipalities if the municipality is subject to an intervention in terms of Section 139 of the *Constitution*, 1996. The *IRFA*, 2005, Section 26 (1) states that the role of a district intergovernmental forum is to serve as a consultative forum for the district municipality and the local municipalities in the district to discuss and consult each other on matters of mutual interest. Matters of shared

interest include draft national and provincial policy and legislation relating to matters affecting local government interests in the district (Thornhill and Cloete, 2014:50).

2.5.17 National Treasury *MFMA*, 2003 Circular 32, 2006 and guidelines for establishment of Municipal Public Accounts Committees (MPACs) of 2012

National Treasury, *MFMA*, 2003 Circular 32, 2006 and the Guidelines for Establishment of MPACs, prepared by the Department of Co-operative Governance and Traditional Affairs (CoGTA) and South African Local Government Association (SALGA) provides guidelines concerning the establishment, composition, roles, functions and duties of Municipal Public Accounts Committees (MPACs). According to Khalo (2013:589), in the past municipalities did not fall within the remit of the Public Accounts Committees and at some point parliament used to refer audit reports of municipalities to a separate committee such as the Portfolio Committee on Provincial and Local Government Affairs (currently known as Co-operative Governance and Traditional Affairs). This meant that SCOPA did not, in the past, exercise financial oversight on municipalities in South Africa and further implication was that the void created by an absence of an oversight mechanism in this sphere of government accounted for the concomitant and sporadic mismanagement of funds, corruption and other unethical practices, hence the need to establish MPACs to ensure accountability. Khalo (2013:589) further indicates that the key functions of accountability and oversight in municipal financial management is to improve performance and service delivery, safeguard against corruption, mismanagement of resources and abuse of power, as well as improve integrity and confidence in local government. The committee system as provided in Section 79 of the Municipal Structures Act, 2003 is used to support and enhance council oversight function and MPACs performs the council's oversight role over municipal finances. For the purpose of this study the functions of the MPAC was discussed in detail in Chapter 3 of this study.

2.5.18 National Treasury, *MFMA*, 2003 Municipal Supply Chain Management (MSC) Regulations (27636 of 2005) and National Treasury, Guide for Accounting Officers of Municipalities and Municipal Entities, 2005

National Treasury published the Municipal Supply Chain Management (SCM) Regulations (27636 of 2005) in terms of the *MFMA*, 2003. The Municipal SCM Regulations, 2005 outlines the responsibilities, powers of certain officials of the municipality at the discretion of the

municipal manager. In terms of the Chapter 1 of the National Treasury, Guide for Accounting Officers of Municipalities and Municipal Entities, 2005) every municipality and municipal entity must adopt and implement a Supply Chain Management (SCM) policy, which gives effect to Section 217 of the *Constitution*, 1996. This means that the MM needs to ensure that the SCM policy in place is implemented in a manner that is fair, equitable, transparent, competitive and cost effective and bidders should be treated fairly, without bias, favouritism. Section 1 of the Code of Conduct for SCM Practitioners as contained in the National Treasury, Guide for Accounting Officers of Municipalities and Municipal Entities, 2005 requires SCM officials to act in the public interest and not perform their duties to gain any unlawful form of compensation, payment or gratuities from any person, or supplier for themselves, their family or their friends. The Code of Conduct for SCM Practitioners further requires that municipal officials responsible for SCM should ensure that they perform their duties effectively, effectively and with integrity, in accordance with the relevant legislation and regulations and ensure that public resources are administered responsibly. Section 3 of the Code of Conduct requires from SCM practitioners to be accountable for their decisions and actions to the public, as well as to use public property scrupulously. Only accounting officers or their delegates have the authority to commit the government to any transaction for the procurement of good and services. All transactions conducted by a practitioner should be recorded and accounted for in an appropriate accounting system (National Treasury, Guide for Accounting Officers of Municipalities and Municipal Entities 2005; Fourie 2018:732).

.2.5.19 Division of Revenue Act (DoRA)

The annual *Division of Revenue Act*, (*DoRA*) provides for the equitable division of revenue raised nationally among the national, provincial and local spheres of government for their annual budgets and the responsibilities of all three spheres pursuant to such a division, and to provide for matters connected with it (Nkuna and Sebola, 2014:6; Yearbook, 2009:218). The annual *DoRA* is enacted each year to determine the equitable share to be allocated to all government spheres and government entities including local government. The amount allocated in terms of *DoRA* is an indication of the applicable current financial year, but it is also an indicative of the allocations for the next two financial years as provided in the Medium-Term Expenditure Framework (Nkuna and Sebola, 2014:6; Yearbook, 2009:218; Chetty, 2015:25).

2.5.20 Delivery Agreement for Outcome 9: A Responsive, Accountable, Effective and Efficient Local Government System

According to the AGSA General Report on Local Government Audit Outcomes of 2016/2017 (2017:12), the Medium-Term Strategic Framework derived from the National Development Plan (NDP) provides the overall outcome for local government which is known as outcome 9 to be a responsive, accountable, effective and efficient developmental local government system. Therefore, outcome 9 is the target that municipalities are striving to achieve, with support of national and provincial government and oversight.

The Delivery Agreement for Outcome 9 (DPLG 2010:5) outlines that government has agreed on 12 outcomes as a key focus of local government. Each outcome has a limited number of measurable outputs with targets. Each of the 12 outcomes has a delivery agreement which in most cases involve all spheres of government and a range of partners outside government. Combined, these agreements reflect government's delivery and implementation plans for its foremost priorities up to 2014.

The Delivery Agreement for Outcome 9 (DPLG, 2010:5), is a negotiated charter which reflects the commitment of the key partners involved in the direct delivery process to working together to undertake activities effectively and on time to produce the mutually agreed-upon outputs which in turn will contribute to achieving outcome 9. The delivery agreement provides detail to the outputs, targets, indicators and key activities to achieve outcome 9, identifies required inputs and clarifies the roles and responsibilities of the various delivery partners.

The Delivery Agreement for Outcome 9 (DPLG, 2010:6) further notes that challenges at municipalities range from issues of poor governance and accountability, weak financial management, high vacancies in critical senior management posts and in a number of instances, an inability to deliver even a core set of critical municipal services efficiently and effectively. Crucially as many as 5.7 million households did not have universal access to water, sanitation; refuse removal and electricity in 2007. All these challenges combined have shattered the confidence of the majority of citizens in the local government system.

The Delivery Agreement for Outcome 9 (DPLG, 2010:6) envisages addressing seven critical issues in order to achieve the overarching goal or vision of a responsive, accountable, effective

and efficient local government system. The agreement proposes to develop a more rigorous, data driven and detailed segmentation of municipalities that better reflect the varied and capacities and contexts within municipalities to lay the basis for a differentiated approach to municipal financing, planning and support. As well as to ensure improved access to essential services; to initiate ward-based programmes to sustain livelihoods; and to contribute to the achievement of sustainable human settlements. It also intends to strengthen participatory governance and administrative and financial capability of municipalities.

The Delivery Agreement for Outcome 9 (DPLG, 2010:7) identified a core of National Departments that have a direct impact on municipalities. The core departments together with CoGTA are National Treasury, Water Affairs, Human Settlements, Energy, Rural Development and Land Reform, The Presidency and Environment. These departments will have to establish a closer working relationship to jointly tackle the co-ordination of infrastructure funding to unlock delivery of services and the co-ordination of human settlement planning and service delivery planning. The Delivery Agreement for Outcome 9 (DPLG, 2010:80) indicates that a key role of the provinces in the implementation of outcome 9 is to undertake critical support, monitoring, and reporting roles based on their provincial-specific municipal implementation support plan related to the outputs and targets. The agreement includes the alignment with the national government approach and national delivery agreement and similarly undertake the applicable actions at a provincial level.

According to the Delivery Agreement for Outcome 9 (DPLG, 2010:80), provinces should allocate more and appropriate resources towards the local government function, encourage better spending and outcomes in municipalities and promote alignment and resource commitments of provincial departments in IDPs. Provinces are urged to improve support and oversight of municipalities; as well as monitoring and reporting on the implementation of targets and activities. Lastly, the Delivery Agreement for Outcome 9 (DPLG, 2010:8) identifies municipalities as the key delivery partners in the field of implementation.

In light of the above, the Auditor-General, Report on Local Government Audit Outcomes of 2016/2017 (2017:12-13) raises a concern that accountability (as provided in outcome 9) continues to fail in local government. The reason for this is that only a total of 33 (13%) municipalities managed to produce quality financial statements and performance reports and to comply with legislation (clean audit report), while the audit outcomes of 45 municipalities

regressed (of which 17 municipalities were from a clean audit status) and only 16 municipalities improved. One could argue that if local government and in particular municipal councils of municipalities are not committed to the achievement the targets of outcome 9, oversight and accountability will remain a challenge.

2.5.21 National Development Plan (NDP), 2030

The NDP, released in August 2012, characterise the belief of South Africa being a developmental state. It significantly extends the planning beyond the five-year medium-term span of the existing departmental five-year strategic plans and aims to strengthen policy coherence. The NDP aims to mobilise all South Africans to eliminate poverty and reduce inequality by 2030 (Mphaisha, 2014:77).

Mphaisha (2014:77) indicates that the NDP provides for 13 focus areas underpinned by 119 specific actions. The focus areas, among others, are economy and employment, safer communities, combating corruption and building a capable and developmental state. The NDP is based on governmental intervention in the production of goods and services. The government seeks to achieve a fundamentally transformed economy by 2030 through government intervention policy strategies. The NDP calls for the tightening of the accountability chain. An important step towards this is to ensure that all activities necessary to implement a programme are clearly spelt out including the timeframe and responsibility for implementation, as well as oversight and monitoring mechanisms that will help identify blockages (The NDP Executive Summary, 2012:1).

The NDP Executive Summary (2012:1) further stresses that to achieve the aspiration of a capable and developmental state, the country needs to enhance parliament's oversight role, stabilize the political-administrative interface, professionalise the public service, upgrade skills and improve co-ordination. It also needs a more pragmatic and proactive approach to managing the intergovernmental system to ensure a better fit between responsibility and capacity. Equally, the state needs to be prepared to experiment, to learn from experience and to adopt diverse approaches to reach common objectives (The NDP 2030: Executive Summary, 2012:1).

The NDP re-emphasises that accountability is essential to democracy. It points out that there are several weaknesses in the accountability chain, with a general culture of blame-shifting.

The accountability chain has to be strengthened from top to bottom. To begin with, parliamentary accountability is weak, with Parliament failing to fulfil its most basic oversight role. The rising number of service delivery protests indicates that the state also needs to make it easier for citizens to raise concerns. Accountability in state-owned enterprises has been blurred through a complex, unclear appointment process and, at times, undue political interference. The NDP in conclusion recommends clarifying lines of accountability by developing public-interest mandates that set out how each state-owned enterprise serves the public interest, ensuring appointment processes are meritocratic and transparent, and improving co-ordination between the policy and shareholder departments (The NDP 2030: Executive Summary, 2012:1-2).

In light of the above discussion, concerning the statutory and legislative framework and policy guidelines to promote oversight and accountability, it was argued in Chapter 1, Section 1.10.2 that despite many legislative prescripts, structures and mechanisms the continued poor audit reports of all municipalities in the Free State province is a threat in promoting effective oversight and accountability in municipalities.

2.6 THE ROLE OF SOUTH AFRICAN LOCAL GOVERNMENT ASSOCIATION (SALGA)

Cloete (1997:169) indicates that on 21 November 1996, between 2000 and 3000 people, mostly members of municipal councils, attended a conference in Durban where it was agreed to establish the South African Local Government Association (SALGA). SALGA (2012:24) points out that SALGA was recognised by the Minister of Constitutional Development (now CoGTA) as the national organisation representing local government from January 1997. The organisation was established as a voluntary body representing all municipalities and 9 provincial Local Government associations. SALGA's official status stems from its recognition by the Minister. SALGA's role in terms of legislation is to represent the interests of its constituent members. SALGA does not have statutory executive authority over its members. SALGA's power over its members stems from its constitution.

The *Organised Local Government Act, 1997* (Act 52, 1997), (herewith after referred to as the *Organised Local Government Act, 1997*), recognises SALGA as representative of organised local government. According to Cloete and Thornhill (2005:218), the principal function of

SALGA is consultation with the national and the provincial governments. The Act allows organised local government to designate up to ten part-time representatives to the NCOP in the national Parliament, and to further nominate two persons to the FFC, which advises the Finance Ministry on budget issues.

Venter (2011:86) specifies that SALGA with its nine local government associations, represents organised local government in South Africa. SALGA participates in intergovernmental structures and can influence national and provincial legislature and to measure the impact of such legislation on local government. Thornhill and Cloete (2014:169) assert that SALGA constitution provides that the objectives of the SALGA are, among others, to represent, promote and protects the interest of local government, to transform local government to enable it to fulfill its developmental role and to enhance the role and status of municipalities.

SALGA is a Schedule 3A Public Entity, recognized in terms of the *PFMA*, 1999 and as such reports to the Minister of CoGTA. SALGA is funded through a combination of sources including a national government grant, membership levies from municipalities, and project specific funds from the international donor community (SALGA, 2012:24). From as far back as 1999, SALGA has demonstrated a political preference for a unitary structure for organised local government, that is, one structure that is governed through a constitution as one unit. SALGA has been thinking and deliberating that for organised local government to be representative, it needs to speak with one voice. For this to happen, there should not be an institutional/organisational distinction between SALGA and the 9 provincial organisations. Hence, the view within SALGA has been that organised local government should be contained in one body, i.e. SALGA, and that the 9 provincial organisations should merge into SALGA (SALGA, 2012:24).

The role of SALGA is to make a contribution to the development of municipalities throughout the country, through the provision of specialized services to supplement and strengthen the capacity of municipalities; research and information dissemination; facilitating shared learning between municipalities; human resource development and councillor training (SALGA, 2012: 24). The training of municipal councillors will not be the responsibility of the Local Government Sector Education and Training Authority (LGSETA). It is envisaged that SALGA will play a major role in councillor training, and that an intensive councillor training

programme will be required to coincide with the election of new municipal councillors (SALGA, 2012:24).

2.7 INTERNATIONAL BEST PRACTICES, MODELS OR FRAMEWORKS OF OVERSIGHT AND ACCOUNTABILITY OF LOCAL GOVERNMENT

To complete this research study, it is imperative to add a subsection on international best practices on oversight and accountability at local government sphere. For this purpose, best practices, models or frameworks of oversight and accountability of local government in countries such as Britain, Botswana, Namibia, Kenya, Malawi, China and Brazil and are briefly discussed. Britain has cultural and economic links with South Africa. As former colonies of Britain; South Africa and Kenya are members of the Commonwealth. The membership of this body is reserved for former colonies of the Great Britain.

Botswana and Namibia are neighbours of South Africa and have (thus far) proven to be stable democracies with no known recent local government service delivery protests. China and Brazil are members of the BRICSA (Brazil, Russia, India, China and South Africa). BRICS is an emerging international economic block, which includes South Africa as a member. China is also aggressively expanding its economic and political influence over many countries in Africa. It will therefore be of interest for this research project to note how they these countries deal with concepts of oversight and accountability at their respective local governments.

This international best practices of oversight and accountability was taken into consideration with the development of the proposed oversight and accountable framework for municipalities of the Free State province.

2.7.1 Britain: A shared services model for local government to enhance oversight and accountability

According to Guerin, McCrae and Shephard (2018:3), there are weaknesses in the United Kingdom (UK) system of accountability both nationally and local which contributes to failures and it undermines the trustworthiness of public institutions. Guerin *et al.* (2018:7-8) argue that accountability is indicative of good governance and that relationships are at the heart of accountability. These relationships include:

- Oversight entails that that one side must overseeing the other by means of direct reporting lines of performance.
- Regulation requires that one side regulating the other by means of setting and enforcement of regulations and rules.
- Inspection entails that one side inspecting the other by assessing their performance.
- Scrutiny entails that one side scrutinising the other by means of reports on what has happened.

Although there are many systems in place committees fulfil a key role in holding government to account. Guerin *et al.* (2018:7-8) further aver that there are four key aspects of robust accountability in the UK, which is applicable to national and local government, namely:

- Clarity of accountability requires that there must be structures and to whom individual or institutions are accountable;
- Appropriateness of control requires that people must be held accountable in a fair manner;
- Sufficiency of information entails that there must be suitable and relevant information available to judge whether accountability and responsibilities have been performed.
- Clarity of consequences means that there must be consistency concerning sanctions and penalties that flow from the process to hold people to account for failure to perform.

Except for the above four key aspects to promote robust accountability nationally and locally the United Kingdom (UK) introduced a shared service model or system in local government to promote accountability. In this regard Johnson and Williams (2017:2) explain that a shared services model involves the consolidation and standardization of common tasks and services across different organisations or parts of an organisation into a single services center (Bergeron, 2003 in Johnson and Williams, 2017:3). In addition, Johnson and Williams (2017: 2) further explains that people often see shared services as being synonymous with outsourcing, which is not correct. Outsourcing is only one way in which local authorities may choose to share services, but there are many forms of collaboration between local councils which do not involve outsourcing to the private sector.

Sandford (2015:3) points out that an increasing number of local authorities in the UK are making use of schemes to shared service. Some of these have taken the form of shared services or shared staff between a number of local authorities, not always those bordering one another. The best known of these shared services include the Tri-Borough arrangements between Hammersmith and Fulham, Westminster, and Kensington and Chelsea local authorities.

Sandford (2015:4) further asserts that the legislative authority for local authorities to share services is the Local Government Act, 1972. In particular, Section 112 of Local Government Act, provides that local authorities may appoint officers to enable them to discharge their own functions and any functions they carry out for another local authority. In terms of the Local Government Act, 1972, Section 113, a local authority may enter into an agreement with another local authority to place its officers at the disposal of the other local authority, subject to consultation with the officer concerned about any changes in terms and conditions. Section 1 of the Local Authorities (Goods and Services Act) 1970 enables a local authority to enter into an agreement to provide another local authority with goods and services, including administrative, professional or technical services. Gospel and Sako, 2010; Strikwerda, 2014, in Dixon and Elston (2017:3) aver that shared services are adopted in many local authorities around the world, including in the United States of America (USA), UK, Ireland, and in regional governments in Canada, Belgium, and Australia.

Sandford (2015:5) argues that there are clear financial benefits from sharing services amongst local authorities that leads to staff reductions and by cutting out unnecessarily duplications. Sharing services are more acceptable than outsourcing of services to most local councils. One of the reasons for this is that the local council can retain more control over the shared service than an outsourced service. If an outsourced service failed the local council has to find a different way of providing that particular service such as by either taking the service back or by finding another service provider. Through the level of control and influence a municipal council has over a shared service it can be argued that a shared service provides a level of flexibility which an outsourced service does not provide.

In light of the above, Johnson and Williams (2017:2) maintain that the primary reason that local councils have chosen to share services was to reduce costs, to avoid duplications, to optimize greater service consistency and to reduce the local council's dependence on other service providers. Sharing services among local councils have clear benefits such as financial

benefits. Other benefits include the following, to consolidating structures, integrating IT services, reducing buildings and costs, and improving and reducing staff procurement. However, achieving these requires effective planning and implementation, as well as political and managerial leadership. Johnson and Williams (2017:2) are further of the view that successful sharing of services requires a clear understanding of existing practice within potential partner local authorities. Shared services rely on evidence-based analysis of the specific outcomes and improvements that sharing services can deliver. It also requires a thorough assessment of the costs and potential cost savings. Thus, there are many benefits for local councils to shared services with other local councils, however it requires effective planning and implementation, as well as political and managerial leadership. By sharing services local council can retain more control over the shared services than an outsourced service.

2.7.2 Local government in Botswana: central government oversight and accountability

Botswana has a commendable track record regarding the growth and functioning of local government in the African context (Sharma, 2010:3). It has a conducive and enabling democratic political environment in which local government can develop. There is peace, stability and the rule of law across the country. There is also freedom of expression, criticism and opposition. Public participation in public policy making, development planning and implementation has grown steadily (Sharma, 2010:3).

Sebudubudu (2010:16) argues that unlike most countries in Africa, Botswana has enjoyed relative political stability unsurpassed by any on the African continent, which is a rare achievement. It is this stability that attracted relative Foreign Direct Investment (FDI) and at the same time ensured the country placed its scarce resources in productive sectors such as health, education, water provision and building of infrastructure.

Sharma (2010:1) indicates that Botswana is known as a country in Africa which has operated within the political framework of democracy since independence and has promoted local government as an instrument of decentralization and public participation for local level governance and service delivery. Local government in Botswana stands on four pillars: Councils (City Councils, Town Councils and District Councils); District Administration, headed by District Commissioners; Land Boards, created after independence for allocation of

tribal land; and tribal administration, headed by Chiefs as traditional leaders (Sharma, 2010: 1).

Kaunda (2009:134) indicates that local authorities in Botswana are not independent of central government, the Ministry of Local Government exercises considerable control through financial administration and human resource management provisions. The ministry is the focal point for planning and co-ordinating local authorities. It retains the power of final approval over most activities of local authorities. The proportion of public servants employed by local authorities is quite significant.

Lekorwe (1998:71) points out that in its strictly political sense; decentralization refers to the transfer of powers and responsibilities to elected local governments, to exercise a significant measure of local autonomy. The main emphasis that flows from this definition is responsiveness and accountability. In this sense Botswana decentralized governments are closer to the people as consumers of services. They are therefore better able to make choices that reflect the needs and priorities of the people. It is also easier and more convenient to hold locally elected representatives and officials accountable than those at the centre.

Kaunda (2009:134) points out, is that the Ministry of Local Government staffing bill is 14 per cent of total public expenditure. The recruitment, hiring, deployment, disciplining, promotion and regulation of the conditions of service of senior staff in the local government councils is centralised at the Ministry of Local Government (MLG). The government justifies centralised recruitment on the basis that it ensures that the councils get equal access to scarce manpower and that it minimises the possibility of corruption. However, the local authorities have responsibility for employing very low-level staff such as cleaners, gardeners, etc.

Kaunda (2009:134) stresses that the national government controls, directs, supervises and provides guidance on matters at the national level. It maintains a function of national interest that local government cannot undertake. Government distributes revenue based on the needs of every local authority as presented in the local authorities' budget estimates. The national government closely monitors local authority expenditures. The disbursement of funds for district level projects is done by the centre, just as the monitoring and evaluation of development projects is. Kaunda (2009:134) further points out that local authorities are accountable to the Ministry of Local Government, to which they are required to submit reports

on their projects. The Ministry of Local Government is in turn accountable to the Ministry of Finance and Development Planning for local authority expenditures and progress of implementation.

Du Toit, (in Lekorwe 1998:74) points out that all local authorities in Botswana exist by virtue of ordinary Acts of Parliament and, at least in theory, any of them could be abolished at any time by Parliament. Local authorities are not included in the Constitution and, consequently, they have no inherent competence derived from the Constitution. That makes Botswana a unitary state with Parliament having sovereign power with full competence in all areas of jurisdiction. Legislative authority is vested in Parliament, which consists of the National Assembly, the House of Chiefs, and the President.

Kaunda (2009:134) adds by indicating that all financial power rests with the central government, except to the extent that the central government may delegate any financial control to the organs of local government. Therefore, the central government retains the right to keep a very close watch and control over any financial authority granted to the various branches of local government. Central government may intervene if it so wishes, may withdraw any delegated authority and may delay any recommended changes in financial administration.

Sebudubudu (2010:17) indicates that there is no doubt that democratic governance steered Botswana's development agenda during the most critical stages of the country's development process. It created institutions such as the Auditor-General that ensured good usage of government resources by producing highly critical reports that were used by the Public Accounts Committee (PAC) of parliament. This ensured relative transparency and accountability in government and in the process was able to contain the kind of corruption that ravaged most African countries and thus discouraged investment and in turn development in such countries. The mechanisms of national government monitoring of local government include the enforcement of the Finance and Audit Act (discussed in Chapter 4) and other technical controls. For example, the department of Local Government Technical Services was established in 2006 to improve project implementation and accountability by local authorities (Kaunda, 2009: 134). The Local Authorities Public Accounts Committee (LAPAC) was established in 1999 to improve accountability. The functions and powers of LAPAC are to examine the accounts of every district council, city council, town council, township authority and land board, and to report on such accounts, financial statements and audits to the minister.

LAPAC is responsible for enforcing performance in the implementation of projects and programmes, submission of monthly financial and management statements, and final accounts (Kaunda, 2009:134).

Kaunda (2009:134) notes that elections have been held in a free and fair manner and serve to legitimise the councillors. Local authorities do not formulate policies or set standards for performance. These are functions of central government. There is a relatively high level of centralisation of public policy making and public sector management, and local authorities are merely implementers of central government policies, the centrally determined development plans and annual budgets.

Sebudubudu (2010:17) avers that Botswana has largely avoided such kind of corruption to the extent that it is classified as the least corrupt country in Africa by Transparency International. Transparency International produces a yearly Corruption Perception Index (CPI) in which countries are ranked on the basis of either being more or least corrupt on a scale that ranges from 1 to 10. The closer the country is to 1 the more corrupt it is and the closer it is to 10 it is regarded as least corrupt. In fact, in terms of the Transparency International CPI, Botswana is well ahead of developed countries such as Italy.

Sebudubudu (2010:18) indicates that as a way of demonstrating its commitment to transparency and accountability, the Botswana state has created other oversight institutions notwithstanding their limitations. Such institutions included the Directorate on Corruption and Economic Crime (DCEC), and the Ombudsman. The DCEC's principal mandate is to investigate, prevent and teach the public on the dangers of corruption. Since its creation in 1994, the DCEC has so far fallen short of realizing its mandate owing to limited resources and lack of independence. It also lacks the power to prosecute.

From the above discussion, it is clear that the Local Authorities Public Accounts Committee (LAPAC) was established with the aim to improve accountability. LAPAC are responsible to examine the accounts of every district council, city council, town council, township authority and land board, and to report on such accounts, financial statements and audits to the minister. Botswana state has created other oversight institutions notwithstanding their limitations. The Directorate on Corruption and Economic Crime (DCEC), and the Ombudsman was also established to promote oversight and accountability of local government in Botswana.

2.7.3 Namibia: A hybrid of autonomous and centrally dependent local municipality oversight and accountability arrangement

Töttemeyer (1997:118) states that although local authorities in Namibia are independent bodies, certain actions such as budgeting and decisions on regulations and assessment rates can only be taken after consultation with the Ministry of Regional and Local Government and Housing. Töttemeyer (1997:118) points out that local authorities range from those which are independent and autonomous, to those which are fully dependent on central government support. The Namibian Constitution does not refer to any degree of autonomy for local authorities, nor to any powers to be allocated to and exercised by such bodies.

According to Töttemeyer (1997:118), the promulgation of the Namibia: Local Authorities Act, 1992 (Notice 23 of 1992) provides the parameters in terms of which towns and villages could formally be constituted across the country. The Local Authorities Act, 1992 provides for the establishment of local authority councils, and determines their powers, duties and functions. Töttemeyer (1997:118) indicates the main responsibilities of central government towards local authorities are to assist them to perform their duties and functions efficiently by providing the necessary resources and training; formulate, direct and co-ordinate overall national policies; control town planning, and survey land leading to the proclamation of towns; devise and develop a national town-development strategy, and provide for the establishment of local authority councils and control the administration of such councils.

Gerhart (1997:124) maintains that Article 102 of the Namibian Constitution states that, for the purpose of Regional and Local Government, Namibia will be divided into regional and local units, which will be governed by elected councils. Local authorities range from those which are independent and autonomous, to those which are fully dependent on central government support. The Namibian Constitution does not refer to any degree of autonomy for local authorities, or to any powers to be allocated to and exercised by such bodies. According to the Local Authorities Act, Section 32(1), a local authority council may enter into an agreement with the government of Namibia, with one or more other local authority councils or with any regional council providing for the exercise or performance, on such terms and conditions as may be agreed upon.

Gerhart (1997:134) points out that soon after its inauguration, the Government decided that the Namibian unitary state would ultimately devolve responsibility, authority and resources and/or resource bases in accordance with the criteria relating to functions to be decentralised, and the timing and pace of such decentralisation. The pace and content of devolution will have to take into account political and technical feasibility, system and individual capacity, as well as the national macroeconomic and fiscal environment, and public sector and economic reform policies and activities in the country.

Ministry of Regional and Local Government and Housing (2000:3) outline certain functions under the Namibian Constitution. The following functions are vested in Regional Councils in terms of Article 108 of the Namibian Constitution. In exercising its oversight functions, Article 108 of the Namibian Constitution states that a regional council has the power to receive and peruse minutes of local councils within its jurisdiction, together with the relevant agenda and any related documents and reports. This enables a regional council to appraise the decisions of local authority councils within its area and to take appropriate corrective measures when needed. This enables regional councils to offer any useful and reasonable advice to the local authority council pertaining to project identification and function.

Gerhart (1997:134) explains that for decentralisation to be implemented effectively, the government will affect organisational and institutional change at national, regional and local level, while identifying the functions and individual, organisational, institutional and system-wide capacities available or requiring to be developed. There will also be legislative and other rationalisation, to bring the law in line with the decentralisation policy. Gerhart (1997:134) further indicates that the Cabinet Memorandum of 9 June 1998 specifies that all delegated functions and services should be administered as a trust by the Regional Councils and local authorities, who would be fully accountable for such trust. The above memorandum also draws attention to the fact that the overall and ultimate responsibility for the delegated functions and services remains with the respective sector's line ministry.

Ministry of Regional and Local Government and Housing (2000:3), states that central government Ministries have additional responsibilities in relation to decentralised functions such as provision of technical advice and assistance, mentoring, support, supervision during implementation, inspection to ensure compliance with established standards and guidelines. It

also includes capacity building, monitoring and evaluation to get feedback on the suitability of the policy whether its objectives are being realised or whether it requires modification.

In light of the above, one could interpret that points out that local authorities in Namibia range from those which are independent and autonomous, to those which are fully dependent on central government support. It was further mentioned that regional councils are responsible for the oversight functions in terms of Article 108 of the Namibian, Constitution whereas local authorities are accountable to regional councils for their functions.

2.7.4 Kenya: Strong central government financial oversight in local government

Mboga (2009:1) points out that in the Kenyan case the establishment of local authorities is covered by the Local Government Act cap 265 of the Laws of Kenya. For cities and local governments to play their role as institutions for service delivery and centres of public administration for citizens, they must be governed by widely accepted Principles of Good Governance (PGG). The principles or elements of good governance include democracy, justice, peace, equality, transparency and accountability.

Ochieng (2017:164) points out a key issue is that Articles 138–142 of Kenya’s Public Finance Management Act, 2012, stipulate regulations and restrictions that greatly limit the scope of counties (local authorities) to borrow or attract grants. National government retains the power to determine the way in which county governments engage with development partners, especially regarding loans that require approval by Treasury. Tanzi, Devas *et al.* 2008 (in Ochieng, 2017:164) indicates that the national government argues that without effective controls in several areas; namely; public finance management, the scope of engagement with international development partners and the tax regime selected, county governments could cause macroeconomic turmoil that must be avoided.

Mboga (2009:2) explains that transparency in government, one of the principles of good governance, encourages accountability. Transparency and accountability in turn eliminate corrupt practices, provide ready access to information, ensure fair and impartial application of the law and maintains high standards of personal and professional integrity among the elected and appointed officials. Mboga (2009:2) concludes by indicating that participation is considered to promote the principle of civic engagement and citizenship. Application of this

principle empowers and engages the citizens, particularly women and the poor, to take part in the municipal elections, citizens' forums, citizens' advisory councils and all other forms of participatory democracy.

2.7.5 Malawi: local government accountability tool

According to Kafakoma, Roka and Chimutu (2005:3), the local government accountability tool was developed from a study conducted by Kafakoma in 2004 in co-operation with the Malawi forest Government learning Group in partnership with Duncan Macqueen from the International Institute for Environment and Development. The local government accountability tool is a strategic process to increase local communities, awareness and their expectations from local government and to ensure accountability. The local government accountability tool was initially developed for forest dependent communities, but the tool can be used for other local government services. The local government accountability tool is based on five sets of expectations of communities concerning local governance services, and a set of demand-driven steps to address these expectations. Kafakoma *et al.* (2005:3-4) state that the local government accountability tool is based on five main sets of expectations and required steps that needs to be taken to ensure accountability:

- **Expectation 1:** To promote and involve communities in the affairs of local government. To ensure that local leaders involve the communities by setting up community meetings; to involve communities in participatory resource assessment activities and to establish structures to involved communities and to promote awareness.
- **Expectation 2:** To take full responsibility and to provide effective leadership to local communities. Clarify roles and set performance standards, allow communities to have access to local government reports and involve communities to express their concerns.
- **Expectation 3:** To provide clear strategies for the usage of resources by the local government. Transparency should be promoted by ensuring that communities provide inputs regarding local government strategies, plans, and processes.
- **Expectation 4:** To ensure sufficient financial resources and technical support. Publish financial reports and ensure that communities have access. Ensure that technical support is provided to communities.

- **Expectation 5:** To provide a high quality of services to communities. Establish a process to assess the impact of service delivery against stated objectives, and resources used.

Kafakoma *et al.* (2005:3) further argue that the local government accountability tool is designed and used to involve the communities and to ensure that local government be accountable for the quality of services provides to the communities.

2.7.6 Central government incentive targets: Model for oversight and accountability in China

Burns and Zhiren (2010:2) shows that since the early 1990s, local governments have experimented with various performance management systems that by 1995 became formalised as the Objective Responsibility System (ORS). In this system, governments at higher administrative levels set targets for lower-level administrators and hold them to account for completing them. The system is now widely practised, and targets have become increasingly specific, quantifiable, and linked to personnel outcomes.

Xuedong (2010:205-206) argues that with funding support from the central government and other public sources no longer available, local governments were entirely on their own to fulfill various social management and service obligations. For local governments trying to cope with these dual pressures, the only choice was to push economic growth at any price, using any means available to increase income. Xuedong (2010:205-206) points out that the 1990's saw the decline of state-owned enterprises with many losing money and some being effectively bankrupt. Not only were these enterprises no longer the primary source of funds for local governments, but in many cases, they created both financial and social burdens for governments which had to deal finding jobs for workers formerly employed by state owned enterprises. For local governments in need of new sources of funding, it obviously made sense to seek outside investors. Investment promotion of this sort was also encouraged by the central government.

Burns and Zhiren (2010:2) points out that monitoring of performance, is often left to local authorities that have a vested interest in reporting outstanding achievement. This explains the discrepancy between GDP growth reported by the central government and local governments

over the past decade. The system focuses very much on the performance of territorial units which undercuts cross-boundary co-operation to solve problems such as environmental degradation. The system also focuses overwhelmingly on measuring inputs and some outputs, but not on policy outcomes.

Xuedong (2010:207) explains that with clearly defined incentive targets in place, achieving top performance results became a very high priority of local governments and leaderships. Officials put a great deal of time and energy into devising ways to get the most achievements in the least amount of time. Competition among local governments became intense. An incentive system based on achieving performance results was positive in the sense that it made room for governments and individuals to show initiative and make use of their creative talents.

Burns and Zhiren (2010:2) aver that although the ORS provides no formal mechanism for citizen participation, local governments have begun surveying public satisfaction with government performance as part of the process. Still, citizen participation in performance management is limited even when surveys are carried out. We conclude then that ordinary citizens have little voice in the process, let alone a share in decision making about the system.

Xuedong (2010:206) Local governments adopted various measures to attract capital, making for intense competition between local governments in different regions. Initially, local governments focused on infrastructure improvements to upgrade the business environment and attract investment. Over time, as more and more localities had first class infrastructure to offer, the competition moved into other areas. Local governments competed to offer the most favorable tax and investment policies, the least red tape and the best service.

In conclusion, Xuedong (2010:208) states that given limited financial resources, governments had to make choices, inevitably giving priority to economic development at the expense of other kinds social development and public services. An incentive system based on meeting growth targets and self-interest on the part of both governments and officials made the focus on economic development all the stronger. In the event as economic growth did occur, governments increased their incomes which left them better able to fulfill their various obligations and, at the same time, put government officials in a position better to protect their own interests.

2.7.7 Brazil: Established oversight institutions to hold local government officials accountable

According to Aranha (2017:3), contemporary democracies reaffirm, as a core principle, the idea that rulers should be held accountable by the people and should be held responsible for their actions and omissions in the exercise of power. Consistent with Mainwaring (2003) (in Aranha, 2017:3) one of the most controversial points in the definition of accountability concerns the sanction theme. For some authors, accountability calls for mechanisms of direct and credible sanctions in order to be effective.

Aranha (2017:3) indicates that accountability can be divided between direct and indirect power of sanction, for certain accountability institutions have only the ability to transfer their findings to other actors that may establish punishments. What this means is that institutions with indirect sanction power must rely heavily on a close relationship with those that can pronounce judgments so that the cycle of accountability may come to a close.

O'Donnell (2001) (in Aranha, 2017:4) indicates that the accountability institutions mentioned above are part of what is called horizontal accountability. While vertical accountability is associated with electoral or societal control, horizontal accountability requires state agencies with legal authority to take action (from routine checks to criminal sanctions) in relation to actions or omissions by other state agencies.

Aranha (2017:7) points out that there are three types of legal punishment that can be imposed on someone engaged in corruption in Brazil, that is administrative, civil and criminal; determined by separate judicial or administrative actions that run independently from one another. Aranha (2017:7) points out that the Federal Public Prosecutor's Office is the most unusual accountability institution in Brazil. It is a prosecutorial body, formally independent of the other three branches of government, with a guaranteed budget and career incentives set with almost no outside interference.

2.8 NATIONAL FRAMEWORKS/MODELS TO PROMOTE OVERSIGHT AND ACCOUNTABILITY IN SOUTH AFRICAN PUBLIC SECTOR

Three particular models/frameworks concerning oversight and accountability were identified in the context of the South African public sector that were taken into consideration with the development of an oversight and accountable framework for municipalities of the Free State, province. The oversight model of the South African Legislative Sector, a proposed comprehensive framework of accountability for government departments and SALGA, consequence and accountability framework for local government were discussed below.

2.8.1 The South African Legislative Sector Oversight Model

The South African Legislative Sector develop an oversight model that was published in 2012. The aim of the oversight model was to set standards, vision and principles and best oversight practices in the legislative sector as well as to guide the legislative sector concerning the overall oversight function aligned with the *PMFA*, 1999. It was also expected from the legislatures to adopt elements of the model that they are individually able to implement depending on each legislature particular circumstances and availability of resources (Legislative Sector, 2012:6). According to Malapane (2015:863), the oversight model of the South African Legislature implies that oversight refers to the proactive relations initiated by a legislature with the executive and administrative organs of state to ensure compliance with legislative provisions and obligations.

The oversight model is operationalised on three pillars. The first pillar focuses on the budget cycle model, the second pillar focuses on operationalization of Budget Information Matrices (BIMs) and the third pillar of the oversight model focused on the analytical approach and analytical exercises or analysis (South African Legislative Sector, 2012:20). According to the South African Legislative Sector (2012:20), the first pillar of the oversight model which focuses on the budget cycle includes the various committee structures and the role of public participation to strengthen the legislative sector oversight of budgetary processes. The committee structures include the finance committees who fulfilled a critical oversight role in the budgetary processes, and other portfolio committees. Public participation concerning the budgetary process requires sufficient involvement of the general public in committee meeting, to ensure that the performance plans are available to the public for their effective input and to invite stakeholder of a committee and affected communities to attend meetings where departments present their performance plans (South African Legislative Sector, 2012:20-23).

According to the Legislative Sector (2012:54), the second pillar of the oversight model concerning the operationalisation of the budget information system that needs to be created for each committee structure including that of the Standing Public Accounts Committees SCOPA, that can be utilised when engaging in programme evaluation and the analysis of the budget. The aim is to strengthen oversight by ensuring that the budget information is accessible to the public to allow the civil society organisations and the general public to develop an awareness as well as to allow the public to provide inputs (Legislative Sector, 2012:20-23).

The last pillar of the oversight model which focuses on the analytical approach and exercises which consisted of various analytical applications which offers various degrees of insight (such as fixed and variable cost studies, cost- benefit analysis, costing outputs, needs budget vs available budget analysis et.) into a departmental budgetary process (Legislative Sector, 2012:58-64).

In light of the above, there is no doubt that the South African Legislative Sector oversight model can be seen as a useful instrument to guide the legislatures concerning the oversight of departments budgetary process aligned with the *PFMA*, 1999. The oversight model further assists the legislatures to ensure that compliance requirements and expectations for the executives are clearly understood. The oversight model is only bases on national and provincial legislatures, however the NCOP, SALGA and the Provincial legislatures fulfil an oversight role in the provision of government services in the province and local sphere of government. Therefore, lesson can be learnt from this oversight model concerning the oversight of the budgetary process of local government.

2.8.2 The comprehensive framework of accountability for government departments

Ijeoma and Sambumbu (2013:283) reported on a comprehensive framework to promote accountability across government departments which was developed based on a study. Ijeoma and Sambumbu (2013:283) further point out that the various government departments in the South African public sector of which local government cannot be excluded may adopt the following three steps of the suggested comprehensive framework to promote accountability, namely:

- **Step 1: Essentials in public accountability.** Ijeoma and Sambumbu (2013:296) aver that there are three core essentials to ensure public accountability. The first core essential is information, it means that the public must have access to relevant information and it also requires that the public must be education and made aware of compliances measures to ensure if there is a breach that the public can take the appropriate initiatives to report on the abuse or misconduct of public officials to relevant authorities and forums. The second core essential is justification means that the accused may be provided the opportunity to explain and justify their actions. While the last core essential entails consequences. Consequences implies that the department must take the necessary disciplinary steps or appropriate remedies to hold the officials to account, including imprisonment, reimbursing of funds or dismissals from employment (Ijeoma and Sambumbu, 2012:296).
- **Step 2: Measures to improve public.** In this regard Ijeoma and Sambumbu (2013:296) emphasise that departments must apply a combination of measures to ensure public accountability.
- **Step 3: Monitoring and evaluate the effects of public accountability.** Ijeoma and Sambumbu (2013:296) maintain that the department must evaluate to determine whether public accountability has been effective including assessing the impact on service delivery processes, the improving of budgetary processes and public financial management and the promotion of good governance.

The above oversight model and the above framework should be considered with the development of the proposed framework for oversight and accountability of municipalities in the Free State province.

2.8.3 Consequence and Accountability Framework for Local Government

The South African Local Government Association (SALGA) develop a draft consequence and accountability framework in 2015 based on continued poor audit outcomes of municipalities as provided by the Auditor-General in the annual audit outcomes reports. The purpose of the draft consequences and accountability framework is to propose certain measures to strengthen governance and accountability in municipalities. The emphasis should be on consequences for non-performance. According to SALGA (2015:19), the draft consequences and accountability

framework was developed in particular to assist municipalities who obtains a disclaimer or adverse audit opinion from the Auditor-General.

SALGA (2015:19) argue that if a municipality received a disclaimer or adverse audit opinion from the Auditor-General it implies that the municipal council of the particular municipality failed to ensure that the administrative branch has not complies with statutory and legislative prescripts concerning municipal financial management and concerning the implementation of its IDP. SALGA (2015:20) argues that consequences for non-compliance should start with the municipal council. In the case of a municipality who received an adverse disclaimer audit opinion it could means that the municipal council and municipal officials has fail to submit required documentation or deliberately submitted incorrect information or they tried to hide something. The consequences for a municipality which obtained an adverse or a disclaimed audit opinion should be that these municipalities may not be entitled to receive any additional funding from the National Treasury, until these municipalities improve their performance though audit outcomes.

SALGA (2015:24) provides that the consequence and accountability framework set out the responsibilities of the political and administrative leadership of the municipality related to governance, financial management, service delivery and inter-governmental relations. It implies that the failure in each of these responsible areas must be highlighted and proposals must be made on how the regulatory has to be adopted to give effect to the consequence and accountability framework. SALGA (2015:27) further indicated that the aim of the draft consequence and accountability framework for local government should not be to focus only on failure in performance, but the focus should be on what the consequences for non-performance should be, in order to improve accountability in all municipalities. The draft consequences and accountability framework was presented to SALGA and the National Members Assembly on 24 to 26 March 2015 to discuss the possible full development and implementation. A resolution was taken to further develop the consequences and accountability framework for implementation in municipalities who received poor audit outcomes.

According to SALGA (2019:7), the objectives for developing the consequences and accountability framework for local municipalities include the following:

- It will serve as a guideline on which consequences for which type of transgressions and non-performance must be apply; and
- The intention is to promote a culture of accountability and to promote professional and ethical public administration with the aim to promote good governance and effective service delivery to local communities.

SALGA (2015:8) further explain that the envisage structure of the consequences and accountability framework should be based on the following four aspects:

- **Key Municipal and other relevant legislation.** What consequences should be taken for non-compliance of the key municipal and relevant acts, policies such as the MSA, 2003, *Municipal Structures Act*, 1998, *MFMA*, 2003, the *Public Audit Amendment Act*, 2018, and relevant National Treasury regulations?
- **Consequences for non-compliance.** What role players should be responsible to invoke such consequences against the transgressors based on non-compliance with relevant acts, policies and regulations?
- **Implementation of consequences and enforcement.** What constitutional institutions should investigate the offenders?
- **Case studies.** What are the practical examples or case studies that can be used as examples where consequences where taken against transgressors?

Although, no further SALGA documents or CoGTA documents were issued concerning the further development or implementation of the envisage consequence and accountability framework lesson can be learned from the initiative with the development of the oversight and accountability framework for municipalities in the Free State province. One could argue that the envisage consequence and accountability framework did not achieve the required impact, due to the continued deterioration of all municipalities of the Free State province.

2.9 FACTORS INHIBITING OVERSIGHT AND ACCOUNTABILITY IN THE SOUTH AFRICAN PUBLIC SECTOR

The following factors which was outlined in the subsections below obstructing effective oversight and accountability in the three spheres of government.

2.9.1 Failure by legislatures to fulfil their oversight role to hold executives to account

Oversight means that legislatures including parliament, provincial legislatures and the municipal council must fill their constitutional mandate to maintain oversight of the exercise of national, provincial and local executives including the implementation of legislation and any other organ of state. If parliament, as the national legislature, and parliamentary committees such as the Standing Committees of Public Account Committees (SCOPA), fail to hold national executives (Cabinet) to account they have abandoned their constitutional oversight function as provided in Section 55(2) and Section 92 of the *Constitution*, 1996. Section 92(2) clearly provides that members of Cabinet are accountable individually and collectively to Parliament for the manner in which they exercise their powers and perform their mandate. Thornhill (2015:98) warns that the debates in Parliament over the last 20 years indicates that the ruling alliance without exception defended the actions of executives (Cabinet) instead of holding them to account for their actions or inactions. An example is SCOPA decision to approve the Joint Investigation Team on the Government's Arms Deal. Obiyo (2007:60) argues that SCOPA decision on the Arms Deal means that SCOPA succumbed to pressure from the ruling alliance to defend wrong doings of the executives (Cabinet) instead of holding executives in this case the former President of the country to account. Obiyo (2007:63) argues that in the case of the Arms Deal Report, SCOPA failed to ensure that a limit or threshold point of adequacy were satisfied, which must precede legitimate committee decisions through voting, therefore. the investigation fell substantially short of the threshold of minimal adequacy. However, although the minimum standard requirements of minimum adequacy were not met, the arms deal report was approved by a majority vote in the committee. The majority endorsement of the Arms Deal Report by SCOPA was illegitimate. If the Parliamentary oversight committees such as SCOPA does not perform its oversight role effectively it means that it failed its constitutional obligation and the democratic sovereignty of the South African people.

Thornhill (2015:98) points out that the Parliamentary committee to investigate the cost of the Nkandla homestead project of the former President, the committee failed again and give in to the ruling alliance and the matter was never discussed by Parliament. The particular committee consisted of 12 members, of who 5 members represented the opposition parties. As such when the issue was raised of the procedures and the timeline of the investigation concerning the Nkandla project, one of the members representing the ruling party simple stated that as a member of the ruling party he acts in accordance with his mandate. Due to the composition of

the committee the matter was never discussed Parliament. One could argue that the ruling party misused its majority representation in the committee to hold the former President to account. Another example is that since the former Public Protector's State Capture Report was made known in November 2016, Parliament fails till date to discuss the matter in Parliament to hold the former President to account for his engagement in the state capture scandal.

2.9.2 State capture and corruption

Martin and Solomon (2017:2) defines state capture as the actions of individuals or groups from both public and private institutions by influencing the formation of laws, regulations and policies to their own personal benefit and gain. Swilling, Borat, Buthelezi, Chipkin, Duma, Mondli, Peter, Qobo, and Friedenstein (2017:5) is of the opinion that state capture is a systematic and well planned and systematic organised by a group of people with well-established relations, that involves repeating activities and transactions at a large and increasing scale. On the other hand, Thornhill (2015:96) views a corrupt activity as any activity or action by a person in a position of authority with the intention to gain any personnel benefits from such an action which are in conflict with existing laws, policies, regulations or any other prescripts or code of conduct. Whereas, Pauw, Van der Linde, Van der Linde, Fourie and Visser (2015:301) state that that corruption thrives when there is a failure to enforce laws, rules regulations or to apply any sanctions to a given situation. Thus, laws and policies are flawed and in particular when there are no consequences for corrupt conduct and any acts of unethical conduct and acts of dishonesty.

The former Public Protector's Report on State Capture was published on 02 November 2016. The matter was investigated after three complaints were received. The first complaint came from Father Mayevb on of the Dominican order of Catholic Priests who compliant about the Gupta family involvement in corruption and allegations that the family offered cabinet positions to Mcebisi Jonas to be appointed as the Minister of Finance. Another complaint from Father Mayevb was about allegations by Vytjie Mentor who claimed that the Gupta family asked her to drop the SAA route to India and to give it to the Gupta family. A second complaint came from the leader of the opposition party, Mmusi Maimane, which complaint that the former President Jacob Zuma broke the Executive Ethics Code of Conduct based on media reports of the conduct of the former President and the involvement of the Gupta family members in the appointments of Ministers. A third complaint was received from an anonymous

member of public about governments influence when commercial banks refused to render banking services to Gupta owned companies (Van Niekerk, 2018:4; Potgieter and Govender, 2016:2-3; Karim 2016:1-11).

In light of the above, the former Public Protectors State Capture Report underlines the potential conflict of interest and violations of the Executive Ethics Code of Conduct and the *Prevention and Combating of Corrupt Activities Act, 2004* by the former President in that he shared information with the Gupta family about the appointment of ministers. The former Public Protectors State Capture Report reported that there were possible violations concerning the appointment of chief executive officers or directors to the boards of some state owed enterprises (SOEs). The report further found that the board of Eskom failed to prevent fruitless and wasteful expenditure when the board approved the contract with Tegeta, a Gupta-owned family company. The former Pubic Protector recommended that the former President must constitute a commission of inquiry to investigate the alleged corrupt allegations and that the Chief of Justice must appoint the head of the Commission who has to investigate the allegations as well as that the National Prosecuting Authority (NPA) and the Office for serious Economic Offences must be notified in case a crime has been committed (Van Niekerk, 2018: 4-5).

Since the announcement of the former Public Protectors State Capture Report no commission was appointed to investigate the allegations. No individual till date has been convicted for a crime associated with state capture and alleged corrupt activities (Erasmus, 2019:3). However, Woolman (2018:161) avers that the former Public Protectors State Capture Report give effect for a full-scale independent investigation into these different forms of corruption in that the former President himself created the recommended judge-led commission in January 2018. In terms of Section 88 of the *Constitution, 1996* which provided that the President may only run two terms, which meant that the former President could not run again a third term of office. The members of the ruling party the African National Council (ANC), chose Cyril Ramaphosa as its new party President and subsequently, President of the nation in December 2017. In January 2018, Mr. Ramaphosa appointed the Zondo Commission of Inquiry into state Capture to investigate the allegations. The Deputy Chief Justice, Raymond Zondo was appointed as the head of the Zondo Commission, assisted by five commissioners to hold hearings about the allegations which is open to the public and broadcasting live. After the May 2019 national elections Mr. Cyril Ramaphosa was inaugurated as the new President of the country. In the State of the Nation Address (SONA) the President Mr. Cyril Ramaphosa announced the

establishment of the Office of the National Director of Public Prosecutions as an independent corruption directorate who will deal with serious corruption and associated offences in terms of Section 7 of the National Prosecution Act, (Act 32 of 1998) (Erasmus, 2019:2).

Martin and Solomon (2017:2) point out that the shocking allegations of state capture not only undermine the efficiency of the state, especially where there is a direct relationship between state capture and corruption but it also undermines the rule of law. Furthermore, state capture also undermines the efficiency of the state and the constitutional mandated government bodies instated to maintain oversight and accountability. Martin and Solomon (2017:2) further maintain that state capture can only survive when the state capacity is weakening. This takes place by appointing less than capable or corrupt people in positions of authority, especially in key positions. State capture happens when governance structures, systems, laws and policies were disobeyed. Furthermore, there are no consequences for any wrong doings as a result of a lack and weakening of oversight, transparent and accountability structures and mechanisms. There is no doubt that the various corrupt activities and the shocking allegations of state capture damaged the integrity of the constitutional mandated, oversight organs of state and constitutional bodies to hold executives to account for their actions or inactions. What is more shocking till date there were no consequences for any one till date.

2.9.3 Ignorance of citizens

Another factor that inhibiting oversight and accountability is the ignorance of citizens to hold the elected political representatives to account for their actions. The ruling party won the May 2019 elections which is an indication that although there are clear allegations of state capture by members of the ruling party the public continue to vote for the ruling party. The apathy of citizens as in the case of the alleged state capture report creates the danger of government to being allowed to disobey laws, policies, regulations and to continue with unethical conduct and acts of dishonesty without being called to account for their actions or inactions (Thornhill, 2015:95-96).

2.9.4 Other reasons for oversight and accountability failures

The Auditor-General (AGSA, 2018:9) reported that the following factors are major contributors to accountability failures in particular in local government; key positions and not

filled; a lack of adequate skills and a lack of oversight by municipal councils, councillors, including the mayor; political interferences by councillors in the administration of local government weakened oversight; the development of a culture of no consequences as a result of inadequate oversight and performance systems and process; and disobeying and continued non-compliances with key municipal legislations creates an environment that makes it easy to commit fraud and corruption. In this regard Van der Waldt (2015:52) is of the view that the lack of effective oversight leads to instability and dysfunctionality of municipalities which creates an environment open to fraud and corruption.

From the above discussions about the factors that inhibits oversight and accountability it may be argued that the shocking allegations of corrupt activities linked to the allegations of state capture by top government executives undermines the rule of law, and the functionality of the constitutional bodies to maintain oversight and accountability. A concern is the development of a culture of no consequences. The lack of effective oversight and accountability creating loopholes for corruption, fraud and acts of dishonesty.

2.10 CURRENT CHALLENGES CONCERNING OVERSIGHT AND ACCOUNTABILITY IN LOCAL GOVERNMENT

Since 1996 local government has taken significant steps towards realising the goal of democratic and accountable and developmental local government. However, the majority of municipalities are still facing a number of challenges including the promotion of accountable government for local communities. The former Department of Provincial and Local Government (DPLG) State of Local Government Report (2009:71-75) showed that the majority of the municipalities were in distress. It was reported that the majority of the municipalities faced challenges such as huge service delivery backlog challenges, poor audit outcomes, credible budget, poor financial management, poor communication and accountability relations with communities, political interferences into the administration of municipalities corruption and fraud and insufficient capacity due to a shortage of scarce skills (Mathane, 2013:26). Venter in Van der Waldt *et al.* (2018:105) confirm that in particular the State of Local Government Report (2009:71-75) mentioned that poor financial management, a lack of control and accountability systems in the majority of the municipalities give rise to an increase in fraud, corruption and the misuse of municipal assets and funds.

In light of the above, Madumo (2015:162-163) also adds that local government faced the following challenges. Firstly, the inability of municipalities to sustain themselves financially remains a major concern. In this regard Madumo (2015:163) point out that most municipalities failed to institute effective mechanisms to increase their revenue collections. Secondly, municipalities lack the capacity to deliver constant and regular services to their communities. The latter situation is worsened by political interferences and influencing with the appointment of service providers and other supply chain management related processes. Thirdly, failure of municipalities to comply with regulatory legislative frameworks and regulations remains a major concern. Madumo (2016: 163-164) suggested the following to improve the abovementioned challenges to ensure effective and efficient delivery of services and to reach optimum level of service delivery, namely:

- There should be a clear distinction between politicians and administrators and their role and functions to ensure that both parties adhere to the provisions of the *Municipal Structures Act, 1998*;
- Effective mechanisms must be implemented to monitor and prevent wasteful and fruitless expenditure in municipalities. Municipalities must comply with SCM policies and regulations and prevent political influences concern in the appointment of service providers.
- More emphasis should be placed on the usage of technology and knowledge to promote economic growth and development.
- There must be a single framework to be used as a performance indicator for all municipal officials across all municipalities in the country. Madumo (2015:164) explain that municipal officials often fail to comply with relevant municipal legislative acts, policies and regulations as a result of a lack of capacity without any punitive action taken against them.

The above suggestions should be implemented to overcome the many challenges facing by municipalities across the country.

As a result of the poor performance of municipalities the former department of Provincial and Local government (DPLG) developed the Local Government Turnaround Strategy. National government approved the comprehensive Local Government Turnaround Strategy (LGTAS)

at the end of 2009, with the aim to address the above challenges as reported in the State of Local Government Report (2009:71-75). It was required from all municipalities to incorporate their own tailor-made Municipal Turnaround Strategy (MTAS) into their IDP as well as into their budgeting, monitoring and evaluation and reporting processes (Van Niekerk, 2012:55). The LGTAS was later replaced with the Department of Co-operative Governance and Traditional Affairs (CoGTA) Back-to-Basic campaign in 2013 to respond to challenges identified by similar prior initiatives in local government. It was argued that the LGTAS and the Back-to-Basic campaign did not achieve the required results to improve the performance of municipalities. According to Venter (in van der Waldt *et al.*, 2018:105), the Back-to-Basic campaign focuses on five aspects namely:

- **Delivering of basic services.** CoGTA established an Inter-Ministerial Basic Service Delivery Task team to assist municipalities with fast-tracking service around the country.
- **Putting people first.** Measures have to be taken to ensure that all municipalities comply with the requirements of the *MSA, 2000* to promote community participation. Aspects such as the optimal functioning of ward committees, open municipal council meetings, and regular community satisfaction surveys must be introduced to promote community participation (Venter in Van der Waldt *et al.*, 2018:105).
- **Good governance.** Good governance is a constitutional requirement and therefore municipalities must be constantly monitored and evaluated on their ability to promote good governance of which accountability cannot be excluded.
- **Sound financial management.** National Treasury has legislated specific financial and reporting standards to improve financial management. The aim of this is to reduce the number of disclaimer and qualified audit outcomes, to ensure that municipalities utilise their budgets effectively, improve the collection of revenue and supply chain management processes and to reduce municipal debt.
- **Building capabilities.** The aim of this is to build capacity by ensuring that competent and committed people are appointed in administrative positions. Furthermore, the campaign aims to ensure that the municipal administrative systems and processes are strengthened (Venter in Van der Waldt *et al.*, 2018:105).

Except for the above, as mentioned in Section 2.8.3 of this chapter, SALGA developed the consequence and accountability framework to strengthen governance and accountability in municipalities. The emphasis of SALGA's consequence and accountability framework is to ensure consequences for non-performance. It was argued that SALGA's envisage consequence and accountability framework did not achieve the required impact, due to the continued deterioration of all municipalities of the Free State province.

According to the former DPLG, the State of Local Government Report (2009) provides that most of the municipalities are in distress due to the following:

- Political deployment and political interferences by political parties;
- Blurred boundaries between political representatives (councillors) and municipal and municipal administration;
- Poor management and leadership;
- Ineffective oversight functions and poor accountability or lack of accountability;
- Insufficient control systems; and
- Lack of skills base for councillors.

Except for the above challenges that were raised in 2009 the Auditor-General reported in the 2016-2017 audit outcomes that most of the municipalities in the country are still in distress. Many, of which the municipalities of the Free State province cannot be excluded, are still facing various challenges including the promotion of accountable government for local communities (AGSA, 2018:22). In this regard the Auditor-General (AGSA, 2018:22) further indicated that one of the root causes of accountability failures at local government includes political infighting and interference at council level in the administration weakened oversight. Except for the above short coming of political interference of municipal councillors in the administration of local government other root causes as reported by the Auditor-General (AGSA, 2018:22) that needs to be addressed by municipal councils of all municipalities as mentioned in Section 2.9.4 in this chapter include the following:

- Vacancies and instability in key positions;
- Inadequate skills led to a lack of oversight by council and insufficient implementation of financial and performance management systems by the municipal administration;

- Leadership inaction or inconsistent action, created a culture of no consequences, as a result of inadequate performance systems and processes;
- The blatant disregard for control measures including proper record keeping and the blatant non-compliance with key legislation makes it easy to commit fraud;
- Leadership ignore repeated recommendations and warnings of risks;
- Usage of consultants at a greater cost; and
- Lack of proper support from provincial and national role players.

According to the Auditor-General (AGSA, 2018:2), municipal councils failed in a total of 61% of municipalities to conduct investigations into all cases of unauthorised irregular and fruitless and wasteful expenditure in the 2016/2017 financial year. Another concern is that inadequate skills of municipal councillors contributes to a lack of oversight by municipal councils including the mayor, which resulted into insufficient implementation and maintenance of financial and performance management systems by municipal administrations. As a result of the failure of accountability mechanisms the oversight and accountable role of municipal councils in local government in the Free State needs to be increased. The Auditor-General (AGSA, 2018:57) further reported that the *Public Audit Amendment Act, 2018* was introduced with the aim to recover losses and to enforce accountability against municipal officials responsible for financial losses. The latter would strengthen accountability and enforce adequate consequences where accountability failures occurred.

The above underlines the need for effective oversight and accountability in municipalities to hold executives to account as well as to ensure that the citizens hold the elected political representatives to account for the manner in which they perform their mandates.

2.11 SUMMARY

In this chapter the concepts of oversight and accountability were clarified. It was mentioned that oversight can be seen as a constitutionally mandated function of legislatures to scrutinise and oversee executive actions and mandated functions. Whereas, accountability occurs when political and public officials is answerable and responsible for their actions and the fulfilment of their duties within the framework of authority. Therefore, accountability requires to be answerable to various levels of control, including the legislature and judiciary. This goes

beyond procedural compliance to rules and orders as parliamentary oversight and judicial review of actions of the executive are indispensable condition of the doctrine of separation of powers. Parliament composed of elected office-bearers who account to the electorate, while the elected political office-bearers in municipalities have to account to the electorate within the municipal area.

The *Constitution, 1996* sets out clear directions on ensuring oversight and accountability in the three spheres of government. It is accentuated that Section 152(1) of the *Constitution, 1996* clearly requires from local government to provide a democratic and accountable government for local communities.

The Chapter further underlines that in terms of Section 4(2) of the *MSA, 2000* the municipal council of the municipality has the duty to exercise the municipality's executive and legislative authority and use their resources of the municipality in the best interests of the local community as to ensure democratic and accountable local government. Section 55(1)(a) of the *MSA, 2000* provides that as head of administration the MM of a municipality is, subject to the policy directions of the municipal council, responsible and accountable to the formation and development of an economical effective, efficient and accountable administration. In addition, the *MFMA, 2003*, clearly outlines oversight and accountable duties and responsibilities of municipal officials and councillors.

From the discussion about international oversight and accountable practices, models and frameworks it was mentioned that the UK introduced four key aspects to promote accountability nationally and locally namely; clarity of accountability structures lines; appropriateness of control measures to ensure that people must be held accountable in a fair manner; sufficiency of information are required to judge whether accountability and responsibilities have been performed; and clarity of consequences requires that there is consistency regarding sanctions and penalties to hold people to account for failure to perform. Except for the above four key aspects to uphold accountability the UK introduced a shared service model or system in local government to promote accountability. In this manner local councils can share services without outsourcing it to private businesses. By sharing services local councils can retain more control over the shared services than an outsourced service.

It was underlined that in Botswana's local authorities are accountable to the Ministry of Local Government, to which they are required to submit reports on their projects and performance. It was argued that it is easier and more convenient to hold locally elected representatives and officials accountable than those at the centre or national government. As in the case of the UK committees Botswana fulfil a key oversight and accountable role. The Local Authorities Public Accounts Committee (LAPAC) is responsible for enforcing performance in the implementation of local projects and programmes. Oversight institutions in Botswana include the Directorate on Corruption and Economic Crime (DCEC), and the Ombudsman Regional Councils that was established in terms the Constitution of the country.

Regarding the discussion about oversight and accountability at local government in Namibian it was mentioned that local authorities range from those which are independent and autonomous, to those which are fully dependent on central government support. It was further underlined that the Namibian Constitution does not refer to any degree of autonomy for local authorities, nor to any powers to be allocated to and exercised by such bodies. It was further mentioned that regional councils are responsible for the oversight functions in terms of Article 108 of the Namibian Constitution local authorities are accountable to regional councils for their functions.

In the context local government in Kenya it was emphasised that local governments as the centres of public administration for citizens, must be governed by widely accepted principles of good governance (PGG) with the aim to promote accountability. On the discussion about Malawi it was mentioned that Malawi introduced the local government accountability tool to ensure accountability. The accountability tool requires that local leaders must involve the communities by setting up community meetings and to involve communities in participatory resource assessment activities and to establish structures to involved communities and to promote awareness.

Front the discussion about China it was mentioned that China introduced the Objective Responsibility System (ORS) in which governments at higher administrative levels set targets for lower-level administrators to hold them to account. While, in Brazil it was discussed that accountability can be divided between direct and indirect power of sanction, for certain accountability institutions have only the ability to transfer their findings to other actors that

may establish punishments. It was mentioned that in Brazil that the Federal Public Prosecutor's Office fulfil a key role in the promotion of accountability in Brazil.

In the context of South Africa, lessons can be learned from the three models/frameworks to promote oversight and accountability in local government. The comprehensive framework for government departments focuses on three steps namely; the essentials in public accountability; measures to improve public accountability; and monitoring and evaluating the effects of public accountability. Local government can learn from the above three steps to ensure that the public must have access to relevant municipal information as well as that local communities must be made aware of the measures to ensure compliance to hold councillors and public officials to account for failure in service delivery. Another lesson from the comprehensive framework of accountability is that the political structure of the municipality must ensure that there are consequences for non-compliance by taking the required steps to hold officials to account for their actions. Measures to improve accountability means that municipalities must apply a combination of measures to ensure public accountability. Lastly, monitoring and evaluate the effects of public accountability is to determine what is the impact of accountability on service delivery.

SALGA develop a draft consequence and accountability framework in 2015 based on continued poor audit outcomes as provided by the Auditor-General of municipalities to promote accountability and to enforce consequences for failure to perform. It was emphasised that the purpose of the draft consequences and accountability framework is to propose certain measures to strengthen governance and accountability in municipalities. The emphasis should be on consequences for non-performance such as in the case of municipalities who obtained an adverse or a disclaimed audit opinion. Consequences in this regard could be that these municipalities may not be entitled to receive any additional funding from the National Treasury, until these municipalities improve their performance though audit outcomes. It was argued that SALGA's envisage consequence and accountability framework did not achieve the required impact, due to the continued deterioration of all municipalities of the Free State province.

The discussion about the factors that inhibits oversight and accountability it was argued that a lack of oversight and accountability leads to the development of a culture of no consequences that creates a loophole for corruption, fraud and acts of dishonesty. Regarding the current

oversight and accountability challenges of local government it was mentioned that majority of municipalities are still facing several challenges including the promotion of accountable government for local communities. Failure of municipalities to comply with regulatory legislative frameworks and regulations remains a major concern. The following chapter provided a theoretical overview of legislative and political oversight and accountability in the context of South African public sector and in particular local government.

CHAPTER 3: THEORETICAL OVERVIEW OF LEGISLATIVE AND POLITICAL OVERSIGHT AND ACCOUNTABILITY IN THE CONTEXT OF SOUTH AFRICAN LOCAL GOVERNMENT

3.1. INTRODUCTION

The previous literature chapter provided the theoretical overview of oversight and accountability in the South African public sector with specific reference to local government. In the previous chapter the statutory and regulatory legislative frameworks, principles and requirements of oversight and accountability within the three spheres were discussed. Followed by an overview of international best practices, models and frameworks of oversight and accountability, followed by a discussion of national oversight and accountable models or frameworks and the current challenges of oversight and accountability in local government were discussed.

This literature chapter examined the legislative or legal oversight and accountability with a discussion about the separation of powers, followed by a discussion about legislative mechanisms to promote oversight and accountability. The constitutional bodies to strengthen oversight and accountability were discussed. In the discussion about political oversight and accountability the various mechanisms to promote political accountability were outlined, followed by a discussion about a discussion about the municipal council, municipal councillors, mayor or executive mayors, the speaker and other municipal committees. The current challenges pertaining to political oversight were discussed followed by a discussion about the Code of Conduct for municipal councillors' emphasis on the promotion of oversight and accountability.

3.2. LEGISLATIVE OVERSIGHT AND ACCOUNTABILITY

According to Malapane (2015:865), legislative oversight refers to the constitutional obligation of the legislatures to oversee the functions of the executives and to hold them to account and to ensure compliance and delivery on agreed upon objectives for the achievement of government priorities. According to Sikhakane and Reggy (2011:88), legal or legislative accountability refers to the constitutional and legislative provisions which set out clear performance mandates and assigned duties that must be adhered to by all three spheres of

government. It implies that those assigned the duty to deliver services are held accountable if they fail to perform their constitutional and legislative mandates. Whereas, Hussein (1999:12) states that legal accountability refers to the relationships between an organ of state and other bodies established by the legislature to exercise legal control or sanctions. Kakumba and Fourie (2007:654) agrees with the above definition where accountability relationships refer to a large extent to relations with external oversight bodies such as legislative and constitutional structures or bodies such as the Auditor-General the Public Protector, the Public Service Commission to ensure that the three spheres of government comply with established standards and performance mandates. Whereas, Fox (2000:4) is of the opinion that legislative accountability limits the use and sanctions the abuse of political power. Therefore, in terms of the above definitions one could argue that legislative or legal oversight legislative oversight refers to the constitutional obligation of the legislatures to oversee the functions of the executives and to hold them to account.

Except for the above the National Treasury (2011:29) states that each sphere of government has a specific constitutionally defined mandate, powers and responsibilities. Therefore, each sphere of government is direct accountable to its legislature (Parliament or provincial legislature) or in the context of local government, the municipal council. In addition, Section 100 of the *Constitution*, 1996 empowers national government to intervene in the affairs of a provincial government if it fails to fulfil its executive functions. Whereas, Section 139, of the *Constitution*, 1996 allows a provincial government to intervene in local government affairs if a particular municipality fails to carry out an executive obligation.

The constitutional bodies to strengthen oversight and accountability are discussed in Section 3.4 of this chapter.

3.2.1 Separation of powers

A starting point for the purpose of this study is to outline the important role of separation of powers to ensure accountability and oversight within the three spheres of government. Separation of powers as provided in the *Constitution*, 1996 also known as *trias politicas* forms the basis to safeguard the young democracy which was established in 1994 in South Africa (Malapane, 2015:863). The intention of the classical separation of powers between the legislature, the executive and judiciary founded by John Locke and Charles de Montesquieu

was to promote accountability and to ensure checks and balances (oversight) in government (Myeni and Buccus in Landsberg and Graham, 2017:61-63). Whereas, Van der Waldt (2015:49) point out that the intention of Montesquieu's separation of powers was to guard against the abuse of state powers and to protect human rights. The latter gives effect to the concept of oversight, which include political, legal, strategic, administrative, financial and ethical elements. Heywood (in Van der Waldt, 2015:50) avers that the function of oversight is aimed at and to prevent abuse of power, arbitrary actions, illegal and unconstitutional conduct by *government*.

However, the current *Constitution*, 1996 does not conform the classic notion of separation of powers. The separation between the legislative authority and the executive authority vested in the President and Cabinet and the judicial authority is not clearly separated as uphold in the classical concept of separation of powers. The reason for this is that the President is elected by the National Assembly, which can dismiss the President if there is a misconduct or if there is a notion of confidence in the President. In addition, the executive has both judicial and legislative powers and is not systematically separated from the legislature. The President has legal powers to promulgate regulations with the force of law that means that the president has legislative competence. Furthermore, the President has powers regarding the judiciary through the competence to appoint judges and to pardon and reprieve offenders. The President, the Deputy President, and members of the Cabinet requires the confidence of National Assembly to remain in office and they are accountable to the legislature (Parliament) for their actions and the performance of their office (Myeni and Buccus in Landsberg and Graham, 2017:61-63).

In light of the above, Section 92(2) of the *Constitution*, 1996 requires that member of Cabinet is accountable either individually or collectively to Parliament concerning the manner in which they exercise their powers and the performance of their responsibilities or functions. While, Section 55(2) of the *Constitution*, 1996 requires the legislature in exercising its legislative power to maintain oversight of the national executive authority, including the implementation of legislation. In terms of Section 114 of the *Constitution*, 1996 the provincial legislature must provide mechanisms to ensure that all provincial executive organs of state are accountable and to maintain oversight of the provincial executive authority including the implementation of legislation. In terms of local government as discussed on the previous chapter, Section 152(1) of the *Constitution*, 1996 clearly requires from local government to provide a democratic and accountable government for local communities.

Although the *Constitution*, 1996 clearly provides that legislatures are mandated to oversee the activities of the executive, which entails that the executives are accountable to the legislature and that the legislature must make provision for separation of powers between legislative, executive and the judiciary in South Africa, the country's democracy remains fragile. The reason for this is that the separation of powers has been perceived as ambiguous in nature between the legislative and executive branch in the adopted political system. In that the executives appear before the legislature or committees of Parliament, but the executives seem to be reluctant to provide clear answers about the manner in which they exercise their powers and the performance of their functions. The challenge is that the executives tend to provide blurred responses to such an extent that some of the matters are left to the judiciary to provide answers. The political will to exercise the constitutional mandated oversight function of legislatures to hold the executives to account remains a challenge (Malapane, 2016:863; Thornhill, 2015:98-100; Van der Waldt, 2015:48-50).

The latter and allegation of corruption and state capture as discussed in Chapter 2 of this study leads to the emerging culture of avoidance of the constitutional mandated functions of oversight by the legislatures. Another concern that hampers legal accountability is the continued avoidance of accountability by executives to appear before oversight committees such as SCOPA to provide clear answers for their actions or inaction. The latest tendency is to leave the matters to the judiciary to provide answers to such questions of legitimacy. The latter occurs, despite that the *Constitution*, 1996 demarcates the powers of each of the three branches of government and clearly mandated that the legislature must oversee the activities of the executives to hold them to account for their actions or inactions (Malapane, 2015:863).

In the context of local government Section 151(2) of the *Constitution*, 1996 provides that the executive and legislative authority of a municipality is vested in the municipal council. According to CoGTA (2013:5), the *Constitution*, 1996 does not provide for a separation of powers in local government. The executive and the legislature are therefore not separate branches as is the case in the national and provincial spheres of government. The municipal council makes by-laws and needs to ensure that they are executed. The electorate knows that the municipal council is responsible for policy making and governance. This puts the responsibility on the electorate to hold the municipal council accountable to implement their legislative mandate (Malapane, 2015:863; Van Niekerk and Dalton-Brits, 2016:119).

SALGA (2015:20-21) agrees with the above statement that there is no separation of powers in the context of local government as in the case of national and provincial government between the legislature and the executive branches. However, SALGA (2015:20-21) argues that with the introduction of the speaker in municipalities who serves as the chairperson of the municipal council and the subsequent establishment of the municipal public accounts committees (MPACs) who acts as an internal oversight committee of municipalities set the tone for the roll out of a model of separation of functions between the legislative and executive. SALGA (2015:20) further argues that except for the above the Section 80 of the *Municipal Structures Act*, 1998 committees support the political executives therefore Section 80 committees reports to the executive mayor or the executive committee. On the other hand, according to Section 79 of the *Municipal Structures Act*, 1998, committees are mechanisms to oversee political executives and are accountable to the municipal council. The function of the Section 79 committees is the responsibility of the speaker. A concern is that political deployment and interferences undermines the functionality of MPACs to fulfil its oversight role effectively. Therefore, failure to ensure that the Section 80 and Section 79 function effectively requires strong political accountability to ensure that councillors who do not fulfil their responsibility must be removed (SALGA, 2015:20-21; Sibanda, 2017:316). It was mentioned in Chapter 2 of this study that the roles and responsibilities of the municipal council should always be carried out with a clear distinction between oversight and political interference in administration as defined in the Section 52 and Section 103 of the *MFMA*, 2003, as well as in the Code of Conduct for Councillors, which is defined in Schedule 1 of the *MSA*, 2000.

Having considered the above one could argue that idea of separation of powers between the executive, legislative and judicial branches is to guard against the abuse of powers and to protect human rights of the public. It was further argued that the separation of powers in South Africa and in particular in local sphere of government are unambiguous. One could further argue that the absence of a political will to ensure that legislatures fulfil their constitutional mandated oversight role to hold the executives to account coupled with the reluctance or avoidance of executives to provide clear answers for their actions undermines the idea of separation of powers and it undermines the prescripts of the *Constitution*, 1996. Another concern is that political interferences in local sphere of government undermines the functionality of MPACs to fulfil their oversight role effectively. It may be concluded that a strong political will and political accountability is required to oversee that the municipal

council fulfil their constitutional mandated oversight function and to hold the administration to account for their actions and inactions.

3.3 LEGISLATIVE MECHANISMS TO PROMOTE OVERSIGHT AND ACCOUNTABILITY

In terms of Section 55(2) of the *Constitution*, 1996 the National Assembly (NA) has to put mechanisms in place to ensure that all executive organs of state of the national sphere of government are fulfilling and maintaining their oversight and accountable role. Section 55 of the *Constitution*, 1996 provides that the legislature must establish mechanisms to uphold oversight of the national executive authority. Furthermore, the *Constitution*, 1996, further provides in Section 92(2) that the members of Cabinet are accountable to Parliament (Legislative branch of national government) regarding the way they exercise their powers and the way they perform their functions. While Section 93(2) of the *Constitution*, 1996, further provides that the Deputy Ministers are also accountable to Parliament for how they exercise their powers and fulfil their functions (Thornhill, 2015:81-82; Legislative Sector, 2012:9-11).

The provincial legislatures are mandated in terms of Section 114(2)(a) of the *Constitution*, 1996, to establish mechanisms to ensure that provincial executive organs of state of the province are accountable to the provincial legislature. While, Section 133(2) of the *Constitution*, 1996, provides that the executive councils of all nine provinces are also accountable to the provincial legislatures for the manner that they exercise their functions. At local sphere the municipal council is required in terms of Section 151(2) of the *Constitution*, 1996, is required to provide reasons for their actions (Legislative Sector, 2012:12-15).

Except for the above constitutional requirements, the *Constitution*, 1996, also sets out the prescripts and crucial roles of responsibilities assigned to political and public office-bearers as discussed in Chapter 2 (Section 2.5.1) of this study. Section 84(2) of the *Constitution*, 1996 provides the responsibility roles and functions of the President, while Section 92(1) emphasises the responsibility role of the Deputy President and Ministers. Section 127(1) clearly assigns specific responsibilities to the premiers of the nine provinces, while Section 151(2) states that the responsibility to fulfil the municipal functions is vested in the municipal councils. Lastly, Section 96(1) of the *Constitution*, 1996, provides that members of the Cabinet and Deputy Ministers' conduct must be in accordance with the Code of Conduct for these

political office-bearers (Legislative Sector, 2012:11; Van Niekerk and Dalton-Brits 2016:119; Thornhill, 2015:81).

Section 195(1) of the Constitution, 1996 provides the basic values and principles of the public administration. These principles include, that all political and public officials must set a high standard of professional ethics and that must be promoted and maintained. It also maintains that services must be provided impartially, fairly, equitably and without bias and that functionaries and administration institution must be accountable. The above constitutional principles have implications for all functionaries, political and public officials. One could argue that public functionaries' day to day actions and interactions should be guided by these principles (Holtzhausen in Draai *et al.* 2017:94-95; Thornhill, 2015:82).

According to Adeyemi, Akindele, Aluko and Agesin (2012:84), the *Constitution*, 1996 empowers a legislature to hold functionaries and organs of state to account. In the case of an allegation of misconduct or corruption an internal or independent inquiry has to take place. In terms of Section 89 of the *Constitution*, 1996, the national and provincial legislature has the power to impeach the individual, remove them or suspend them from office for a period of time. Adeyemi *et al.* (2012:84) are further of the view that the accused person might also decide to resign before trial.

The following section discussed the constitutional bodies established to strengthen accountability and oversight in the three spheres of government.

3.4 CONSTITUTIONAL BODIES TO STRENGTHEN OVERSIGHT AND ACCOUNTABILITY

In terms of Section 181(1) of the Constitution, 1996 the following constitutional institutions must strengthen constitutional democracy namely; the Auditor- General, Public Protector; The Human Rights Commission; the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities; the Commission for Gender Equality, and the Electoral Commission (Mphaisha, 2015:102). Section 181(2), of the *Constitution*, 1996 provides that the Chapter 9 institutions are independent, and subject only to the *Constitution*, 1996 and that these institutions must be impartial and exercise their powers and perform their functions without fear, favour or prejudice (Craythorne, 2006:293). Section 181(3) of the

Constitution, 1996 provides that other organs of state, must provide assistance and protection to the Chapter 9 institutions to ensure their independence, impartiality, dignity and effectiveness. While, Section 181(4), of the *Constitution*, 1996 further provides that no person or organ of state may interfere with the functioning of the Chapter 9 institutions. Lastly, Section 181(5) of the *Constitution*, 1996 provides that these institutions are accountable to the National Assembly and must report on their activities and the performance of their functions to the Assembly at least on an annual basis.

Section 194(1) of the *Constitution*, 1996 provides that the Public Protector, the Auditor-General or a member of a Commission established in terms of Chapter 9 may be removed from office only on the ground of misconduct, incapacity or incompetence, or a finding to that effect by a committee of the National Assembly, and the adoption by the National Assembly of a resolution calling for that person's removal from office. Section 194(2) of the *Constitution*, 1996 further outlines that resolution of the National Assembly concerning the removal from office of the Auditor-General or Public Protector must be adopted with a supporting vote of at least two thirds of the members of the Assembly, or a member of a Commission must be adopted with a supporting vote of a majority of the members of the Assembly. For the purpose of this study that focused in particular on oversight and accountability the Auditor-General, Public Protector, Public Service Commission and the National Prosecuting Authority were discussed below.

3.4.1 The Auditor-General

According to Munzhedzi (2016:7) and Van Niekerk and Dalton-Brits (2016:121), the Auditor-General is a constitutional body established in terms of Chapter 9 of the Constitution, 1996 as an oversight body with the function to oversee the management of public finance on behalf of Parliament. The functions of the Auditor-General includes *inter alia* to ascertain, investigate and audit and report on all the accounts, financial statements and financial management of all national and provincial departments and administrations and all municipalities and municipal entities (Fourie and Opperman, 2015:14; Munzhedzi, 2016:7; South Africa Yearbook, 2009:228).

The Auditor-General as the supreme audit institution of South Africa is responsible to strengthen and promote the country's democracy by ensuring and enabling oversight and

accountability and good governance in the public sector. The Auditor-General provides world-class audits and reports on the accounts, financial statements and financial managements of all municipalities, national and provincial state departments. The South Africa Yearbook (2009:228) further asserts that auditing of public sector departments and organs of state involves investigating and evaluating government and related institution's financial-management practices, performance and compliance with legal requirements. According to Gildenhuis (1993:92), the responsibilities of the Auditor-General differ completely from those of private auditors. Private auditors are responsible for auditing the financial transactions and accounts of the public and private organisations. Private auditing organisations such as KPMG are also used by public sector departments to audit their books.

The Auditor-General must further audit and report on the consolidated financial statements of national, all provincial governments as required by Section 8 to 19 of the *PFMA*, 1999 and of all municipalities and municipal entities as required by Section 12(2) of the *MFMA*, 2003. In addition, the Auditor-General may audit and report on the accounts and financial statements and financial management of any public entity and any other institution which is funded by national or provincial revenue or is authorized in terms of any legislation to receive funds for a public purpose (Fourie and Opperman, 2015:14). In terms of Section 189(3), of the *Constitution*, 1996 the Auditor-General must submit audit reports to any legislature that has a direct interest in the audit and to any other authority prescribed by national legislation. All reports must be made public.

The *Constitution*, 1996 provides in Section 188(1), 2(a), (3) and (4) the functions of the Auditor-General. Section 189 of the *Constitution*, 1996 requires from Parliament to appoint an Auditor-general for a five to seven years fixed and non- renewable term (Thornhill, 2015:85). In this regard Gildenhuis (2018:29-30) point out that the general functions of the Auditor-General concerning local government include the following:

- To ensure that the accounts and financial statements of municipalities are compiled in accordance with the prescribed requirements and that proper and generally acceptable accounting practices and procedures have been followed;
- In the case where a municipality spent public funds illegally the Auditor-General may request a court of law to pronounce the expenditure irregular and may instruct the

responsible councillor or municipal official by way of a court order to repay the sum of money which was spent illegally;

- In the case where the Auditor-General finds that public funds due to a municipality have not been properly collected, and brought to account, or that a financial loss has occurred as a result of mismanagement of funds or maladministration the Auditor-General may recover the loss directly from the responsible municipal official.

In the context of local government Section 4(3) of the *Public Audit Act*, (Act 12 of 1995) provides that the Auditor-General has to convey a report on the accounts of a municipality to the chairperson of the municipal council and to the accounting officer of the municipality (Van Niekerk and Dalton-Brits, 2016:121). In addition, Fourie and Opperman (2015:14-15) and Gildenhuys (2018:30) state that the Auditor-General must prepare a report concerning the audit of a municipality or municipal entity and such report must reflect an opinion or conclusion on the following:

- Whether the financial statements fairly present the financial position of the municipality or municipal entity at a specific date, and whether it complies with the applicable financial framework and legislation relating to financial matters, financial management and related matters;
- Whether all expenditure has been properly authorized by the Municipal council;
- Whether all income has been collected in accordance with prescriptions;
- Whether proper accounting practices have been followed, and whether the internal control mechanisms will prevent any losses;
- That no fraud or corruption can take place which cannot be detected by the audit process;
- To ensure that any fraud or corruption discovered is reported to the appropriate authorities, such as the Auditor-General and the local public protector;
- Whether the municipality concerned takes relevant factors into account when making decisions; and
- The Auditor-General may report on whether the municipality resources were produced economically and utilized efficiently and effectively.

In light of the above, the Auditor-General report is submitted to the chief executive officer of the municipality concerned. Gildenhuis (2018:31) further points out that on receipt of the Auditor-General report the chief executive officer must submit the report to the chairperson of the municipal councillor to the chairperson of the executive committee. The chief executive officer explanations of any discrepancies as indicated in the Auditor-General report must be placed on the agenda of the next meeting of the municipal council. In this regard Van Niekerk and Dalton-Brits (2016:121) explain that in terms of Section 4(3)(c) and (d) of the *Public Audit Act*, 1995 the municipal council must not discuss the Auditor-General's report behind closed doors. Gildenhuis (2018:31) further explains that the executive committee must advise the municipal council on any required corrective measures to be taken or advise it to accept and condone the chief executive officer explanations. The municipal council must report back to the Auditor-General concerning the required steps it has taken to correct and to rectify any discrepancies.

In terms of Section 3(b) of the *Public Audit Amendment Act* (Act 5 of 2018) the Auditor-General has the power to take any appropriate remedial action and to issue a certificate of debt where an accounting officer or accounting authority has failed to comply with a remedial action. In addition, Section 5(A) of the *Public Audit Amendment Act*, 2018 provides that where a material irregularity resulted in a financial loss to the state, and the accounting officer or the accounting authority has failed to implement the recommendations of the Auditor-General's audit report, the remedial action taken by the Auditor-General must include a directive to the accounting officer or the accounting authority to determine the amount of the loss, and to recover such a loss from the responsible person such as a municipal councillor or a municipal official.

Thus, the Auditor-General fulfil a critical important role to report on the accounts, financial statements, and financial management of all three spheres of government, including all municipalities and all municipal entities, as well as to assess whether municipalities comply with the relevant requirements of the *MFMA*, 2003. The amendments of the *Public Audit Amendment Act*, 2018 should have a positive impact on implementing consequences in that it deals with the recovery where losses have been suffered and enforcing accountability against municipal officials and councillors responsible for such losses.

3.4.2 The Public Protector

The Public Protector as one of the accountability mechanisms has the power as provided in Section 182(1) of the *Constitution*, 1996 to investigate any conduct in state affairs or concerning public administration of any of the three spheres of government, which includes the local sphere of government, which is either alleged or suspected to be improper or it may result in any indecency or prejudice. Section 182(1) further requires that the Public Protector must report on that conduct and must take the required remedial action. Furthermore, the Public Protector must be accessible to all persons and to all communities and the reports must be open to the public unless exceptional circumstances as determined in terms of national legislation, require that a report be kept confidential. In terms of Section 181(2) of the *Constitution*, 1996 the Public Protector has the additional powers and functions prescribed by national legislation. Section 181(2), of the *Constitution*, 1996 further provides that the Public Protector may not investigate court decisions. In terms of Section 183, the *Constitution* of 1996 the Public Protector is appointed for a non-renewable period of seven years. Thus, the Public Protector fulfill a key role to strengthening constitutional democracy, by maintaining transparency and public accountability (Munzhedzi, 2016:6; Thornhill, 2016:130-131; Thornhill, 2015:84-85).

According to Pienaar (2000:6), Section 6 of the *Public Protector Act*, (Act 23 of 1994), provides that the Public Protector has the powers to investigate any matter reported to him/her. The public may lodge a complaint to the Public Protector by means of written or oral declaration made under oath. A member of the office of the Public Protector shall render necessary assistance, free of charge. Section 6 of the *Public Protector Act*, 1994, further states that the Public Protector shall on his/her own initiative or on receipt of a complaint, investigate any maladministration in connection with the affairs of any state institution. Public Protector must also report on the conduct in state affairs, or in any sphere of government or its administration and take the required appropriate remedial action (Van der Walt in Thornhill, van Dijk and Ile, 2014:307; Van der Waldt, 2016:154; Hussein, 1999:25).

According to Pauw, Van der Linde, Fourie and Visser (2015:308), the Public Protector is a constitutional institution responsible to investigate allegations of government fraud and unfair practices on behalf of members of the public. Van der Walt (in Thornhill, van Dijk and Ile,

2014:307) claim that in a democratic development state public institution such as the Public Protector assist government to provide services of an acceptable standard to all citizens. The Public Protector not only receives but has to investigate complaints from political parties, civil society and all sectors in South Africa such as complaints about basic service delivery, health care services, water and basic electricity supplies, corruption and ethical behavior of the executive to name but a few.

According to Thornhill (2016:148), the public protector as one of the chapter 9 constitutional institutions is the guardian of accountability and ethical conduct. However, some of the remedial actions concerning the Nkandla project about the former President's homestead prescribed by the former Public Protector was questioned by the former President, the Cabinet and National Assembly. In fact, the National Assembly tried to protect the former president's failure to comply with the former Public Protector's remedial actions and to give effect to the findings. The Constitutional Court provided a clear response by declaring that the remedial action as prescribed by the Public Protector means exactly what it implies. Thus, the Constitutional Court justify the role of the public protector that implies that the President, the National Assembly and the Cabinet are obliged to give effect to the provisions of the Public Protector. A concern is the current Public Protector Busiswe Mkhwebane who occupied the office since late 2016 loyalty to the Constitution were questioned. The current Public Protector's was criticized about the findings of her report affecting ABSA and the South African Reserve Bank.

Furthermore, the current Public Protector was also criticized in the Pretoria high court over her judgement to set aside the report about the former premier of the Free State province Ace Magashule and former agriculture Member of Executive Council (MEC) Mosebenzi Swane involvement in the Gupta-linked Vrede dairy farm corruption investigations. In her application to appeal the Vrede dairy judgement by the high court, the Public Protector argues that it was wrong to use the provisional report of the former Public protector as a standard to measure the legality of her (Busiswe Mkhwebane) report because it had no legal status in that it was only a "working document or work in progress akin to a draft judgement". However, the high court, argues that the differences between the reports of the former Public Protector and the report of the current Public Protector affected the legality of the latest report. The former public protector report had sought to give effect to an earlier investigation by the National Treasury and its recommendations, while the current Public Protector's report had come to a different view. The

high court mentioned that the basis for the current Public Protector to come to such a conclusion to was unclear and that it points to ineptitude or gross negligence. Furthermore, the judge claims that no explanation was given by the current Public Protector for the changes to the report (Marrian 2019:30).

From the above it can be deduced that there is no doubt that the Public Protector is a key constitutional body to uphold accountability, to maintain transparency and the constitutional democracy of the country. The constitutional mandate is provided to the office of the Public Protector in terms of Section 181(2) of the *Constitution*, 1996 while Section 7 of the *Public Protector Act*, 1994 provided that the Public Protector has significant powers and influences over the three spheres of government of which local government cannot be excluded. One could argue that the office of the Public Protector may investigate any activities of municipalities and make the findings of such reports must be made known to the public.

3.4.3 Public Service Commission (PSC)

Although local government falls outside the mandate of the PSC it is a key oversight constitutional institution. Munzhedzi (2016:9) states that the Public Service Commission (PSC) is mandated by Chapter 10 of the *Constitution*, 1996 to fulfill an oversight and monitoring role of the entire public service which include the national and provincial government. It is also required from the PSC to promote the following values and principles of public administration as provided in Section 195 of the *Constitution*, 1996, namely to promote and maintain high standards of professional ethics; to provide services in an impartially, fair, equitable and without bias; and to ensure accountability.

Munzhedzi (2016:7), further points out that the PSC introduced the system of financial disclosures by senior managers or senior management services (SMS) to address conflict of interest issues when government senior managers want to do business with the government. A concern is that the compliance rate concerning the declarations of conflict of interest have not been effective to enhancing accountability. In this regard, Mabuza (2017:1) mentioned that during the 2016/2017 financial year contracts of R165 million were awarded to suppliers of which government employees including political office-bearers had an interest. Mabuza (2017:2) further mentioned that at a total of 31 of the audited government departments, employees had failed to declare their own interest in awards of R54 million as part of

procurement process or through annual declarations, while employees failed to declare their family members' interest in awards of R274 million. Another concern was also raised by Mkhabela (2018:1) that the PSC is the only Chapter 10 institution dedicated to overseeing the performance of the public service, however the PSC has said and done nothing about alleged allegations about state capture.

Mkhabela (2018:1) explain that when media report revealed that the former President Mr Jacob Zuma introduced his son, to a senior official of the Department of Mineral Resources, with clear instruction to give his son deals in a manner not in accordance with Section 195 of the *Constitution*, 1996, the PSC fails to investigate the alleged unethical behaviour. One could argue that the above has serious implications in that the PSC is mandated by the *Constitution*, 1996 to promote and maintain high standards of professional ethics and to ensure accountability in the South African public service. Although local government falls outside the mandate of the PSC it is a key oversight constitutional institution to promote oversight at national and provincial spheres of government.

3.4.4. National Prosecuting Authority

In terms of Section 179 of the *Constitution*, 1996 and the National Prosecuting Authority Act (Act 32 of 1998) the National Prosecution Authority (NPA) has the power to institute criminal proceedings on behalf of the government to ensure that perpetrators of crime are charged and held responsible for their conduct and criminal actions (Munzhedzi, 2016:7). The NPA consist of various units to achieve its mandate such as the Witness Protection Unit, Priority Crimes Litigation Unit, the National Prosecutions Service, Asset Forfeiture Unit, to name a few. Moeti (2014:124) warns that although the NPA independence must be preserved the NPA is often linked to cases of impartiality and controversies. As such the independence and the credibility of the NPA is often questioned. Examples of these allegations of impartiality and biasness includes the disbandment of the Scorpions in 2009 based on political interferences which, was replaced by the Directorate for Priority Crime Investigations (DPCI).Munzhedzi (2016:13) mentions that several senior political and senior public officials have contravened the provisions of the *PFMA*, 1999 and in particular the *Preferential Procurement Policy Framework Act*, (Act 5 of 2000) but they are not yet brought to account for their actions that raises questions of the independence and impartiality of the NPA.

The failure to investigate the former Premier of the Free State and the MEC for Agriculture in the Gupta involvement in the Estina dairy farm and the dropping of charges against the people accused with the murder of the ANC Youth League leader Sindiso Magaqa in 2017 raised questions about the independence of the NPA (Skiti (2019:3)). Skiti (2019:3) further reported that the NPA has been riddled with factional infighting and has been criticized for its avoidance to prosecute those involved in state capture. Maughan (2018:7) warns that allegations were made in the media that the NPA and the former President being captured. These allegations were because the former President of South Africa replaced the former National Director of the NPA Mxolisi Nxasana from this key position in 2017 and appointed Shaun Abrahams as the National Director of the National Prosecuting Authority.

The Constitutional Court declared on 03 August 2018 that the appointment of Shaun Abrahams as the National Director of the NPA as unconstitutional and invalid. Allegations were also made before the Zondo Commission that top officials of the National Prosecuting Authority (NPA) were capture and that these top officials responsible to withheld oversight and accountability received monthly payments from the alleged corrupt and company Bosasa. In February the President, Mr Ramaphosa appointed Shamila Batohi in February 2019 as the new head of the NPA, and also announced the establishment of an Investigation Directorate into state capture to investigate the recommendations of the report of the Zondo Commission of Inquiry into State Capture. In light of the above, one could argue that although the NPA as an independent, constitutional body fulfill a critical important role to ensure that perpetrators of crime are brought to account for their actions, its impartiality and independence is questioned to such an extent that the NPA was criticized as being captured.

3.4.5 Other anti-corruption institutions or agencies

Except for the above constitutional institutions to promote oversight and accountability in the three spheres of government, the following anti-corruption institutions or agencies were established to deal with offences relating to corruption.

- **The Asset Forfeiture Unit (AFU).** The unit was established in 1999 in the office of the National Prosecutions Authority to investigate and seize assets of criminals as an effort to fight against crime, and particularly organised crime (Pauw *et al.*, 2015:308).

- **The Directorate for Priority Crime Investigations (Hawks).** The Hawks targets organised crime, economic, crime, corruption, and other serious crime referred to it by the President or the South African Police Service.
- **Special Investigation Unit (SIU).** The President of South Africa established a Special Investigation Unit Tribunal in February 2019 to fast-track the finalization of matters that the SIU refers for civil litigation. In terms of the *Special Investigation Unit and Special Tribunals Act* (Act 74 of 1996) provision is made in respect of the affairs of municipalities. The SUI is mandated to investigate activities of corruption and fraud, serious maladministration in connection with the affairs of municipalities. The SIU is mandated to recover funds and or assets lost by state institutions through irregular and corrupt means. This will ensure that those who are responsible for the loss of monies and or assets by state institutions including municipalities are held accountable. The litigation process includes both public and private sector and public entities (Gerber, News 26 September 2019). The political oversight and accountability were discussed in the discussions below.

3.5 POLITICAL ACCOUNTABILITY AND OVERSIGHT

Adeyemi *et al.* (2012:84) are of the view that political accountability refers to the accountable role of the political office-bearers to the citizens and to legislative bodies such as a Parliament, provincial legislatures and municipal councils. Political accountability can be promoted through both organs of state, committees and non-government institutions (Fox, 2000:4). Adeyemi *et al.* (2012:84) maintain that the political office-bearers of any rank should be accountable to their constituencies for how they spent the taxpayer's money. This takes place during elections through which the citizens should decide, whether to hold or throw out the political office-bearers by refusing to vote for such a person based on their actions or in actions and performance while in office. In this regard Fox (2000:4) argues that political accountability limits the use and sanctions the abuse of political power. Political accountability can be promoted through both organs of state, committees, non-government institutions and local communities to hold politicians to account.

Sikhakane and Reddy (2011:89) are of the view that political accountability relationships allow the municipality to respond to the demands of key stakeholders such as interest and

pressure groups, politicians and the local community. It also refers to the relationship between politicians and their constituencies which emphasised responsiveness to the needs of the local community. A concern is that in many municipalities the relationship has become restrained in that politicians (mayor) and municipal officials are often in conflict resulting in conflicting and even factions within the municipal councils. The latter situation is not conducive for political accountability to citizens and it has a negative impact on service delivery. In this regard, Fox (2000:4) maintain that that public exposure is necessary but not sufficient to limit or sanction the abuse of power.

Political office-bearers refer to the speaker, executive mayor, deputy executive mayor, mayor, deputy mayor or a member of the executive committee as provided in Section 11 of the Local Government Laws Amendment Act, (Act 19 of 2008). According to the Auditor-General (AGSA 2018:12), the political leadership (municipal councillors) and municipal officials (administrators) must achieve the objectives of a particular municipality while taking the interest of their communities into account at all times by been consistently adhering to the requirements of legislation and government policies. The Auditor-General (AGSA 2018:12) further states that accountability in local government is critical and it means that political office-bearers of which municipal councillors cannot be excluded are answerable to the electorate for their actions, decisions and policies. The mechanisms to promote political oversight and accountability were outlined below.

3.5.1 Mechanisms to promote political oversight and accountability

In the sections below the various mechanisms to promote political oversight and accountability were discussed.

3.5.1.1 Elections to promote political and representational accountability

Political accountability requires that political office-bearer of any rank should be accountable to their constituencies, by whom they have been elected. It is through regular elections (national or municipal) that the citizens decide whether to retain or throw out a particular political representative by refusing to vote for such a person based on their performance during their term of office. It may be argued that elections can be used to revoke the electoral mandate

of a representative or elected political office-bearer. However, voters do not have any direct means to hold a political office-bearer to account during the term for which they have been elected. Political. However, Babaginda (in Adeyemi *et al.*, 2012:84) contend that, it is an imperative for the electorate to hold public and political office-bearers to account for their conduct and performance. The importance of municipal elections to hold elected political office-bearers and municipal officials to account was discussed below.

3.5.1.2 Municipal Elections

Sporran (2015:5) indicates that various statutory provisions are enacted to promote accountability and transparency in the public sector, including local government. It is important that the public and the municipal council be able to see and understand the relationship between elected political officials and the community within a specific municipality area. Sporran, (2015:5) points out that these relationships create conflicts of interest that need to be managed but, however, in order to maintain public confidence in the system of government, these relationships must be transparent. Anything that obscures that transparency should be removed.

Du Plessis (2013:55) mentions that the Constitution of 1996, Section 157(1) provides that a municipal council consists of members elected by national legislation. The national legislation must prescribe a system of the proportional representation based on a municipality's portion of the national common voters' roll. This, proportional representation provides for the election of members from lists of party candidates drawn up in a party's order of preference; or proportional representation combined with a system of ward representation.

Yilmaz *et al.* (2008:9) point out that communities' delegate authority to elected representatives to carry out daily functions of a municipality. Lawson in Yilmaz *et al.* (2008:9) further cites that political parties are situated at the heart of this representation. Political parties articulate and aggregate interests, provide channels for the recruitment of leadership, adjudicate disputes between conflicting interests, and engage in government decision-making. Political parties provide the linkage between the ruler and the ruled, the policy-maker and the citizen. Adeyemi *et al.* (2012:84) concurs that both the national and municipal elections can be used to revoke the electoral mandate of an elected official. However, voters do not have any direct way of holding elected municipal representatives to account during the term for which they have been elected. In this regard Community Law Centre (2008:1) cautions that this deficit in local

accountability begs the question whether a recall procedure would be an appropriate vehicle to enhance local accountability. Neither the Constitution of 1996 nor any of the local government legislation provides for a recall procedure.

In light of the above, the Community Law Centre (2008:11) notes that a combination of proportional and constituency-based elections constitutes the electoral system for local government in South Africa. Unlike the fully proportional system of election at the provincial and national level, the injection of a constituency-based election into the local government election system introduces an element of direct accountability. The ward councillors are directly linked to a constituency, which means they have a direct link with the community they represent. Where applicable, they also sit as a chairperson of ward committees and such see their function as intermediaries between the community and the municipality underlined. This direct link is conspicuously absent in the case of proportional representative councillors (Community Law Centre, 2008:11).

The Community Law Centre (2008:11) further corroborates the above that the proportional representative councillors are not made directly accountable to constituencies although there has been a suggestion that proportional representative councillors be assigned to wards. This obviously limits the accountability of elected representatives. The lack of direct accountability is more glaring at the level of district municipality. Sixty percent of the district councillors are indirectly elected by the constituent local councils, while the rest are directly elected through proportional party representation list. That means all district councillors are not directly linked to a constituency.

Van der Waldt (2015:50) postulates that the municipal council is elected directly by the electorate it represents and has constitutional mandate to oversee the administration and the executive of the municipality. In performing this constitutional mandate, the administration and the executive undertake vast powers that need proper oversight and accountability to avoid abuse and poor performance. Van der Waldt (2015:50) further indicates that since South Africa is a constitutional democracy, it is a requirement that the administration and the executives of the governmental institutions are monitored and held accountable by a distinct organ of state.

The Community Law Centre (2008:11) submits that the fact that ward councillors are directly linked to a constituency does not mean that this institution of accountability in fact produces

genuine accountability. A key reason for instances of weak accountability of ward councillors has to do with the manner in which important stakeholders in the accountability system are taking part in it. The role of political parties is an important factor in that senior party structures appear to play overly decisive roles in the selection of ward candidates.

Yilmaz *et al.* (2008:11) notes that the link between national and local party politics affects local governance. In some instances, local mayors who belonged to the ruling party at the national level were ousted from office because of the unpopularity of the party at the national level. Yilmaz *et al.* (2008: 11) further notes that critical features affecting the party system and structures are the existence of partisan or non-partisan systems, the role of national parties in nominating local candidates, rules governing the financing of parties, rules governing the participation of disadvantaged groups such as women or certain minorities, and the availability of parties based on ethnicity or religion. Municipal political officials and administration tend to be more accountable to their national and provincial political parties than to the local electorate. This loyalty to the national and provincial political parties also compromises effective oversight and accountability at local government sphere.

According to CoGTA (2009:11), the relationships at the local level are also tainted by contestations amongst the elites of local areas. The democratisation of the local sphere so well-envisioned in the *WPLG*, 1998, is now fraught with community frustration over poor institutionalisation of systems, poor service delivery and poor political governance. A culture of patronage and nepotism is now so widespread in many municipalities that the formal municipal accountability system is ineffective and inaccessible to many citizens.

De Visser (2008:4) advises that government should more vigorously enforce, and political parties should more readily respect, a strong separation of party and state at local government level. Political parties should not use municipalities as platforms for regional or national politics and should cease from interfering in the decisions of municipal administrations. The evidence of political interference, particularly around the appointment of municipal staff, is damning and the consequences dire. De Visser (2008:4) further refers to a court case in the Eastern Cape, the council of Amathole District Municipality and the regional structures of the ANC were slammed for colluding in a perverse deployment strategy. The strategy resulted in a less qualified individual being appointed as MM, despite the availability of an outstanding candidate (De Visser, 2008:4).

According to Craythorne (2006:69), the national legislation on the local government electoral system is referred to in the Constitution of 1996, as the *Municipal Structures Act, 1998*. The Municipal Structures Act, 1998, Schedule 1, states that a municipality consists of representative councillors (PR councillors) elected by the voters to proportionally represent the parties contesting the election and voters in wards, to directly represent the wards. Du Plessis (2013:55) indicates that in referring to the composition and election of municipal councils, the *Constitution, 1996*, Section 157(1) states that a municipal council consists of members elected by national legislation. The national legislation must prescribe a system of the proportional representation based on a municipality's segment of the national common voters' roll. This proportional representation provides for the election of members from lists of party candidates drawn up in a party's order of preference; or proportional representation combined with a system of ward representation. The Community Law Centre (2008:17) argues that if the electoral system is candidate-based as opposed to party-based, compatibility is less of a problem. The electoral system at the local government in South Africa is not fully candidate-based and thus issues of compatibility are evident. The proportional representative aspect of the municipal electoral system is not easily agreeable to a recall procedure. The use of a recall method needs the direct linking of an elected official to a constituency (Community Law Centre, 2008:17).

Social institutions such as the media and civil society have also been ineffective in increasing municipal accountability and oversight that led to a situation where there is lack of citizen confidence and trust in the government. This lack of citizen confidence and trust in the government has been publicly evidenced in the spate of community protests over the years, which may be seen as a symptom of the alienation of citizens from local government (DPLG, 2009:11). A report by Pricewaterhouse and Coopers (2010:6) showed that the alienation of citizens from local government bring forth certain governance challenges, the most important being the perceived lack of independence by councillors. Councillors should be held liable and accountable for their decisions, as are directors in the private sector, to ensure that decisions are made with the financial benefit of the municipality in mind. Du Plessis (2013:56) contends that leaving the choice of candidates to local people during municipal elections could not make voters trust their councillors less and may prompt them to place more faith in them. Because of the crucial role that the party is made to play in the choice of candidates, these candidates, who are too often unknown to their localities, labour to appease not their constituency but the political party that fielded them. Du Plessis (2013:56) points out that the carrot and stick for

re-election thus lies not with the constituency or even the local branch but with the upper branches of the party. This introduces an important accountability deficit in the system of local government. Yilmaz *et al.* (2008:11) indicates that politicisation of local government decision-making may encourage policy-making based more on prejudice and the exchange of benefits among the governing party members. Stone (in Yilmaz *et al.*, 2008:11) maintains that extreme politicisation of local government decision-making might result in the rotation of posts whereby each party has a chance to benefit for a short period of time. Thus, direct link in the case of proportional representative councillors to hold them to account by the electorate is absent in local sphere, that obviously limits the direct accountability of elected representatives.

3.5.1.3 Internal political mechanisms to promote accountability

Napier (2007:386) argues that between elections the electorate has to rely on alternative ways or internal mechanisms to hold political office-bearers and municipal officials to account for the performance of the municipality. These alternative or internal mechanisms include the following:

- Questions either verbal or written may be directed to the mayor or executive mayor of the municipality which may be placed on the agenda of the municipal council for discussion. Napier (2007:386) explains that the questions may be answered in writing or a member may ask for clarification which, refers to an opportunity to exact more information regarding the particular matter. In this way failures to perform or any other weaknesses in the performance of the executive of the municipality may be come to the surface and the municipal executives may be called to account for failure or weaknesses to perform.
- Another internal mechanism refers to the facility to petition an executive to address a weakness, in this way the municipality is compelled to account for a certain decision, or action or failure to perform.
- Another internal mechanism is a motion that may be put to the municipal council requesting further action or requiring further information which may be debated. In this way the executive has to account for a decision, action or any weakness concerning a certain municipal matter. Napier (2007:386) warns that a motion can

either be accepted or rejected in a legislature and it may be put to vote that is subject to political party lines in rejecting or accepting the particular motion.

- Another internal mechanism refers to debates on agenda items which allows members of the municipal council to raise points of concerns or to elicit more information on a municipal matter. However, the placing of an item on the municipal council's agenda is determined by the political executive of the council which does impose rigidity on the agenda, and which may limit the opportunity for representatives to debate or raise and issue.
- Another internal mechanism are deputations from a group of representatives which may be received by the mayoral committee or the municipal council in response to a request. Deputations is an important accountability mechanism to hold executives to account by the public.

Except for the above internal political mechanism to hold the executives of a municipality to account other communication channels may be used to elicit information such as meetings with municipal officials and formal correspondence. Another internal mechanism includes the mayoral *imbizos* (gatherings of people) to address the members of the local community and to discuss municipal matters with the community.

3.6 MUNICIPAL COUNCILS AND COUNCILLORS

According to Sibanda (2017:313-314) the oversight role of elected public officials cannot be overemphasised. In terms of Chapter 1 of the *MSA*, 2000 the political structure of a municipality, means the municipal council of the municipality or any committee or other collective structure of a municipality, elected designated or appointed in terms of the specific provision of the *Municipal Structures Act*, 1998. On the other hand, political office-bearer in terms of the *Laws Amendment Act*, 2008 means the speaker, executive mayor, deputy executive mayor, mayor, deputy mayor, or a member of the executive committee as referred to in the *Municipal Structures Act*, 1998. Thus, the political structure of the municipality resides in the municipal council, while political office-bearers refers to the speaker, executive mayor, deputy executive mayor, mayor, deputy mayor, or a member of the executive committee. Specific provisions were made in applicable statutory and regulatory legislative framework, concerning the oversight and accountable role and functions of the municipal council (political structure of the municipality) and the political office-bearers. In this regard, Section 53 of the *MSA*,

2000 defines the specific governance roles and areas of oversight and accountability of each political structure and political office-bearers. Section 48 of the MSA OF 2000, provide for the election of the mayor, deputy mayor whereas, Section 36 allows for the election of the speaker which serves as the chairperson of the municipal council.

In terms of Section 151(2) the executive and legislative authority of the municipality is vested in its municipal council. The municipal council is responsible to provide a democratic and accountable government to local communities as required in Section 4(2) of the *MSA*, 2000. Section 19 of the *Municipal Structures Act*, 1998 provides that municipal councils retain responsibility for approving policy and exercising oversight of its mayor, and the administration is accountable to the council via the mayor. Section 4(1)(b) of the *MSA*, 2000 provides that the municipal council exercise the municipalities executive and legislative authority, without improper interference. Except for the oversight and accountable role of the municipal council Section 2 of Schedule 1 of the *MSA*, 2000, provides that a councillor must perform the functions of office in good faith, honestly and a transparent manner and at all times act in the best interest of the municipality and in such a way that the credibility and integrity of the municipality are not compromised. Section 59(3) provides that the municipal council in accordance with procedures in its rules and order, may or at the request in writing or at least one quarter of the councillors, must review any decision taken by such a political structure, political office-bearer, councillor or staff member in consequence of a delegation or instruction, and either confirm, vary or revoke the decision subject to any rights that may have accrued to a person.

Ismael, Bayat and Meyer (1997:66) state that the *Constitution*, 1996, provides in Chapter 7 for the establishment of local authorities throughout the country. In a municipality the legislative and executive spheres of authority are vested in the municipal councils. In terms of the *MSA*, 2000, Section 4, Municipal councils have the right, on their own initiative, to manage their affairs of their constituents, subject to national and provincial legislation. In this connection, their ability or right exercise their powers shall neither be impeded nor compromised by national or provincial governments. Section 59(3) of *MSA*, 2000 provides that the municipal council in accordance with procedures in its rules and order, may or at the request in writing or at least one quarter of the councillors, must review any decision taken by such a political structure, political office-bearer, councillor or staff member in consequence of a delegation or instruction, and either confirm, vary or revoke the decision subject to any rights that may have

accrued to a person. Section 129(1) of the *MFMA*, 2003 provides that the municipal council must consider the annual report of the municipality or that of any municipal entity under the control of the municipality. The *MFMA*, 2003 Circular 32 of 2006 focusses on the oversight process that municipal councils must follow when considering the annual report and how to deal with the municipalities oversight report by encouraging continuous improvement and promoting accountability to stakeholders

In terms of Section 18 of the *Municipal Structures Act*, 1998, makes provision for the composition of the municipal council. Section 32 of the *Municipal Structures Act*, 1998 provides for the establishment of the executive committees. In terms of Section 59 of the *MSA*, 2000 the municipal council must develop a system of delegation that will maximise the administrative and operational efficiency of the municipality. The system of delegation would provide for adequate checks and balances. The system of delegation further allows the municipal council to delegate appropriate powers, excluding the power mentioned in Section 160 (2) of the *Constitution*, 1996 and the power to set tariffs, to decide to enter into a service delivery agreement in terms of Section 76(b) and to approve or amend the municipalities integrated development plan (IDP) to any of the municipalities other political structures, political office-bearer, councillor, or staff member to perform any of the municipalities duties and withdraw any delegation or instruction.

Section 59(3) of *MSA*, 2000 provides that the municipal council in accordance with procedures in its rules and order, may or at the request in writing or at least one quarter of the councillors, must review any decision taken by such a political structure, political office-bearer, councillor or staff member in consequence of a delegation or instruction, and either confirm, vary or revoke the decision subject to any rights that may have accrued to a person.

Yilmaz *et al.* (2008:13) are of the opinion that municipal councils are another core mechanism to promote representational accountability in municipalities. Effective oversight of municipal councils relies on the assumption that local elected representatives (PR councillors) have to respond to the needs and preferences of their constituencies. Yilmaz *et al.* (2008:13) further point out that the municipal council is tasked with the responsibility to formulate municipal policies and by-laws and serves as the representative body for collective decision-making. Municipal councils work with the local government's executive branch to deliberate on these policies and implementation to promote accountability and oversight. It is the duty of municipal

councillors to perform governing functions which involve decisions about the implementation of statutory and provincial legislation, by-laws and other applicative directives as well as continuous monitoring of the activities of officials.

Du Plessis (2013:57) points out that when considering the role of elected representatives, the argument for representatives to have detailed knowledge of the organisational functioning of public institutions including relevant municipal legislative frameworks and policies municipalities in this case, is indeed questionable. Taaibosch (2015:90) points out that a councillor who is unable to perform legislative and governing activities will be less able to master administrative executive activities. Thus, councillors who lack the necessary knowledge and insight concerning relevant municipal legislation and policies may will not be able to fulfil their oversight and accountable functions effectively, nor will they be able to make sound decisions.

In terms of the Section 21 of the *Municipal Structures Act*, 1998 no specific mention is made to the educational or academic qualifications for a municipal councillor. Section 21 provides that every citizen who is qualified to vote for a specific municipal council has the right to stand as a candidate in an election for that council. Thus, one could argue there are no specific educational or academic requirements for a member to serve as a councillor on a municipal council.

Thornhill in Du Plessis (2013:57) argues that one of the major inhibiting phenomena in the public sector is the increased interference of politicians in the normal administrative activities of the state, of which council meetings cannot be excluded. Siddle and Koelble (2012:100) argue that in a collective executive system, the political parties represented in the municipal council also served on the executive committee. Proportionality is being used as the guiding principle in this regard in that one executive council member is elected to serve as mayor. The mayor presides over meetings of the executive committee and the mayor performs other functions as may be assigned by the municipal councillor the executive committee (Siddle and Koelble, 2011:135).

According to Taaibosch (2015:87), the functions of a municipal councillor (PR) are not provided with in legislation however, Section 53 of the *MSA*, 2000 states that municipalities

have to determine the specific roles of each of its political structure (municipal council), political office-bearers and how municipal councillors and the MM should interact. Section 53 of *MSA*, 2000 further provides that the municipality must determine the required lines of reporting and accountability for its political office-bearers and the MM.

Taaibosch (2015:87-88) further explains that the *Constitution*, 1996 formulates the following responsibilities of municipal councillors and objectives of local government:

- In terms of Section 152(1)(a), councillors must ensure democratic and accountable government for local communities.
- In terms of Section 153(1)(a), municipalities must structure and manage their administration, planning and budgetary processes to give preference to the needs of the community that can promote their social and economic development;
- In terms of Section 151(3), a municipality has must govern the affairs of its community in accordance with national and provincial legislation as provided in the *Constitution*, 1996;
- In terms of Section 156(1)(4), national and provincial government must assign the administration of matters listed in Schedule 4, part A or Schedule 5, part A.

According to the South African Local Government Association (SALGA, 2011:182), municipal councillors must fulfil the following functions:

- Make decisions on behalf of the constituents they serve;
- Represent the needs and interests of their constituents;
- Fulfil leadership roles in municipal councils;
- Act as custodians or guardians of public finance;
- Provide effective oversight of municipal executives, council officials and accounting officers; and
- Be responsive to the communities they serve.

Schedule 1 of the *MSA*, 2000, Section 2, it is points out that a councillor must perform the functions of office in good faith, honestly and a transparent manner and at all times act in the

best interest of the municipality and in such a way that the credibility and integrity of the municipality are not compromised.

Municipal councillors are accountable to their constituents and to their party structures. Municipal councillors are key to improve the quality of life for all by overseeing governance and service delivery in the local sphere of government. Furthermore, the oversight role of councillors is an essential part of any democratic dispensation (Van der Waldt, 2011:74; Williams, 2012:6; SALGA, 2011:180). National Treasury *MFMA*, 2003 Circular 32 of 15 March 2006 furberishes municipal councillors with practical guidance regarding municipal financial management and oversight role within the municipal council.

The *Municipal Structures Act*, 1998, states that each municipal council must have a chairperson who will be called the speaker. At its first sitting after its election; or when necessary to fill a vacancy; a municipal council must elect its speaker from among the councillors. The MM or if the MM is not available, a person designated by the MEC for local government in the province, presides over the election of a speaker. Section 37 of the *Municipal Structures Act*, 1998 provides that the speaker of a municipal council performs the duties and exercises the powers delegated to the speaker in terms of Section 59 of the *MSA*, 2000. Although it is argued by SALGA (2011:17) that the speaker must be able to perform his or her functions independently from the executive arm of the council and that it is necessary to clearly distinguish between the executive and legislative arm of the municipal, it was emphasised in Chapter 3 of this study that Section 151(2) of the *Constitution*, 1996, Section 4(1)(b) of the *MSA*, 2000 or the *Laws Amendment Act*, 2008 does not make provision for the separation of powers between the legislative and executive branch in municipalities. Therefore, there is no clear separation of powers between the legislative and executive authority in the municipal council who is tasks with both the legislative and executive authority. However, the speaker of the municipality fulfils a critical oversight role to hold the political executives to account for their actions.

Van der Waldt (2011:69) stresses that a municipality must conduct its business transparently but may, on reasonable grounds and considering the nature of the business, close its meeting to the public and the media. The MM must give notice to the public of the time and date of an ordinary meeting or special council meetings. Van der Waldt (2011:74) indicates that a municipal council may establish one or more committees necessary for the effective and

efficient performance of its functions or the exercise of any of its powers. Members of a municipal council may be appointed as members of the committees and the municipal council must appoint chairpersons for the committees. The MPAC is appointed in accordance with Section 79 of the *Municipal Structures Act*, 1998, which must report directly to the municipal council and the chairperson of the MPAC consult directly with the speaker of the municipality on the inclusion of reports from the MPAC. The MPAC is responsible to exercise oversight of the executive functionaries (political and municipal officials) of the municipal council and to ensure good governance and performance of the municipality. Section 166 of the *MFMA*, 2003 provides that each municipality and municipal entity is required to establish an Audit Committee as a committee of the municipal council.

SALGA, (2011:42) outlines that the municipal council is responsible for all the decisions of a municipality subject to Section 59 of the *MSA*, 2000 which, deals with the system of delegations in a municipality. Whereas, Tsatsire (2000:119) is of the opinion that the municipal councils fulfil a key role in promoting local democracy, by representing the interest of the local community within the municipal council.

In light of the above, it was mentioned in the previous chapter of this study in Section 2.10 that the Auditor-General mentioned that one of the root causes of accountability failures in local government is political infighting and the interference of councillors in the administration of a municipality that weakens oversight (AGSA, 2017:22).

Du Plessis (2013:58) maintains that an important question with regard to the role of elected representatives, can be asked whether they can be entirely excluded from managing municipalities and whether the role of elected representatives and appointed officials can really be seen as being mutually exclusive. Du Plessis (2013:58) is of the view the reality is that the demands from the local community is of such a nature, as demonstrated in continued public protests regarding service delivery and other demands, that it becomes impossible to expect from elected representatives, who are under constant pressure for their constituencies to perform, not to become involved in administrative matters of a municipality. Subsequently, municipal councillors tend to involve themselves in the daily administrative functions of the municipalities. In terms of legislation there are limits to the binding decision making authority

of municipal councillors. Therefore, municipal councillors must have the political will to abide by the rules (Du Plessis, 2013:58).

Except for the above other root causes as reported by the Auditor-General (2017:22) that needs to be addressed by municipal councils of all municipalities include the following:

- Vacancies and instability in key positions;
- Inadequate skills led to a lack of oversight by council and insufficient implementation of financial and performance management systems by the municipal administration;
- Leadership inaction or inconsistent action, created a culture of no consequences, as a result of inadequate performance systems and processes;
- The blatant disregard for control measures including proper record keeping and the blatant non-compliance with key legislation makes it easy to commit fraud;
- Leadership ignore repeated recommendations and warnings of risks;
- Usage of consultants at a greater cost; and
- Lack of proper support from provincial and national role players.

According to Auditor-General (2017:2), municipal councils failed in a total of 61% of municipalities to conduct investigations into all instances of unauthorised irregular and fruitless and wasteful expenditure in the 2016/2017 financial year. Another concern raised by the Auditor-General (2017:3) is that inadequate skills of municipal councillors led to a lack of oversight by municipal councils including the mayor which resulted into insufficient implementation and maintenance of financial and performance management systems by municipal administrations. The Auditor-General (2017:57) further reported due to failure of accountability mechanisms the oversight and accountable role of municipal councils in local government in the Free State needs to be increased. The Auditor-General (2017:57) further reported that the amendments to the Public Audit Act to recovery losses and enforcing accountability against municipal officials responsible for financial losses would strengthen accountability and enforce adequate consequences where accountability failures occurred. Another concern as indicated in Chapter 2 of this study is that Manguang Metropolitan Municipality was the first metropolitan municipality in the country, to be placed under provincial administration, during January 2020. This is an indication of the continued

deterioration of the failure of oversight and accountability structures of municipalities in the Free State province.

In terms of the above discussion municipal councils are instrumental in maintaining representative accountability within the municipality. However, it was clearly confirmed by the Auditor-General that municipal councils of the majority of municipalities lack the ability to fulfil their accountable and oversight role in an effective manner. Only time will tell whether South Africa has the political will to enforce the *Public Audit Amendment Act, 2018* to promote accountability and to enforce consequences for where accountability failures occurred.

3.6.1 Metropolitan Sub-councils

Metropolitan municipalities or Category A councils exist in the eight biggest cities in South Africa. They have more than 500 000 voters and the metropolitan municipality co-ordinates the delivery of services to the whole area. Van der Walddt (2011:68) states that metropolitan councils have exclusive legislative and executive authority in their areas. They may make by-laws on all matters listed in Schedules 4B and 5B of the *Constitution, 1996*. These municipalities are broken into wards. Half the councillors are elected through a proportional representation ballot, where voters vote for a party. These municipalities are broken into wards. Half the councillors are elected through a proportional representation ballot, where the electorate vote for a particular party (Alexander and Kane-Berman, 2014:3: Van der Walddt, 2011:68).

Cloete and Thornhill (2005:92) maintain that the council of a metropolitan municipality may delegate assigned duties and powers to a metropolitan sub-council. The chairperson of the metropolitan sub-council is elected amongst its members. The metropolitan sub-council may make recommendations and advise the metro council on the duties and powers to be delegated to it. A metropolitan sub-council may, with the supporting vote of a majority of its members, determine its own procedures, subject to directives of the metropolitan council.

3.7 MAYOR OR EXECUTIVE MAYOR

SALGA (2015:21) states that the executive political leadership is provided by the executive mayor and the mayoral committee or the executive committee headed by the mayor, together

with Section 80 committees assisting the executive mayor and executive committee to fulfil the executive functions of the municipality. SALGA (2011:7) states that Section 7 makes provision for the different types of municipalities namely a collective executive system, a mayoral executive system and a plenary executive system that may be established within each category of municipality. Section 7(a) of the *Municipal Structures Act*, 1998 provides that a collective executive system allows for the exercise of executive authority through an executive committee in which the executive leadership of the municipality is collectively vested. Section 7(b) of the *Municipal Structures Act*, 1998 SALGA (2011:7) points out that the municipal council in municipalities with a collective executive system appoints an executive committee which is accountable to the municipal council. Section 44 of the *Municipal Structures Act*, 1998 provides that the executive committee is a committee of the municipal council which receives reports from the other committees of the council and which must forward these reports together with its recommendations to the municipal council when it cannot dispose of the matter in terms of its delegated powers. The executive committee must report to the municipal council on all decisions taken by the committee. In terms of Section 44(d) the executive committee must ensure that regard is given to public views and report on the effect of consultation on the decisions of the municipal council. Therefore, the executive committees must ensure that the committee is available and accessible for consultation with the public.

Section 44 of the *Municipal Structures Act*, 1998 provides that the executive committee is a committee of the municipal council which receives reports from the other committees of the council and which must forward these reports together with its recommendations to the municipal council when it cannot dispose of the matter in terms of its delegated powers. The executive committee must report to the municipal council on all decisions taken by the committee. Section 49 of the *Municipal Structures Act*, 1998 provides that the mayor presides at meetings of the executive committee and must perform the duties and exercises the powers delegated to the mayor by the municipal councillor or the executive committee. In terms of Section 44(d) the executive committee must ensure that regard is given to public views and report on the effect of consultation on the decisions of the municipal council. Therefore, the executive committees must ensure that the committee is available and accessible for consultation with the public (Van der Waldt *et al.*, 2018:82; Thornhill and Cloete, 2014:71-73).

A concern is that meetings of the mayoral committee, which must assist the executive mayor in municipalities with a mayoral executive system, is not regarded as a committee of municipal council. It means that decision-making is centralised in the hands of the executive mayor and the mayor committee and more than often the decisions take place behind closed doors. The councillors that are not members of the mayor committee claim that they cannot participate, or influence decision taken because they are not involved in the decision-making process of the mayoral committee. The latter means that there is a lack of transparency in the way that the mayor committee functions that makes it difficult for councillors to fulfil their oversight role effectively. A concern is that the mayoral committee can meet behind closed doors when matters related to by-laws, the municipal budget and the IDP denies the municipal council and councillors to have access to information makes it difficult to make the former accountable. It is argued that both the executive committee in a collective executive system, and the mayoral committee in municipalities with a mayoral executive system, should be available and assessable for consultations to enhance the councillors oversight role (Siddle and Koelble, 2012:100; Thornhill and Cloete, 2014:78-79).

The Auditor-General (2018:87) maintains that mayors have a monitoring and oversight role within a municipality and municipal entities. In terms of the *MSA, 2000* mayors have to review the integrated development plan (IDP), the budget and has to ensure that a municipality address the issues raised in the Auditor-General audit reports on local government. In terms of the *Municipal Structures Act, 1998* the mayor of a municipality presides at meetings of the executive committee and performs the duties, including any ceremonial functions, and exercises the powers delegated to the mayor by the municipal councillor the executive committee.

Thornhill and Cloete (2014:57) maintain that the following Category A executive system are available to metropolitan municipalities. Firstly, a metropolitan municipality with a collective executive system. Secondly, a metropolitan municipality with a collective executive system combined with a sub-council participatory system. Thirdly, a metropolitan municipality with a collective executive system with ward participatory system. Fourthly, a metropolitan municipality with a collective executive system combined with both a sub-council and a ward participatory system. Fifthly, a metropolitan municipality with a mayoral executive system, or a metropolitan municipality with a mayoral executive system combined with a sub-council participatory system. Seventhly, a mayoral executive system combined with a ward

participatory system. Lastly, a metropolitan municipality with a mayoral executive system combined with both a sub-council and a ward participatory system.

Except for the speaker the executive mayor as the political head in municipalities with a mayoral executive system, fulfil also a key oversight and accountability role over the executives of the municipality. The statutory functions of the executive mayor are provided in Section 56 of the *Municipal Structures Act*, 1998. In terms of Section 56(1) of this Act an executive mayor is entitled to receive reports from committees of the municipal council and to forward these reports together with recommendations to the municipal council when the matter cannot be disposed of by the executive mayor in terms of the executive mayor's delegated powers. The municipal council may in terms of Section 80 of the *Municipal Structures Act*, 1998 may establish portfolio committees, to assist the executive committee or executive mayor of the municipality. Section 80 portfolio committees serve at the sole discretion of the executive mayor. Section 59 (3)(b) of the *Municipal Structures Act*, 1998, provides that the municipal council may require its executive committee or executive mayor to review any decision taken by such a political structure, political office-bearer, councillor or staff member in consequences of a delegation or instruction. As part of the political structure oversight function, the municipal council has to approve the budget of the municipality, provide oversight of the tabling of the annual budget, responsible for the approval of the SDBIP and the signing of annual performance agreements and the municipal council has to adopt the annually review SCM policy of the municipality. In terms of Sub- Section 3 and 4 of the *MSA*, 2000 the municipal council has to ensure the implementation of national, provincial and local legislation and policies by supplying the required resources and authority to the municipal authority. The municipal council must give account to the local community by providing and establish suitable control and reporting systems and procedures for monitoring and evaluating.

The executive mayor must ensure that that the objectives of local government as provided in Chapter 7 of the *Constitution*, 1996 are achieved (Van der Waldt *et al.*, 2018:82). In terms of the *Municipal Structures Act*, 1998 the mayor of a municipality presides at meetings of the executive committee and performs the duties, including any ceremonial functions, and exercises the powers delegated to the mayor by the municipal councillor the executive committee. Siddle and Koelble (2012:100) state that in the executive mayoral system, members of the mayoral committee are appointed by the executive mayor and report directly to and are accountable to the mayor, who may dismiss them. It is clear that the choice of executive system

influences power relationships within a municipality. A mayor in a collective executive system may, be subject to the dictates of the executive committee. The powers and functions imposed on the executive committee are much the same as those imposed on the executive mayor. In the case of the executive mayor, enormous powers are concentrated in a single office. One executive council member is elected to serve as mayor and he or she presides over meetings of the executive committee and performs such other functions as may be assigned by the council or executive committee.

The executive committee members report not to the mayor but to the municipal council. In the executive mayoral system, by contrast, members of a mayoral committee are appointed by the executive mayor and report directly to and are accountable to the mayor, who may dismiss them (Van der Waldt *et al.*, 2018:82; Siddle and Koelble, 2012:100). Thornhill and Cloete (2014:77), state that only certain types of metropolitan, local and district councils may have executive mayors. Therefore, the executive mayor is elected by the council. The executive mayor must ensure that the objectives of local government as provided in Chapter 7 of the *Constitution*, 1996 are achieved (Van der Walt in Van der Waldt *et al.*, 2018:82).

In terms of Section 56(2) of the *Municipal Structures Act*, 1998 an executive mayor is responsible for the fulfilment of the following functions:

- To receive reports from the committees of the council and to forward them with recommendations to council except if the executive mayor can dispose of a matter in terms of his or her delegated powers;
- To identify the needs of the municipality;
- To review and evaluate the needs into priorities;
- To make recommendations to the municipal council concerning strategies, programmes and services, to ensure address the identified priority needs of the community;
- To take into account any national and provincial development plans such as the National Developmental Plan of 2030; and
- To recommend the most effective way to deliver the identified strategies, programmes and services to the benefit of the whole community (Thornhill and Cloete, 2014:77-78).

Except for the above powers and functions the executive mayor must provide the general political guidance about financial and fiscal matters relating to the submission of the municipal

annual budget. The ceremonial functions of an executive mayor include the following: to provide political direction concerning the economic and social development, co-operative governance, community participation of the municipality. Furthermore, the executive mayor should welcome all visitors and dignitaries. The executive mayor should open campaigns, projects and programmes and should collaborate with business industry to promote investments within the municipal area (Van der Walt in Van der Waldt *et al.*, 2018:81-82).

The primary function of the mayoral committee is to assist the executive mayor. Craythorne, (2006:117) also mentioned that the *Municipal Structures Act, 1998* does not describe the mayoral committee as a committee of the council. Furthermore, the *Municipal Structures Act, 1998* also does not require minority party representation in the mayoral committee. As such the mayoral committee is accountable to the mayor and not to the municipal council.

3.8 THE SPEAKER

The Municipal Structures Act of 1998 makes provision for the appointment of the speaker as the chairperson of the municipal council in Section 36 who is elected amongst the municipal councillor of the municipal council. Craythorne, (2006:108) and Thornhill and Cloete (20114:79) point out the following functions of the speaker as provided in Section 37 of the *Municipal Structures Act, 1998*:

- The speaker must preside the meeting of the municipal council;
- The speaker has to perform the duties and has to exercise the powers as provided in the *Municipal Structures Act, 1998*;
- The speaker has to ensure that the municipal council meets at least on a quarterly basis;
- The speaker is responsible to ensure and to maintain order during municipal council meetings;
- The speaker has to ensure that members of the municipal council and committees of the municipal council adhered to the requirements of the Code of Conduct of Councillors;
- The speaker has to ensure that the municipal councils are conducted in accordance with the rules and regulations of the municipal council; and
- The speaker has to co-ordinate the activities of the ward committees.

According to van der Waldt *et al.* (2018:79), the speaker can be seen as a new political office-bearer introduced in terms of Section 36 of the *Municipal Structures Act, 1998*. Siddle (2011:140) states that the greater executive burden placed on the mayor under the current arrangement gave rise to the perception that the task of chairing the municipal council should be assigned to a more neutral figure, and hence provision was made for the office of the speaker. Khalo and Vyas-Doorgapersad (in Van der Waldt *et al.*, 2018:80) state that a municipal council is assigned with both the legislative and executive authority in order to prevent the monopolisation of powers. Therefore, a division of legislative and executive authority takes place between the speaker and the executive mayor in municipalities with an executive mayor system. In this regard Kraai *et al.* (2017:64) aver that the legislative and oversight structure refers to the speaker of the municipal council and the chairperson of the Section 79 portfolio committees and the members of this portfolio committee.

As mentioned in Section 3.2 of this chapter SALGA (2015:20) argues that the introduction of the speaker in municipalities who acts as the chairperson of the municipal council together with the establishment of the MPACs as the internal oversight committees in municipalities, set the stage for the implementation of a model of separation of functions in municipalities. However, the *Constitution, 1996* does not make provision for a separation of powers between the legislative and executive branch in municipalities, in terms of Section 151(2) the executive and legislative authority is vested in the municipal council. Thus, there is no clear separation of powers between the legislative and executive authority in the municipality but the municipal council and the speaker as the chairperson fulfil a key oversight role, to ensure oversight of the political executive authority (SALGA, 2015:20).

In terms of Section 9(e) and (f) and Section 10(c) of the *Municipal Structures Act, 1998* a councillor is not allowed to hold office as the speaker and mayor or executive mayor at the same time, but in municipalities with a plenary executive system combine with a ward participatory system the speaker must be called the mayor (Thornhill and Cloete, 2017:79). The speaker's primary functions relate to preside over meetings, disciplinary issues, and specifically assigned duties (Siddle, 2011:140). Siddle (2011:139) warns that the councillor support function may give rise to the abuse of power by any ambitious speaker. Unlike national and provincial legislatures, municipal councils have both a legislative and an executive function. The fact that the holder of a supposedly impartial office presides over a body with

executive functions may lead to tensions with structures and office-bearers responsible for executive functions and duties. The above underlines the importance that the speaker is not a member of the executive, the office of the speaker fulfil a leading oversight role over the executive function of a municipality (Siddle, 2011:139).

De Visser (in Siddle, 2011:139) warns that it is general practice to delegate to the office of the speaker certain responsibilities regarding community participation and the responsibility of supervising the ward committee system. These roles are highly political in nature, therefore a concern that speakers may not limit themselves to organisational duties but become rather active participants often to the embarrassment of the municipal executive (De Visser in Siddle, 2011:139). Thornhill and Cloete (2014:79) agrees with this statement by pointing out due to party political nature of the municipal council the role of the speaker has been filled with difficulty. From the above discussion one could argue that Section 37 of the *Municipal Structures Act*, 1998 clearly emphasised the functions of the speaker in the municipal council. Although it is argued by some scholars as pointed out in the above discussion that the introduction of the speaker who acts as the chairperson of the municipal council can be seen as the beginning of the separation of functions in municipalities, the *Constitution*, 1996 does not makes provision for a separation of powers between the legislative and executive branch in municipalities. Therefore, there is no clear separation of powers between the legislative and executive authority in the municipal council who is tasks with both the legislative and executive authority. However, it was further argued in Section 3.6 above, that the speaker fulfils, a key oversight role, to ensure oversight of the political executive authority of a municipality.

3.9 OTHER MUNICIPAL OVERSIGHT STRUCTURES/COMMITTEES

Except for the municipal council other committees of the municipal council fulfills a key oversight role such as the portfolio committees which are outlined in the discussion below.

3.9.1 Council portfolio committees

Van der Walt (in Van der Waldt *et al.* 2018:84) point out that a municipal council may establish one or more committees as required to perform its functions or to exercise its powers in an effective manner. The municipal council may not delegate or dispose of the power to make

laws to any other committee, office-bearer or municipal official. However, the municipal council may seek advice or may seek the support in the drafting or assessment of certain municipal policies through portfolio committees which must be part of the legislative structure of the municipality. The municipal council must determine the functions and procedures of a portfolio committee and may delegate powers and duties to such a committee in terms of Section 32 of the *Municipal Structures Act, 1998*. Besides the powers allocated to portfolio committees in terms of Section 32 of the *Municipal Structures Act, 1998*, powers are delegated to elected representatives and senior officials heading the functional or cluster areas. A municipal council may establish a portfolio committee for a specific function or cluster of functions such as health, planning, finance, environment and social services, public safety and transport, governance and administration or local economic development. Portfolio committees report to the mayoral committee and to the municipal council (Van der Walt in Van der Waldt *et al.*, 2018:83-84; Thornhill and Cloete, 2014:74; Napier, 2007:387).

Van der Walt (in Van der Waldt *et al.*, 2018:84) further maintains that all new or draft municipal policies must be addressed by the relevant portfolio committee. The relevant portfolio committee must assess, consider and make recommendations, thereafter the policy is ready for scrutiny by the community through public participation and finally the policy the draft policy may be submitted for final approval by the municipal council. According to Napier (2007:387), portfolio committees are established in accordance with Section 80 of the *Municipal Structures Act, 1998*. Representatives of Section 80 committees are determined in proportion to the strength of their party representation in the municipal council. Each of the Section 80 committees comprises fourteen members of political parties represented in the municipal council and appointed proportionally. Napier (2007:387) further maintain that opposition parties have presentation in the portfolio committees, their role in decision-making is limited by their minority status.

Portfolio committees are classified as Section 80 committees and are permanent structures in the municipal council. Portfolio committees advise the executive committees on policy matters and make recommendations to the municipal council. Section 80 or portfolio committees report and are therefore accountable to the mayoral committee (Kraai, *et al.*, 2017:64)

3.9.2 Ward Committees

For the purpose of this study the functions of ward committees to strengthen social accountability is discussed in more detail in Chapter 5 of this study. However, ward committees can also be seen as a political oversight mechanism. Ward councillors are directly elected by a particular constituency as such the ward councillor is the link between the constituency and the municipal council. Ward councillors has the responsibility to meet on a regular basis with the relevant stakeholders in the constituency. The communities must be kept informed about the affairs of the municipal councils such as the Integrated Development Plan (IDP) and the municipalities budget (SALGA, 2015:20). SALGA (2015:20) further explains that the municipality must provide technical support to ward councillors in the form of assistance by a public representative councillor and a technical official designated to provide administrative support. A performance scorecard must be developed that clearly set out the requirements of ward councillors and the acceptable level of performance, by indicating the consequences for non-compliance or non-performance of ward councillors including the recall procedure in the case of non-performance. Ward committees serve as a forum through which local communities can participate and representation, transparency and accountability are facilitated (Hussein, 1999:33). In terms of Section 72(3) of the *Municipal Structures Act, 1998*, the objective of a ward committee is to enhance participatory democracy in local government and must be established in each ward in the municipality. A ward committee consists of the councillor representing that ward in the council, who must also be the chairperson of the committee and not more than 10 other persons.

The ward council must make rules regulating the procedure to elect members of the sub-committee, taking into account the need for women to be equitably represented in a ward committee; and for diversity of interests in the ward to be represented. Section 73(4) of the *MSA, 2000*, provides that a ward council may make administrative arrangements to enable ward committees to perform their functions and exercise their powers (Siddle and Koelble, 2012:134).

One of the key functions of a ward committee is to promote participatory democracy in local government. Therefore, ward committees can be seen as an independent, advisory and impartial structure in that the ward councillor must make recommendations to the municipal council, the

executive mayor or metropolitan sub-council. Ward committees is not part of the municipal council and although they do not have any executive authority, they can express their dissatisfaction with the performance of a councillor to the municipal council (Shikhakane and Reddy, 2011:95). Thornhill and Cloete (2013:75) maintain that a ward committee may make recommendations on any matter affecting its ward to the ward councillor, or through the ward councillor, to the metro or local council, the executive committee, the executive mayor or the relevant sub-council. Thornhill and Cloete (2013:75) further point out that members of a ward committee are elected for a term determined by the metro or local council. If a vacancy occurs among members of a ward committee, the vacancy must be filled in accordance with procedure determined by the council concerned. The activities of the ward committee are usually coordinated through the office of the speaker of the council. A council may dissolve a ward committee if the committee fails to fulfil its duties. Thus, ward committees are a direct link between the ward councillor and the communities within a demarcated ward. In Chapter 5 of this study the critical role of ward committees to promote social accountability was discussed.

3.9.3 Municipal Public Accounts Committees (MPACs)

According to Munzhedzi (2016:5-6), and Sibanda (2017:316), one of the key mechanisms to promote oversight and accountability is the standing committees on public accounts (SCOPA) and in the context of local government the municipal public accounts committee (MPAC). Munzhedzi (2016:5-6) further, aver that both SCOPA and MPAC focuses on public expenditure by the executives. These committees are responsible for scrutinising the Auditor-General audit outcomes report regarding financial measures which may lead to dismissal or possible criminal proceedings taken against a public official and in local government against a municipal official. A concern is that the Auditor-General, Kimi Makwetu warns in his report on the 2017-2018 financial year that municipalities in the Free State province have displayed a total breakdown in internal controls. It is clear that neither of the municipalities or the MPACs nor the Free State Provincial government exhibited any response to improve oversight and accountability within local government in the Free State province (Ndaba, 2018:1). It may be argued from the latter that the culture of no consequences of the failure of political oversight and accountability remains a serious concern in municipalities of the Free State province.

Section 79 committees report to the municipal council. According to Kraai *et al.* (2017:64), the legislative and oversight structure refers to the speaker of the municipal council and the chairperson of the Section 79 portfolio committees and the members of this portfolio committee. Therefore, one could argue that the Section 79 committees are a key oversight and accountable mechanisms in the municipality.

Therefore, one could argue that the Section 79 committees are a key oversight and accountable mechanisms in the municipality. The functions and oversight and accountable role of MPAC were detailed in Chapter 4 of this study.

3.10 CODE OF CONDUCT FOR MUNICIPAL COUNCILLORS

Nealer (2011:178) submits that a code of conduct was established in line with Schedule 5 of the *Municipal Structures Act*, 1998. SALGA (2006:55) provides that councillors are accountable to the people who elected them, and the code of conduct sets the framework that governs their behaviour. The code of conduct spells out specific ways in which a municipal councillor must conduct him or herself at meetings and in disclosing of interests, personal gain, rewards, gifts and favours, unauthorised disclosure of information and intervention in administration and council property. Pauw *et al.* (2015:312) warn that a code of conduct does not make municipal officials virtuous, but it should promote moral behaviour. Breaches of the code of conduct are regarded in a serious light, hence the Code of Conduct for Municipal councillors also spells out procedures for a breach of the code.

The *Prevention and Combating of Corrupt Activities Act, 2003* defines a public officer (political or public office-bearer) as any person receiving remuneration from public funds. A municipal councillor is therefore subject to the laws that govern all other public officers as the Act defines the municipality as a public body (SALGA, 2006:55).

Furthermore, a municipal councillor can be charged with a criminal offence if he or she deliberately influences or attempts to influence any of the municipal officials to refrain from the financial reporting requirements or interferes in the financial management responsibilities or functions assigned in terms of the *MFMA*, 2003 (SALGA, 2006: 56). SALGA (2006:55) points out that a municipal councillor can also be found guilty if he or she deliberately or in a

grossly negligent way gives incorrect, untrue or misleading information to the accounting officer that would affect financial decisions of a municipality.

A concern is that the Auditor-General reports for 2016-2017 and 2017-2018 state the following factors are major contributors to accountability failures in particular in local government; key positions and not filled; a lack of adequate skills and a lack of oversight by municipal councils including the mayor; political interferences by councillors in the administration of local government weakened oversight; the development of a culture of no consequences as a result of inadequate oversight and performance systems and process; and disobeying and continued non-compliances with key municipal legislations creates an environment that makes it easy to commit fraud and corruption (AGSA, 2019:9). One could argue that it is clear that there are no consequences if municipal councillors conduct is not in line with the Code of Conduct for Municipal councillors.

3.11 CURRENT CHALLENGES OF LEGAL AND POLITICAL ACCOUNTABILITY

The numerous allegations of state capture raise a serious concern for the functionality of political oversight and accountable mechanisms in South Africa. The involvement of political executives including the former President, ministers, premiers, members of executive councils (MECs), municipal councillors and mayors in unlawful activities raises questions about the status of political responsibility and the functionality of oversight mechanisms such as legislatures (Parliament), provincial legislatures and municipal councils to hold political and public office-bearers and to account for their actions or inactions.

The functionality of constitutional mechanisms to promote legislative oversight and accountability are another concern. The effectiveness of the Public Protector, Auditor-General, PSC and NPA as constitutional mandated bodies have been in question to enforce remedial actions. In the discussion above it was mentioned that the remedial actions of the Public Protector about the Nkandla project concerning the former President's homestead being questioned by former President, the Cabinet and National Assembly to such an extent that the National Assembly tried to protect the former president's failure to comply with the Public Protector's remedial actions and to give effect to the findings. The Constitutional Court justified the role of the Public Protector that means that the President, the National Assembly and the Cabinet are obliged to give effect to the provisions of the Public Protector. Another concern is

that before the implementation of the *Public Audit Amendment Act*, 2018 the recommendations of the Auditor-General was not enforced. Even though the NPA fulfills a significant role in the criminal justice system the alleged allegations that the NPA been captured raised questions about its impartiality and independence (Thornhill, 2016 148; Munzhedzi, 2016:10-14).

Although SALGA (2015:20) argues that the introduction of the speaker in municipalities who also acts as the chairperson of the municipal council and the establishment of the MPACs as the internal oversight committees of municipalities to improve separation of powers between executives and legislature, democracy, transparency, oversight and accountability within municipalities one could argue that it fails in its obliged political oversight and accountable role. The reason for this is cited in the Auditor-General report for the 2016-2017 financial year as political infighting and the interference of municipal councils and other politicians with the administration of municipalities weakening its oversight function (AGSA, 2019:12). However, one could further argue that one of the main reasons why political oversight and accountability fails in local government is the lack of the leadership of municipalities and provincial governments to hold municipalities to account for their continued blatant non-compliance with the constitutional obligation as provided in Chapter 7 of the *Constitution*, 1996, including non-compliance with key municipal legislation. The Auditor-General further reported that the failure of accountability and oversight creates a culture of no consequences. The latest findings of the Auditor-General, Kim Makwetu, concerning the local government 2017-2018 financial year audit outcomes confirms, that there is a continued deterioration of blatant non-compliance with key municipal legislation, which is evident that mayors, municipal managers, and municipal councils are not serious about their oversight and accountable role which ultimately leads to the creation of a culture of non-compliance (AGSA, 2019:35). The Auditor-General in particular warns that the municipalities of the Free State province showed a total breakdown of internal controls as the political leadership of municipalities and the provincial government fails to improve their oversight and accountability role (AGSA, 2019:10). Therefore, in terms of the above discussion it is clear that oversight and accountability in particular the Free State local government is on a downward spiral and the creation of a culture of no- consequences is evident.

3.12 SUMMARY

This chapter provided insight into the legislative or legal oversight and accountability, separation of powers, legislative mechanisms to promote oversight and accountability. Furthermore, the constitutional bodies to strengthen oversight and accountability were outlined. Political oversight and accountability as well as the various mechanisms to promote political accountability were discussed. The political oversight and accountable role of municipal council, metropolitan-sub-council, municipal councillors, mayor or executive mayors, the speaker and other municipal committees including ward committees were discussed. The discussion about the Code of Conduct for Municipal Councillors emphasised the promotion of oversight and accountability within municipalities.

In the context of local government Section 152(1) of the *Constitution*, 1996 clearly requires from local government to provide a democratic and accountable government for local communities. Section 151 provides that legislative and executive authority is vested in the municipal council. It was further argued in this chapter that the speaker who is also the chairperson of the municipal council fulfils a key oversight role, to ensure oversight of the political executive authority of a municipality. It was further emphasised that mayors have a key monitoring and oversight role within a municipality and municipal entities. The accountable role of municipal councillors to their constituents they serve and to their party structures were emphasised. It was mentioned that municipal councillors are key to improve the quality of life for all by overseeing governance and service delivery in the local sphere of government. The oversight role of councillors can be seen an essential part of any democratic dispensation. It was further argued in this chapter that the fact that ward councillors are directly linked to a constituency has not directly translated into local accountability. This deficit in local accountability begs the question whether a recall procedure would be an appropriate vehicle to enhance local accountability. The lack of direct accountability is more glaring at the level of district municipality in that sixty percent of the district councillors are indirectly elected by the constituent local councils, while the rest are directly elected through proportional party representation list. This means all district councillors are not directly linked to a constituency.

Although the *Constitution*, 1996 clearly provides that local government must provide accountable local government to local communities the following concerns were raised in this chapter. It was argued that although, municipal councils, speaker, mayor and MPAC, are key

oversight structures in municipalities, the poor performance of municipalities in the Free State province raised a concern about the functionality of these key oversight and accountable structures. It was mentioned that in many municipalities the relationship between that politicians (mayor or executive mayors) and municipal officials are often in conflict resulting, in conflicting and even factions within the municipal councils. It was argued that the latter situation is not conducive for political accountability to citizens and it has a negative impact on service delivery. From the latest findings of 2016-2017 and 2017-2018 of the Auditor-General on audit outcomes of municipalities in the Free State province, one could argue that neither the municipalities nor the Free State provincial government made any effort to improve oversight and accountability within local government of the province. The functionality of the MPACs to fulfil a critical oversight role was also questioned, due to the fact the majority party have a the main say in the committee which could contributes that the MPACs do not fulfil their oversight role effectively. It was also mentioned that that political deployment and interferences undermines the functionality of MPACs to fulfil its oversight role effectively. It was further argued that the failure of effective oversight and accountability led to a culture of no-consequences.

Chapter 4 provided a theoretical overview of financial oversight and accountability will be outlined.

CHAPTER 4: THEORETICAL OVERVIEW OF FINANCIAL OVERSIGHT AND ACCOUNTABILITY IN THE CONTEXT OF SOUTH AFRICAN LOCAL GOVERNMENT

4.1 INTRODUCTION

Financial oversight and accountability are critical in the context of local government to ensure that municipal councils, political office-bearers, municipal office-bearers and municipal councils are holding to account for the decisions and the how the municipality manage limited financial resources. No municipality can deliver effective services and fulfil its constitutional mandated development role without sufficient financial resources. Municipal financial management deals with the municipality's revenue and expenditure decisions. The decisions include the revenue sources such as taxes used by municipalities to collect their revenue and decisions about ways of financing infrastructure developments and maintenance. It further refers to intergovernmental transfers received from national government such as conditional and unconditional grants. Procurement and SCM, asset management, reporting and oversight form part of financial management. The effective functionality of the various oversight structures and mechanisms to hold political office-bearers and municipal executives to account for the way that the municipality managed its financial affairs is critical to ensure sustainable service delivery.

In this section, an in-depth discussion of various mechanisms and strategies to promote accountable, ethical and responsible municipal financial management were explained. The oversight and accountability role of senior municipal officials such as the MM, the Chief Financial Officer (CFO) and departmental heads and managers accountable to MM were scrutinized. The oversight and accountability role of each of the above positions were discussed in detail.

4.2 STATUTORY AND REGULATORY FRAMEWORK FOR FINANCIAL MANAGEMENT IN SOUTH AFRICAN MUNICIPALITIES

In Chapter 2 of this study the financial statutory and regulatory framework requirements of local government were discussed in detail. In this section a brief overview of the legislative framework for municipal financial management was briefly outlined. According to Hanabe,

Taylor and Maclean (2017:394-395) and Kanyane (2011:935) avers that the *MFMA*, 2003 was designed to create financially viable municipalities, and to give effect to the requirements of efficient, effective financial management practices, including capacity building in areas such as budgeting, financial reporting and credit controls. Sibanda (2017:317) state that the *MFMA*, 2003 emphasises the efficient and economic use of resources to achieve the desired outcomes that serve the needs of society.

Chapter 2 of the *MFMA*, 2003 makes provision for the supervision role of the National Treasury and Provincial treasuries. The supervision roles of the national treasuries and the provincial treasuries were outlined in more detail in section 4.4 of this study. Chapter 7 of the *MFMA*, 2003 makes provision for the oversight responsibilities of mayors. The financial oversight responsibilities of mayors were discussed in more detail in Section 4.3 and Section 4.8.2 of this chapter. Chapter 8 of the *MFMA*, 2003 makes provision for the financial accountability responsibilities of the municipal manager as the accounting officer of the municipality, while Chapter 9 of the *MFMA*, 2003 set out the role of the CFO concerning the municipal budget and treasury offices of the municipality. These responsibilities were discussed in more detail in Section 4.8.3 and Section 4.8.4 of this chapter.

Kanyane (2011:938) further points out that the *MFMA*, 2003 and the *MSA*, 2000 requires that the accounting officer of the municipality must ensure that the municipality develop all necessary policies such as a debt collection policy; a credit control policy; a tariff policy, an indigent management policy; and an information system policy. These policies must be implemented and continuously monitored and evaluated. In terms of Sections 165 and 166 of the *MFMA*, 2003 the municipality must establish internal audit units and audit committees. In terms of Section 79 of the Municipal Structures Act of 1998 the municipality must establish an MPAC to perform an oversight function on behalf of the municipal council. In addition to the above Section 165 of the *MFMA*, 2003 compel municipalities to establish internal audit units and audit committees to exercise effective financial control. According to Sibanda (2017:319), the internal audit unit prepares a risk-based audit plan and an internal audit programme for each financial year. The internal audit unit must further advise the accounting officer of the municipality and report to the audit committee on the implementation of the internal audit plan and matters relating to internal audit, internal controls, accounting procedures and practices, risk and risk management, performance management, loss control and compliance with the *MFMA*, 2003, and other applicable legislation.

The *Municipal Property Rates Act, 2004* regulates the power of the municipality to impose rates on property. In addition, the *Municipal Fiscal Powers and Functions Act (Act 12 of 2007)* gives municipalities the right to impose rates on property and surcharge on fees for services provided by the municipality, or on behalf of the municipality. The *Intergovernmental Fiscal Relations Act, 1997* makes provision for the establishment of the budget forum, to consult on any fiscal, budgetary or financial matter affecting local government.

Ambe (2016:22-23) maintains that the following Acts, regulations and guidelines guide SCM in municipalities namely; the *MFMA, 2003*; *MSA, 2000*; the *Preferential Procurement Policy Framework Act, (Act 5 of 2000)*; and the *Supply Chain Management: A Guide for Accounting Officer of Municipalities and Municipal Entities, 2005*. All the SCM processes must be developed in accordance with the above and in conjunction with Section 217 of the Constitution of 1996 and other applicable treasury regulations. The *Preferential Procurement Policy Framework Act, 2005* provides for the application of the points system when evaluating and adjudicating bids. The *SCM Guide for Accounting Officer of Municipalities and Municipal Entities, 2005* makes provision for a step by step guide for the implementation of the SCM policies.

4.3 FINANCIAL OVERSIGHT AND ACCOUNTABILITY

Financial accountability, as explained in Chapter 1, Section 1.6.4 of this study, refers to the municipal councillors as the political representative's and municipal official's responsibility to be held accountable, individually and collectively for the collection, safeguarding and the efficient and effective use of public. Mazibuko and Fourie (2013:131) maintain that accountability can be seen as the cornerstone of financial reporting, which is based on the assumption that local communities have a right to know how a municipality utilised public funds.

Except for the above, Gildenhuis (2018:203-204) is of the opinion that financial accountability between the three spheres of government comes to the fore when public funds are transferred from national sphere to the other spheres of government including local government such as subsidies or grants. Funds transferred from national sphere of government in the form of subsidies for the payment of agency services or grants requires that national sphere as the donor

body must hold the recipient local government to account for the spending of these public funds. Gildenhuis (2018:2014) further argues that the national government as the donor body is also the taxing authority which is directly responsible to the taxpayers for the ways in which public funds are spent. However, local government as the beneficiary do have the discretion to spend the money to their own discretion if no conditions are laid down. If no condition is laid down on how and under what conditions public funds may be spent it can lead to distrust between national and local spheres of government.

Laubscher (2011:63) points out that extensive corruption and financial mismanagement can be seen as the result of a lack of accountability and oversight often with detrimental consequences for effective and efficient service delivery. Currently, several challenges exist that hamper effective and efficient financial management at municipalities. These challenges include, among others, a lack of expertise, an inability to collect arrear debt, extensive corruption, exorbitant salaries and bonuses, and a lack of accountability. The National Treasury (2004:5) emphasises that the *MFMA*, 2003, aims to modernise budget and financial management practices in municipalities to maximise the capacity of the municipalities to deliver as well as to promote effective services to communities. The *MFMA*, 2003, also gives effect to the principle of transparency as required by Sections 215 and 216 of the *Constitution*, 1996. For these reasons, the *MFMA*, 2003, stipulates certain procedures and assigns specific responsibilities to the municipal council, the mayor, councillors and municipal officials, in particular the MM and the CFO.

In terms of Section 2 of the *MFMA*, 2003 all municipalities are responsible to promote effective financial management of its financial resources. In terms of Section 52 of the *MFMA*, 2003 the mayor of the municipality must provide general political guidance over the fiscal and financial affairs of the municipality. As discussed in Chapter 2 of this study, the *MFMA* Circular 32 of 2006 provides guidance on the oversight process that the municipal council must follow when considering the annual report and producing the oversight report of the municipality. Section 62 of the *MFMA*, 2003 provide the general financial management functions of the accounting officer, who is responsible and accountable for managing the financial administration of the municipality. The National Treasury (2004:5) points out that the responsibilities of financial accountability and oversight, are only possible if there is a culture of transparency and regular reporting within the municipal council (Van der Waldt *et al.*, 2014:213-214; Thornhill and Cloete, 2014:109-114).

In this regard, Savage in Van Donk, Swilling, Pieterse and Parnell (2008:285) explains that local government financial management has long been regarded as a set of specialised rules and regulations, which must be carefully monitored by municipal councils with the intention to obscure financial performance from public scrutiny. Savage (in Van Donk *et al.* 2008:285) further aver that effective management of municipal revenues, expenditure and debt is become increasingly critical for a municipality to deliver services and to give effect to its development mandates. Therefore, one could argue that effective financial management, accountable and transparent local government may hold the key to render effective services to local communities and to give effect to local governments developmental mandate.

However, the National Treasury (2004:5) warns that confusing or duplicating responsibilities tend to weaken accountability and oversight mechanisms, hence the need for clearly established oversight and accountability responsibilities. In terms of Section 44 and Section 56 of the *Municipal Structures Act*, 1998, the executive mayor or committee is responsible for providing the municipality with political leadership, proposing policy and overseeing its implementation. Section 19 of the *Municipal Structures Act*, 1998 states that municipal councils retain responsibility for approving policy and exercising oversight of its mayor, and the administration is accountable to the council via the mayor. Municipal officials are responsible for implementation and for providing the executive mayor or committee with professional advice (National Treasury, 2004:5). The oversight role of National Treasury and Provincial Treasuries was outlined in the section below.

4.4 THE OVERSIGHT ROLE OF NATIONAL TREASURY AND PROVINCIAL TREASURIES

Chapter 5 of the *MFMA*, 2003 makes provision for supervision over local government finance management. In particular Section 5(1) of the *MFMA*, 2003 provides that National Treasury may monitor the budgets of municipalities to establish whether they are consistent with national government's fiscal and economic policy. Fourie and Opperman (2007:393) state that Section 5(2) of the *MFMA*, 2003 provides that the National Treasury must monitor whether municipalities and municipal entities promote good budgetary and fiscal management, compliance with applicable standards of generally recognized accounting practices and uniform expenditure and revenue classification systems. Section 5(2) of the *MFMA*, 2003 further provides that the National Treasury must investigate any system of financial

management and internal control in any municipality or municipal entity and recommend improvements.

Provincial treasuries were established in terms of Section 17 of *PFMA*, 1999. The Member of Executive Council for Finance is the head of the particular Provincial Treasury is responsible for policy decisions related to financial matters. In terms of Section 18 and 19 of the *PFMA*, 1999 the Provincial Treasury is responsible for preparation of the provincial budget and to control its execution. Provincial Treasuries have to ensure the effective and transparent management of revenue, expenditure, assets and liabilities by provincial departments in accordance with national policies. Ajam and Fourie (2014:52) further provides that provincial treasuries are required to implement national legislations including the *PFMA*, 1999, the *MFMA*, 2003 and the *DoRA* as well as National Treasury regulations. In terms of Section 5(3) a Provincial Treasury must assist the National Treasury in enforcing compliance with the measures established in terms of Section 216(1) of the Constitution of 1996 (Thornhill, Cloete, 2014:101; Ajam and Fourie (2014:51-52).

In light of the above, Fourie and Opperman (2007:393) indicate that the Provincial Treasury must monitor compliance with *MFMA*, 2003, by municipalities in the province. The Provincial Treasury must also monitor the preparation by municipalities in the province of their budgets, monitor monthly outcome of those budgets and monitor the submission of reports by municipalities. The Provincial Treasury may assist municipalities in the province in the preparation of their budgets and may also take appropriate steps if a municipality commits a breach of the *MFMA*, 2003. National Treasury (2004:23) stresses that in order to strengthen the oversight role of councillors and prevent conflicts of interest, councillors will not be allowed to serve on any bid or tender committee. Note that this prohibition on boards of entities also applies to other elected representatives in Parliament and provincial legislatures.

4.4.1 National Treasury Financial Circulars and Regulations to ensure accountability and oversight

The National Treasury from time to time issues circulars and regulations that guide and assist in ensuring oversight and accountability in managing municipality public finances. This is done in terms of the National Treasury being the custodian of the state's fiscus and having the mandate to regulate public finance management as it relates to the country's economy (Nkuna

and Sebola, 2014:6). The aim of the National Treasury, *MFMA*, Circular 32 of 2006 is, to provide municipal councillors with practical guidance regarding municipal financial management and their oversight role oversight within the municipal council. The *MFMA*, Circular 32 of 2006 focuses on the oversight process that municipal councils must follow when considering the annual report. It also explains how the municipal council must deal with the municipalities oversight report by encouraging continuous improvement and promoting accountability to stakeholders (The National Treasury (2006:1).

According to the National Treasury *MFMA*, Circular 80 of 2015, the National Treasury is constitutionally mandated to set norms and standards to ensure both transparency and internal control of the financial affairs of all three spheres of government. In addition, the National Treasury must execute against its constitutional monitoring and oversight role over municipalities as it relates to adherence and compliance to the legislative framework governing local government (National Treasury, 2015:4). The *MFMA*, Circular 85 of 2015, avers that the *MFMA*, 2003, Section 62 sets out the general financial management responsibilities of the municipal manager as the accounting officer of the municipality. The accounting officer is required to take all reasonable steps to ensure that the resources of the municipality are effectively, efficiently and economically utilised (National Treasury, 2015:8). The accounting officer must also ensure that unauthorized, irregular, fruitless and wasteful expenditure are prevented. In addition, The *MFMA*, Circular 85 of 2015 state that the *MFMA*, 2003, Section 62 also obliges the accounting officer to ensure that disciplinary or when appropriate, criminal proceedings are instituted against any official of the municipality who has allegedly committed an act of financial misconduct. The same responsibilities have also been placed upon other municipal officials (National Treasury, 2015:8).

In addition, the National Treasury *MFMA*, Circular 85 of 2016 provides that the National Treasury, together with the provincial treasuries, must undertake during 2017/18 financial year a compliance check for all municipalities (National Treasury, 2016:9). It further points out that where municipalities have not provided complete budget information, the municipal budgets will be returned to the mayors and MMs of the affected municipalities for the necessary corrections. In terms of Section 31 of Schedule A of the National Treasury Municipal Budget and Reporting Regulations, MMs are reminded that the annual budget must be accompanied by a quality certificate and council resolution in accordance with the format specified in item (National Treasury, 2016:9).

The National Treasury, Municipal SCM Regulations, 2001 are put in place to give effect to the implementation of the provision of SCM as provided for in the *MFMA*, 2003. The regulations are meant to co-ordinate the implementation of the *MFMA*, 2003 as specified in relevant sections as well as ensuring uniformity in application (Nkuna and Sebola, 2014:7). Fourie and Opperman (2015:112) provides that although the municipal council is responsible for the oversight function concerning SCM, there is not much oversight which municipal council can do except to express their dissatisfaction with the implementation of SCM policies. In terms of the National Treasury, SCM Regulation 6, the MM as the accounting officer of the municipality must report to the municipal council once in a financial year. Fourie and Opperman (2015:113) point out that one could question whether the municipal councillor, the mayor, has any powers regarding SCM except for criticising the MM. However, the mayor has to submit quarterly reports of which SCM cannot be excluded to the municipal council as part of their oversight role. In this regard the Auditor-General reported in the 2016-2017 audit outcomes that mayors and councillors should critically assess information, such as SCM and procurement deviations, before making any decisions (AGSA, 2018:57).

Selebano (2018:2) cautions that municipalities, deviated from National Treasury 2011 and SCM frameworks to obtain tender contract. Selebano (2018:2) further warns that although National Treasury, 2011 and amended National Treasury, 2017 allow deviations from these regulations in extreme exceptional circumstances, public institutions, including municipalities, misused this clause to justify fruitless and wasteful expenditure including corruption with the allocation of tenders. A concern is that since most municipal SCM policies do not specify procurement spent targets, municipalities award contracts to established suppliers who often take advantage of the weak procurement management practices to hike their prices. This confirms that deviations from National Treasury regulations and SCM procedures and poor acquisition management practices can leads to irregularities in the municipalities bidding processes.

In light of the above, it is clear that the National Treasury provides clear guidelines in the form of circulars and relevant regulations to promote oversight of financial matters including SCM within municipalities. However, in Chapter 2, of this study it was mentioned that most municipalities in South Africa do not comply with relevant municipal financial management acts of which National Treasury Circulars and SCM regulations cannot be excluded.

4.5 CO-OPERATIVE GOVERNANCE AND FINANCIAL ACCOUNTABILITY

Kahn *et al.* (2016:135) argue that the system of intergovernmental transfers from national and provincial spheres to municipalities aimed to strengthen municipalities capacity to promote effective service delivery. The intergovernmental transfers of funds to municipalities are divided into direct and indirect transfers. Indirect transfers include transfer of assets, transfers for agency payments who perform a function on behalf of a municipality. Direct transfers to municipalities are in the form of cash transfers such as conditional or unconditional transfers. Unconditional transfers refer to the municipalities constitutional entitlement to receive their share of the vertical division of revenue in the form equitable share. The equitable share is used to fund a range of municipal activities but in particular to fund the national free service levels to provide free basic services to poor households. On the other hand, conditional transfers either in the form of cash or assets or support services provided to municipalities makes up the remainder of the resources transferred by national government to municipalities to support municipal infrastructure investments and to strengthen municipal capacity. Since 2003 there was a significant rapid growth in transfers of grants from national government to local government. This, municipalities dependence on grants showed as a source of revenue has risen considerably while, most municipalities collection of their own revenue radically decreases. Even metropolitan municipalities which are supposed to be less dependent on intergovernmental transfers of grants showed a rapid increase in their dependence on grants (Kahn *et al.*, 2016:136-138).

Thus, one could argue that most municipalities of which metropolitan municipalities are largely dependent on the national transfers due to the lack or inability of municipalities to collect their own revenue. The continually growth of dependency on grants from national government of municipalities obscure the accountability of municipalities to raise and collect their own financial revenue as required in terms of MFMA, 2003. One could further argue that the municipalities' continued non-compliance with key municipal legislation, such as the MFMA, 2003, hampers accountability which then leads to a culture of no consequences. The functionality of oversight structures and mechanism to oversee municipalities can also be questioned.

4.6 INTERVENTIONS OF PROVINCIAL GOVERNMENT OVER MUNICIPALITIES

Section 139 of the *Constitution*, 1996 provides that when a municipality cannot or does not fulfil an executive obligation in terms of the *Constitution*, 1996, or legislation, the relevant provincial executive may intervene by taking any appropriate steps to ensure fulfilment of that obligation. This includes issuing a directive to the municipal council, describing the extent of failure to fulfil its obligation and stating steps required to meet its obligation or assuming responsibility for the relevant obligation in that municipality.

National Treasury (2005:4) points out that whilst the primary responsibility of the Provincial Treasuries is to manage the financial affairs of the province, the *MFMA*, 2003 provides for greater involvement of both National and Provincial Treasuries in the regulation and management of the financial affairs of municipalities and to take appropriate measures including monitoring, support and intervention if necessary. A concern is that the relevant provincial governments fail to intervene and taking the required steps when municipalities do not fulfil their financial obligations. Ndaba (in *The Star*, 27 June 2019:1) confirms that the municipalities in the Free State province placed under administration showed no improvement in the Auditor-Generals audit outcomes of local government of the 2017-2018 financial year. The functionality of the political oversight function of the Free State Provincial government and those of the particular municipalities under administration could be questioned. Therefore, it was argued that the latter situation hampers effective oversight and accountability.

The continued poor performance of municipalities in the Free State province remains a concern. National interventions such as Local Government Turn-around Strategy (LGTAS) later replaced by the Back-to-Basic campaign which involves proposed actions to support to municipalities to improve their performance did not achieve the desired impact. According to Gericke (In “*Die Volksblad*” 30 January 2020), the Mangaung Metropolitan Municipality became the first metropolitan to be placed under provincial administration. Therefore, one could argue that provincial leadership (Premier, MEC for local government, and Heads of provincial departments - CoGTA in particular) needs to do more to support municipalities in the Free State province to increase their performance.

4.7 MUNICIPAL FINANCIAL REPORTS AND RETURNS

Mazibuko and Fourie (2013:131) and Fourie and Opperman (2007:212) are of the opinion that accountability is a cornerstone of financial reporting of local government. Financial reporting and auditing are the most important internal control measures to promote accountability and transparency. Accountability is based on the belief that communities as taxpayers and stakeholders have a right to know and a right to receive openly declared facts about the way that public funds are spending. One of the objectives underpinning the *MFMA*, 2003, is the development of sound financial governance within every municipality. Governance is built around the responsibilities of accountability and oversight requiring a culture of transparency and regular reporting.

According to Sirovha and Thornhill (2017:151), in terms of Section 129(1) of the *MFMA*, 2003 the municipal council must consider the annual report of the municipality or that of any municipal entity under the control of the municipality. In terms of Section 130(1) of the *MFMA*, 2003 requires that the municipal council meeting at which the municipal council discusses the annual report must be open to the public and any organs of state. Section 127(5) of the *MFMA*, 2003 requires that immediately after the annual report is tabled in the municipal council, the MM as the accounting officer of the municipality must make the annual report available to every member of the community. In addition, the municipal council must provide a reasonable time to allow the community or any organ of state to submit any written submissions on the annual report. The municipal council must make provision for any community members or organs of state to address the municipal council on any matters on the annual report. Fourie and Opperman (2015:214) indicate that the purpose of the annual report is to provide a record of activities of the municipality during the financial year and to provide a report on the performance against the budget of the municipality. This, the purpose of the municipalities annual report is to promote accountability to the local community for the decisions made by the municipality in any given year.

In terms of Section 71 of the *MFMA*, 2003 the MM which is the accounting officer of the municipality must submit not later than 10 working days after the end of each month a statement in the prescribed format on the state of the municipalities budget, indicating the actual revenue per revenue source; actual borrowings; actual capital expenditure per vote; the amount of any allocations received; actual expenditure on those allocations; for that month and

for the financial year up to the end of that month to the mayor of the municipality and the relevant provincial treasury.

Section 73 of the *MFMA*, 2003, compels the MM to inform the provincial treasury, in writing of any failure by the municipal council to adopt or implement a budget-related policy or a supply chain management policy or non-compliance by any of the political structures or office-bearers of the municipality of any such policy. In terms of Section 74 of the *MFMA*, 2003 the MM of a municipality must submit to the National Treasury and the relevant Provincial Treasury, the department for local government in the province or the Auditor-General such information as may be required. National Treasury (2004:22) states that all municipalities and municipal entities are expected to comply with this provision to submit their financial statements to the Auditor-General by 30 September, unless specifically exempted by the National Treasury. Non-compliance with this provision will transgress Section 5 of the *Division of Revenue Act (DoRA)* of 2004 and may result in the withholding of the equitable share grant. Municipalities are also expected to table an annual report, which will include audited financial statements for the previous year.

The annual report of the municipality serves as an instrument to promote accountability of the municipal executive to the municipal council. The mayor has to present the annual report to the municipal council. The municipal council must accept or reject the annual report. After the municipal council accepts the annual report the municipal council must issuing an oversight report (Community Law Centre, 2008:4). The following must be included in the annual report of the municipality namely; the annual performance report; the Auditor-General's audit report; the results of the performance measurements and, details of the corrective action taken or planned by the relevant municipality in response to the report if required; the financial statements as submitted to the Auditor-General. Also included in the annual report is an assessment by the MM of any arrears of municipal taxes and service charges and whether the revenue-raising objectives set in the budget have been met; and the recommendations of the audit committee. Furthermore, effective financial reporting should not only involve the presentation of financial facts, integration and interpretation thereof is critical. This will enable local communities and relevant stakeholders to comprehend the significant aspects of a municipality's financial operations (Fourie and Opperman, 2007:213; Community Law Centre, 2008:25).

The process of adoption of the annual report by the municipal is an indication of the importance of the annual report as an accountability instrument. In this manner the municipal council and the local community can hold the political and municipal office-bearers to account for their decisions and actions. Therefore, council meetings that discusses any aspects or decisions of the annual report must be open to the public and any organ of state. A reasonable time must also be allowed for the discussion of any written submissions received from the local community or organs of the state on the municipalities' annual report to allow members of the local community or any organs of state to address the municipal council Community Law Centre, 2008:26).

Another key oversight instrument over the municipal administration is the mayor's mid-year budget and performance assessment report. The MM must assess the performance of the municipality during the first half of the financial year by considering the monthly budget statements and the municipality's service delivery performance, and its targets and performance indicators set in the implementation plan (Community Law Centre (2008:70). The MM must inform the municipal council on the state of the budget and of any impending short falls, overspending and overdrafts (Thornhill and Cloete, 2013:114). Thus, the annual report and the mid-year budget and performance assessment report can be seen as key oversight instruments to hold political office-bearers and municipal office-bearers to account for their decisions and actions. However, a concern is raised by the Auditor-Generals report on the audit outcomes of municipalities in the 2016-2017 financial year that financial reporting has rapidly weakened in most municipalities. Credible financial statements and reporting including performance reports are crucial to enable accountability and transparency (Makwetu in Media Release, 23 May 2018). In addition, the Auditor-General warned that the that the lack of commitment by municipalities towards responding to recommendations made by the Auditor-General further contributes to a lack of consequences for transgressions and irregularities (AGSA, 2019:9). In this regard, Gericke (in "Die Volksblad, 10 Julie 2019) reports that financial reporting in the Mangaung Metropolitan Municipality of the Free State province has decreased dramatically, subsequently the prevention of fruitless and wasteful expenditure and the overall financial management of finances in the metro has rapidly declined. One could argue that that latter situation hampers effective oversight and accountability.

4.8 ROLE PLAYERS AND INTERNAL MECHANISMS TO PROMOTE FINANCIAL OVERSIGHT AND ACCOUNTABILITY IN MUNICIPALITIES

Krishnan (2008:27) indicates that since 1994 the reforms of the legal framework governing municipalities has evolved with the aim to promote good governance and public accountability to local communities. Some of the key the instruments to promote transparency and public accountability include the IDP of the municipality. The IDP is the five-year strategic plan of the municipality. It captures the strategic priorities of the municipality and highlights its service delivery priorities. The IDP must be reviewed annually to ensure effective implementation and budgets, which are an annual expression of the resource allocations for implementation of strategic priorities (Krishnan, 2008:27).

The Service Delivery and Budget Implementation Plan (SDBIP) of the municipality serves as a specific measurable implementation plans to give effect to the IDP and ensure the operational alignment between the municipalities budget and the IDP; as well as the performance agreements. The senior managers in the municipality must entered annually their performance agreements to ensure cohesion and alignment of individual plans to the strategic priorities as provided the IDP and budget (Krishnan, 2008:27). The financial governance framework which indicates the oversight and accountable responsibilities is summarised in Table 4.1 below:

Table 4.1: Financial governance framework applicable to local government

	Responsible for:	Oversight of:	Accountable to:
Municipal council	Approving policy and budget	Mayor	The community
Mayor	Policy, budgets, outcomes, management of oversight of MM	MM	Municipal council/Public
MM/ Accounting officer	Outputs and implementation	Administration and finances of the municipality	Mayor or Executive mayor/Municipal council/Public
CFO	Outputs	Financial management	MM/Accounting officer

(Source: Adopted from the Oversight Report, 15 March 2006)

Table 3.1 above illustrates the various role players of oversight and accountability within the municipality. In terms of Section 83(1) and Section 107 of the *MFMA*, 2003 requires that the MM as the accounting officer, senior managers, the CFO and other financial officers must meet certain competency levels. In addition, Section 119 of *MFMA*, 2003 requires that the accounting officer and any other municipal officials responsible for supply chain management (SCM) of a municipality must meet prescribed competency levels (Thornhill and Cloete, 2014:115). The financial oversight and or accountable role of each of these role players were outlined below.

4.8.1 The financial oversight and accountable role of the municipal council

According to the Auditor-General (AGSA, 2019:35), the political leadership (mayor, executive mayor and municipal councillors) must oversee the functioning of the municipality and takes key decisions to promote accountable local government to local municipalities. In terms of Section 4(2) *Municipal Structures Act*, 1998 the municipal council, within the municipalities financial and administrative capacity has the duty to exercise the municipalities' executive and legislative authority and use the resources of the municipality in the best interests of the local community, and to provide without favour or prejudice, a democratic and accountable government. In terms of Section 37 of the *Municipal Structures Act*, 1998 provides that the speaker of a municipal council performs the duties and exercises the powers delegated to the speaker in terms of Section 59 of the *MSA*, 2000. The speaker is also the chairperson of the municipal council. According to SALGA (2005:16), the speaker fulfils a key role to ensure oversight, accountability, integrity and discipline of council meetings. The speaker of the municipality fulfils a critical oversight role to hold the political executives to account for their actions.

Section 16 of the *MFMA*, 2003 provides that the municipal council of the municipality must for each financial year approve an annual budget for the municipality before the start of that financial year. When the annual budget has been tabled, Section 23 of the *MFMA*, 2003 requires that the municipal council must consider any views of the local community, the National Treasury,

In light of the above, Mazibuko and Fourie (2013:133-134) argue that the municipal council together with the mayor and MM fulfil an important role to promote accountable financial

management of the municipality. The municipal council is responsible for bylaws relating to municipal rates and taxes, collecting, safeguarding and allocating of public funds. The latter implies that the municipal council must have financial control over the executive committee of the municipality. The executive committee of the municipality is therefore subject to the municipal council to ensure public accountability. On the other hand, individual members of the municipal council (councillors) are accountable to the taxpayers/voters. The municipal council may delegate some of the financial functions including the collection, safeguarding and municipal expenditure to the CFO but the municipal council remains accountable for the municipality's finances. The municipal council is responsible for the financial policy in accordance with prescripts of the *MFMA*, 2003. The municipal council has to give instructions, lay down procedures to be followed concerning all financial functions and transactions. Thus, the municipal council is responsible for financial control over all financial matter of the municipality. In order to fulfil its financial responsibility concerning the manner in which the executive departments collect, safeguard and spend the municipal funds entrusted to them the municipal council rely on audits and the reports made by the auditors and other functionaries who are accountable only to the municipal council.

The municipal council holds the mayor responsible for promised outcomes and the MM for specific outputs. The mayor is expected to oversee the functions of the MM to ensure delivery on the agreed outputs, and the council must exercise oversight of the executive mayor or committee to ensure they fulfil this responsibility of oversight (National Treasury, 2004:6). In addition to the above, the municipal council must consider the annual audit report and adopt an oversight report containing the municipal council's comments on the annual audit report (Gildenhuys, 2018:28-29; Khalo, 2013:585; National Treasury, 2004:6).

In light of the above, the Auditor-General, Kimi Makwetu, reported on the 2016-2017 audit outcomes of municipalities some of the key reasons for accountability failures in most of the municipalities in the country is a lack of inadequate skills led to a lack of oversight by municipal councils including mayors and the subsequent non-compliance of key financial management legislation. Political infighting at municipal council level and the continued interference of municipal councils in the administration hampers oversight and contributes to the development of a culture of no consequences (Makwetu, Media Release 23 May 2019:9). In this regard Gericke (in "Die Volksblad" 10 Julie 2019:4) confirms that political conflict as a result of political factions in the Mangaung Metropolitan Municipality in the Free State

province weakened the municipal councils oversight function. One could argue that political interference and political infighting weakens oversight and accountability and could further contribute to the development of the culture of no consequences.

4.8.2 Financial and oversight and accountable role of mayor or executive mayor

The executive mayor or executive committee are expected to provide the municipality with political leadership, by proposing policies, budgets and performance targets for the municipality and its officials (National Treasury, 2004:5; Mazibuko and Fourie, (2013:133-134). Thornhill and Cloete (2013:112) state that the mayor has a particular responsibility concerning budgetary control and oversight function concerning implementation of the budget. The mayor may also give instructions to the accounting officer to ensure that the budget is implemented in accordance with the service delivery and budget implementation plan. Thornhill and Cloete (2013:112) further outline that the mayor or executive mayor has oversight role in municipal financial matters by providing general political guidance over fiscal and financial affairs of the municipality; taking reasonable steps to ensure that a municipality performs its constitutional obligations within the limits of the municipality's approved budget, and reporting to the provincial executive if the budget has not been approved as required or if financial problems necessitate provincial intervention. The mayor must also perform oversight concerning municipal entities. Thus, the mayor of a municipality fulfils a critical political oversight role in financial matters of the municipality.

According to Khalo, (2013:584), the mayor or any other councillor is prohibited by the *MFMA*, 2003 to interfere in the financial management responsibilities assigned to the accounting officer or CFO. The mayor is responsible to monitor assigned responsibilities and to report on financial matters. The mayor must table at the end of each financial year an annual report before the municipal council for consideration. Submission of annual reports by the mayor to the municipal council is one essential tool of peer-accountability. The purpose of the annual report is to record the activities in the year under review and measure the municipality's performance against its budget. It also promotes the municipality's accountability for decisions made throughout the year to the local community (Community Law Centre, 2008: 25). Thus, the annual report submitted to the municipal council serves as a key oversight instrument to hold the municipality to account for their decisions and actions.

In terms of Section 52 of the *MFMA*, 2003 the mayor must provide political guidance concerning fiscal and financial matter of the municipality. The mayor must monitor and oversees the responsibilities assigned to the accounting officer and CFO of the municipality and that the municipality performs within the municipal budget. The mayor has to submit a report to the municipal council within 30 days of each quarter regarding the implementation of the municipal budget and the financial state of the municipality. The mayor of the municipality has to report to the provincial executive if provincial interventions exist. The mayor must establish a budget steering committee that must consist of the CFO, senior manager responsible for the three largest budget votes, the budgeting manager, planning manager and technical experts on infrastructure. (Khalo, 2013:584; Fourie and Opperman, 2015:82; Thornhill and Cloete, 2014: 231).

Section 56 and Section 60 of the *MFMA*, 2003, also differentiates between the role of executive councillors and their officials by making the executive mayor or committee responsible for policy and outcomes and the MM and other senior managers for implementation and outputs. The executive mayor or committee is expected to oversee the performance of its officials, using the SDBIP and monitoring performance through monthly progress reports. Non-executive councillors are expected to hold both the executive mayor or committee and the officials accountable for performance, on the basis of monthly, quarterly and annual reports (National Treasury, 2004:5). Thus, the executive mayor or executive committee of the municipality fulfil a key oversight role by oversee the performance of the municipal officials by using the SDBIP to monitor their performance through monthly progress reports and by submitting the annual report to the municipal council. In terms of Section 131(1) of the *MFMA*, 2003 the mayor of the municipality must ensure that the MM address all aspects raised by the Auditor-General in an audit report. In light of the above, the Auditor-General warns in the report for 2016-2017 that inadequate skills led to a lack of oversight by municipal councils and mayors, that resulted in insufficient implementation and maintenance of financial and performance management systems by the administration (AGSA, 2018:3).

4.8.3 Accountable role of the Municipal Manager (MM)

In terms of Section 60 of the *MFMA* of 2003 the MM is the accounting officer of the municipality. In this regard, Mazibuko and Fourie (2016:134) argue that the MM as the accounting officer of the municipality fulfils a key accountability role to promote sound

financial management of the municipality. The MM is responsible and accountable for the municipalities revenue (income), expenditure, asset management, discharging of all liabilities, and to ensure compliance with legislation regulating local government. Mazibuko and Fourie (2016:134) further maintain that in terms of the *MFMA*, 2003 the municipal council of the municipality must oversee that the municipal finances of the municipality are managed in such a way that the objects of local government are achieved. The latter implies that the *MFMA*, 2003 gives the mandate to the municipal council to approve the municipal budget, which must be aligned with the municipalities IDP to promote effective service delivery and to give effect to the constitutional requirements and objects of local government.

Gildenhuys (2018:61) also adds that the MM as the executive officer of the municipality is in terms of Section 60 of the *MFMA*, 2003 the accounting officer of the municipality. As the accounting officer of the municipality the MM is accountable for the effective, efficient of all municipal funds received, safeguard and for all payments made by the municipality. The MM is given some general and specific responsibilities related to developing and maintaining effective, efficient and transparent systems of financial and risk management, internal control, budget and expenditure control, control of assets and liabilities and reporting. The MM delegates the financial function to the CFO. The MM may not delegate any financial or other responsibilities to a political structure. However, MM must ensure that the standardised accounting system is implemented, that an effective accounting service and effective processing of financial data and transactions are instituted. The accounting officer has to ensure that proper financial and progress reports are compiled and submitted to the executive committee. Sibanda (2017:320) is of the opinion that the MM is responsible for auditees, internal controls administrative leadership, planning, risk management and monitoring. The MM may develop a system of delegation to maximise the administrative and operational efficiency and to provide sufficient accountable mechanism. However, a MM may not delegate financial or any other administrative responsibilities to a political structure.

In order for a municipality to fulfil their constitutional mandate, it is necessary for them to have the means to provide sustainable services, to promote a safe and healthy environment to local communities. Craythorne (2006:118) further states the municipal manger must have the required relevant skills and expertise to perform the duties associated with the post. The MM is the leader of the municipal administration, supported by senior managers and other municipal

officials. According to Craythorne (2006:193), the MM responsible and accountable for the formation and development of an economical, effective, efficient and accountable administration and the management of the municipality's administration in accordance with the *MSA*, 2000 and other legislation applicable to municipality.

The *MFMA*, 2003, requires more regular and accurate financial reporting to the municipal council in order to facilitate an environment in which potential or real financial challenges are reported in a timely and appropriate manner that will allow the municipal council to remedy the situation. Therefore, the MM must submit monthly budget progress reports to the mayor and Provincial Treasury and a mid-year budget report and performance assessment to the mayor, the National Treasury and to the Provincial Treasury by 31 January each year. In addition, the MM must also report to municipal council on prescribed withdrawals from bank accounts each quarter and on unforeseen or unavoidable expenditure or expenditure that is deemed to be unauthorised or irregular or fruitless and wasteful (Fourie and Opperman, 2015:199; Gildenhuys, 2018:61).

Kumar, Moodley and Reddy (2003:13) maintain that the MM (accounting officer) of the municipality must keep full and proper records of the financial affairs of the municipality in accordance with relevant prescribed norms and standards. Fourie and Opperman, (2015:109) assert that the MM must within one month of receiving Auditor-General's audit reports, table in the municipal council copy of the financial statements and the audit report. According to Thornhill (2014:118) the MM has to submit to the National Treasury and the Provincial Treasury copies of the municipality's annual report, the financial statements and the audit report.

According to Siddle and Koelble (2012:101-102), and Fourie and Opperman (2015:72), the MM of a municipality must monitor whether the CFO of a municipal entity who function under the control of the municipality act in accordance with the prescripts of the *MFMA*, 2003. The MM must report any non-compliance with the *MFMA*, 2003, to the Municipal council and the Provincial Treasury. In terms of Section 131(1) of the *MFMA*, 2003 the MM has to address all aspects raised by the Auditor-General in an audit report. Furthermore, the MM as the accounting officer of a municipality must in accordance with Section 127(3) of the *MFMA*,

2003 submit within seven days after municipal council has adopted the oversight report, the municipality's annual report, including the report of each of the municipal entity.

Section 82 of the *Municipal Structures Act, 1998* requires from the municipal council to appoint the MM with the required skills and relevant experience. The necessary framework for delegation of authority should be put in place and although the Municipal council delegates authority to the accounting officer and management, councillors should not be allowed to abdicate their duties and responsibilities to the community (Pricewaterhouse and Coopers, 2010:6). Fourie and Opperman (2015:10) contend that the MM is responsible for implementation of policies and must fulfil his/her oversight role over the administration of the municipality. The MM is accountable to the Mayor, the Municipal council and the public.

Siddle and Koelble (2012:101) point out that although the MM forms part of the administration rather than the municipal council, the office is a vital one. Together with that of the mayor, the office of the MM provides the link between the municipal council and the administration. The MM is appointed by the municipal council, as are managers directly accountable to him/her. This arrangement was made to provide for a senior management structure in the municipality that understands and operates in agreement with its political principals in the executive of the municipality (De Visser in Siddle and Koelble (2012:101). Van der Waldt (2011:74) submits that as head of administration the MM of a municipality is responsible and accountable for the formation and development of an economical, effective, efficient, cost-effective and accountable administration. The MM is responsible and accountable to the executive mayor for the management of the administration as well as the performance of the functions and responsibilities assigned to him/her by the municipal council and the Executive mayor.

Van der Waldt (2011:74) stresses that the MM of a municipality is responsible for the appointment of staff subject to the *Employment Equity Act, (Act 55 of 1998)* and the maintenance of discipline of staff. In addition, the MM is tasked with the advising of the political structures and political office-bearers of the municipality, managing communications between municipal's administration and its political office-bearers and carrying out the decisions of the political structures and political office-bearers of the municipality.

In light of the above, Ndaba (in *The Star*, 27 June 2019:1) avers that there is a rapid deterioration of accountability as showed in the Auditor-Generals audit outcomes of

municipalities of the 2017-2018 financial year. This is a clear indication that MMs as the accounting officers, mayors, CFOs and relevant officials in most municipalities including metropolitan municipalities should be accountable for any financial losses incurred by municipalities during their term in office. In particular, in the Free State province most municipalities showed a total collapse in internal controls in that the political leadership of the provincial government and those in all municipalities in the province exhibited no responses to improve political oversight and accountability for financial and performance management

The latter is confirmed by the Auditor-General reports for 2016-2017 and 2017-2018 that there is a continued lack of accountability and leadership failures were the main causes of governance failures (AGSA, 2018:55; AGSA 2019:12). Thus, the slow response by political and administrative leadership to address the weak control environment leads to a lack of consequences and poor oversight and accountability.

4.8.4 Accountable role of the Chief Financial Officer (CFO)

In terms of Section 56 of the *MSA*, 2000 the CFO is appointed by the municipal council and is directly accountable to the MM. Thornhill and Cloete (2018:115) state that the CFO may sub-delegate in accordance with the *MFMA*, 2003 any of the delegated functions to an official in the budget and treasury office, or to any other municipal official or with prescribed safeguards to any other person contracted by the municipality. In term of Section 77(1) and (2) of the *MFMA*, 2003 the CFO must assist the MM concerning the management and co-ordinating of the financial administration of the municipality.

In terms of Section 81 of the *MFMA*, 2003, the CFO is the head and in charge of the Budget and Treasury Office (BTO) of the municipality. The CFO is responsible for the following:

- advising the municipal manager concerning the assigned powers and duties;
- assisting the municipal manager concerning the administration of the municipality's bank accounts;
- assisting the municipal manager with the preparation and implementation of the municipality's budget; and

- providing advice to senior managers and other senior officials in the exercise of powers and duties assigned, in terms of the *MFMA*, 2003, or delegated to them by the municipal manager.

The CFO is accountable to the MM for his delegated functions and is responsible for the financial management the budgetary process, accounting, analysis, financial reporting, cash management, debt management and other review functions as delegated by the MM. The CFO or municipal treasurer is responsible to provide advise concerning all financial matter, to co-ordinate all financial activities; responsible for the implementation of the financial system, the accounting system and the financial control function within the municipality. As part of the administrative functions the CFO is in charge of the budget and treasury office in the municipality. The CFO has to perform budgeting, accounting analysis, financial reporting, cash management, debt management, review and any other delegated functions by the MM (Sibanda, 2017:2017:321; Thornhill and Cloete, 2014:115; Gildenhuys, 2018:62).

Fourie and Opperman (2015: 78) maintain that the CFO of the municipality is responsible for the following:

- To ensure that the financial management system of the municipality and internal control are properly established and implemented;
- To ensure effective, efficient, transparent and economic utilisation of all financial and other resources within the municipality;
- To prevent any unauthorised, irregular or fruitless and wasteful expenditure;
- To ensure that all revenue due to the municipality are collected;
- To managed and safeguard all asset of the municipality;
- To ensure that all information to ensure compliance with the provisions of the *MFMA*, 2003 is submitted to the accounting officer as required;
- To ensure compliance of the provisions of the *MFMA*, 2003 including Section 79.

National Treasury (2004:21) indicates that to ensure effective cash management and the control of all banking accounts by the chief financial officer, including the primary bank account all bank accounts must be put under the responsibility of the chief financial officer. This is one of the most urgent reforms that must be implemented by a municipality. This is to end the practice

whereby any department or official of a municipality can set up a bank account, without the knowledge of the MM or council. It is clear that the CFO is directly accountable to the MM concerning all financial activities including the implementation of the financial system, the accounting system and the financial control function within the municipality.

4.8.5 Code of Conduct for Municipal Councils regarding Supply Chain Management (SCM)

According to the National Treasury Supply Chain Management Regulations (2003:20), its Code of Conduct for Municipal councils regarding SCM states that all municipal officials and other role players involved in SCM chain management are in a position of trust implying a duty to act in the public interest. In terms of the National Treasury, Supply Chain Management Regulations (2003:20) municipal officials and other role players should not perform their duties to unlawfully gain any form of compensations, payment or gratuities from any person or provider or contractor for themselves, their family or their friends. Municipal officials responsible for or involved in supply chain management should perform their administrative duties in accordance with relevant legislation, policies and regulations. Furthermore, municipal official should ensure that public resources are administered in an accountable and responsible manner.

The National Treasury, Supply Chain Management Regulations (2003:20) requires that municipal officials and other role players involved in SCM should the following:

- Municipal officials must perform their duties efficiently, effectively and with integrity, in accordance with the relevant legislation, policies and guidelines.
- Municipal officials should ensure that public resources are administered responsibly.
- Municipal officials and other role players involved in SCM should be fair and impartial in the performance of their functions. They should at no time afford any undue preferential treatment to any group or individual or unfairly discriminate against any group or individual. They should not abuse the power and authority vested in them.

National Treasury (2003:20) further reiterates that municipal officials must declare to the accounting officer (MM) details of any private or business interest which that person, or any

close family member, partner or associate, may have in any proposed procurement or disposal process, or in any award of a contract by the municipality. The National Treasury Supply Chain Management Regulations Code of Conduct for Municipal Councils (2003:20) states that functionaries (political and public officials) are accountable for their decisions and actions to the public. Moreover, it provides that the accounting officers or their delegates have the authority to commit the municipality to any transaction for the procurement of goods and services; all transactions conducted by a public official should be recorded and accounted for in an appropriate accounting system and that public officials should not make any false or misleading entries into such a system for any reason whatsoever.

Except for the above National Treasury Supply Chain Management Regulations Code of Conduct for Municipal Councils (2003:20) requires that all municipal functionaries (political and municipal officials) must report to the MM any alleged irregular conduct in the supply chain management system which that person may become aware of, including aspects such as any alleged fraud, corruption, favouritism or unfair conduct; any alleged contravention of the policy on inducements, rewards, gifts and favours to municipalities or municipal entities, officials or other role players; and any alleged breach of this code of conduct; or any declarations made must be recorded in a register which the accounting officer must keep for this purpose. Lastly any declarations made by the accounting officer must be made to the Mayor or Executive mayor who must ensure that such declaration is recorded in the register.

According to Mantzaris (2017:124), corruption in particular in SCM and procurement practices has occurred throughout the public sector of which local government cannot be excluded. Despite the existence of numerous laws and National Treasury SCM and procurement regulations and Code of Conduct about SCM, corruption related to SCM in all three spheres of government is a concern. Munzhedzi (2016:2) warns that the continued noncompliance with SCM and procurement legislative framework, regulations tender irregularities remains a concern in all three spheres of government. Mantzaris (2017:125) mentions that that one of the root causes of corruption in SCM and procurement is the fight for dominance amongst administrative and political leaders, which is the result of a party monopoly in power in most municipalities. This leads to political interferences into the administration of the municipality and it further widens the gap among the political oversight and the municipalities administrators (Mantzaris, 2017:125).

In light of the above, the Auditor-General in the report for 2016-2017 (2018:56) confirms, that the continued disregards for procurement and SCM processes by the administrative and political leadership resulted in irregular expenditure, coupled with limited consequences for these transgressions is creating an environment open to misappropriation, wastage and the abuse of state funds. The Auditor-General said in the report for 2017-2018 (AGSA, 2019:2) that a total of 74% of the municipalities did not adequately follow up on allegations of financial and SCM misconduct and fraud. In the Free State province, especially, there is a total breakdown in controls and poor leadership responses towards improving accountability, capacity and stability. All municipalities (100%) in the Free State province financial position is very vulnerable due to an increase in irregular expenditure as a result of widespread indifference towards procuring goods and services in accordance of SCM and procurement legislation and regulations, and significant deficiencies in infrastructure projects (AGSA, 2018:3 and AGSA, 2019:10). The Auditor-General warns in the report for 2016-2017 (AGSA, 2018:56) that the continued disregards for procurement processes by the administrative and political leadership of municipalities in the Free State province resulted in irregular expenditure, coupled with limited consequences for these transgressions, is creating an environment open to misappropriation, wastage and the abuse of state fund. Thus, despite of the existence of relevant SCM and procurement legislation, regulations and codes of conduct, it seems that continued non-compliance with SCM legislation in particular in municipalities of the Free State province as reported by the Auditor-General remains a challenge. The latter raises questions about the effectiveness of the political oversight and accountable administrative mechanism in these municipalities to prevent the continued non-compliance with relevant SCM and procurement legislation and regulations.

4.9 INTERNAL AUDIT UNITS AND INTERNAL AUDIT COMMITTEES

Van der Waldt (2015:59) mentions that the internal audit committee of the municipality is one of the key political oversight structures while, the internal audit unit can assist the municipal council in improving oversight of its financial function and in particular over municipal projects. Sing (2003:92) maintain that South African municipalities are required to establish a system of internal control and institute a system of internal audit. Internal auditing is regarded as an independent appraisal of functions within the institution for review and evaluation of operations as a service to management. According to Sing (2003:92), audits may be classified a pre-audit and post-audit depending on when transactions are examined. Pre-audits are

regarded as being part of the internal financial administration and management control system. The pre-audit is defined as an examination of financial transactions prior to their completion. Pre-audit is regarded as being part of the internal financial administration and management control system. The pre-audit approach achieves the traditional purpose of auditing, such as detection and protection of fraud and accounting errors. On the other hand, post-audit is conducted after transactions and events have occurred.

Van Niekerk and Dalton-Brits (2016:123) state that in terms of the *MFMA*, 2003 Section 166, each municipality must have an internal audit committee that acts as an independent advisory body. Section 166, of the *MFMA*, 2003 further indicates that the municipal audit committee must advise the municipal council; the political office-bearers and the accounting officer on matters relating to internal audits and internal financial control, accounting procedures and practices; risk and risk management; loss control and compliance with *MFMA*, 2003 and any applicable legislation.

According to Van Niekerk and Dalton-Brits (2016:123), the municipality's internal audit committee has specific duties towards the internal audit unit, the Auditor-General, the municipal council and the MM. Van der Waldt (2015:59) avers that the internal audit committee of the municipality does not form part the municipal administration however, the head of the internal audit unit performs a secretarial function to assists the internal audit committee. The responsibilities of the internal audit committee include to evaluate the financial statements of the municipality in consultation with the Auditor-General and the internal audit unit. Furthermore, the internal audit committee has to review the integrity of the municipality's financial report processes, both internal and external; and has to consider the Auditor-General's opinion on the quality and appropriateness of the municipality's accounting policies and that of its entities, as applied in the financial reporting. The internal audit committee should also report to the municipal council on any issues raised by the Auditor-General. The audit committee should also carry out any investigation into the financial affairs of the municipality or municipal entity (Fourie and Opperman in Van Niekerk and Dalton-Brits, 2016:123)

Fourie and Opperman (2015:113) also concur that in terms of *MFMA*, 2003, Section 166, each municipality must have an Audit Committee. An Audit Committee is an independent body which must advise the council, the political office-bearers, the MM and the management of the

municipality on matters related to internal financial control and internal audits; risk management; accounting policies; the adequacy, reliability and accuracy of financial reporting and information. The audit committee must also advise municipal council on performance management, effective governance and compliance with financial regulations (Fourie and Opperman, 2007:66).

The internal audit committee must review the annual financial statements to provide the council with an authoritative and credible view of the financial position of the municipality, its efficiency and effectiveness. It must also respond to the council on any matters raised by the Auditor-General in the audit report (Fourie and Opperman, 2007:66). According to Section 166 of *MFMA*, 2003, there must be an audit committee of at least three persons with appropriate experience, of whom the majority may not be in the employ of the municipality or municipal entity. The chairperson must be appointed from one of the members who is not in the employ of the council or municipal entity. No councillor may be a member of an audit committee (National Treasury, 2003:24).

The internal municipal audit committee reports should also include comments on the quality of management, and the monthly or quarterly reports submitted under the *MFMA*, 2003 and the Division of Revenue Act. It is not required by legislation that municipal audit committees make a statement on the municipality as a going concern. Several municipalities in South Africa are in fact not a going concern. Community members (as the primary stakeholders) and clients of municipalities should be informed if their municipality is no longer a going concern (Pricewaterhouse and Coopers, 2010:7).

According to Van Niekerk and Dalton-Brits (2016:125), a challenge facing the implementation of the internal audit committee recommendations is that there is lack of sanctions taken against management for non-compliance with the *MFMA*, 2003. Another concern is that no attention is paid to keep deadlines provided for giving feedback to the internal audit committee. Van Niekerk and Dalton-Brits (2016:125) maintain that it is difficult for members of the Audit Committee to function without accurate, reliable information from management and internal audit units. Another concern, according to Van Niekerk and Dalton-Brits (2016:125), is that elements of mismanagement and corruption were hidden from the internal audit committee.

4.10 MUNICIPAL PERFORMANCE AUDIT COMMITTEE

According to Van der Waldt (2015:57), the performance audit committee is another key political oversight structure of the municipality. It may access any records of the municipality for auditing and summon or request information from any official of the municipality. In terms of Regulation 9 of the Municipal Planning and Performance Regulations of 2001 requires a municipality to appoint a separate performance audit committee to conduct the internal audit of the municipality's performance. This committee reviews the quarterly reports submitted to it as well as the performance management system of the municipal council, makes recommendations and, twice during a financial year, submits an audit report to the municipal council as prescribed by National Treasury Municipal Planning and Performance Regulations of 2001 (Van der Waldt, 2015:57-60).

Van der Waldt (2015:60) further argues that the Municipal Performance Audit Committee plays an important role in enhancing the oversight role of the municipal council. This improvement of the oversight role is done by reviewing the performance of municipal management and determining whether management in their execution of municipal council projects followed the legislative framework that governs performance management.

De Visser, Steytler and Mays (in Van der Waldt (2015:58) argue that even though municipal committees might be representative of all political parties, it must be chaired by a member of the executive and accounts and reports to the executive. It could be further argued that the representativeness of these committees may exert a significant influence on the way in which oversight is conducted. The more the representative of different political parties the more effective oversight is exercised.

4.11 MUNICIPAL PUBLIC ACCOUNTS COMMITTEE (MPAC) AS A KEY MUNICIPAL OVERSIGHT STRUCTURE

According to Van der Waldt (2015:60) and Sibanda (2017:313) the MPAC established in terms of Section 79 of Municipal Structures Act of 1998 serves as another key political oversight structure of the municipality. The main purpose of the MPAC is to exercise oversight of the executive officials of the municipal council with the intention to promote good governance and

public accountability. Sirovha and Thornhill (2017:150-151) agree with the above by maintaining that the Department of Co-operative Governance and Traditional Affairs (CoGTA) in support with National Treasury have issued guidelines for the establishment of the MPACs in each municipality to assist the municipal council to hold the executive and municipal administration to account with the aim to promote effective, efficient and transparent managed of municipal funds.

Van Niekerk and Dalton-Brits (2016:124) agrees with the above that the MPACs was established in terms of the *MFMA*, Circular 32 of 2006 to assists the municipal council in holding the executive and municipal administration to account, and to ensure the effective and efficient use of municipal resources. Van Niekerk and Dalton-Brits (2016:124) further argue that the primary duties of the MPACs is to promote transparency and accountability.

Khalo (2013:589) observes that before 2005 municipalities did not fall within the responsibility of the Public Accounts Committees and at some point Parliament used to refer audit reports of municipalities to a separate committee such as the portfolio committee on Provincial and Local Government Affairs (currently known as Co-operative Governance and Traditional Affairs). This means that in the past SCOPA did not exercise financial oversight on municipalities in South Africa and further implication was that the void created by an absence of an oversight mechanism in this sphere of government accounted for the concomitant and sporadic mismanagement of funds, corruption and other unethical practices, hence the need to establish MPACs to ensure accountability (Khalo, 2013:589).

Khalo (2013:589) further indicates that the key functions of accountability and oversight in municipal financial management is to improve performance and service delivery, safeguard against corruption, mismanagement of resources and abuse of power, as well as improve integrity and confidence in local government. The committee system is used to support and enhance the municipal council oversight function and, in particular, the MPACs performs the Municipal council's oversight role over municipal finances (Khalo, 2013:589).

CoGTA (2013:8) points out that together with SALGA and National Treasury they appoint MPACs to enhance oversight of the executive of the municipal structures. The MPAC is a committee of the municipal council, appointed in accordance with Section 79 of the Municipal Structures Act of 1998. In metros and large category B municipality it is, due to the number of

councillors, easier to appoint Section 79 oversight committees to provide oversight of the functions of the Section 80 committees. Many smaller municipalities do not have enough councillors to appoint such MPACs and can only appoint one oversight committee tasked with the complete oversight role (CoGTA, 2013:8).

According to the Gauteng Local Government and Housing (2012:23), MPACs were first established in 2007, this enabled councils to fulfil their constitutional obligations to scrutinise and oversee executive action, in respect of financial management. MPAC also serves as accountability and oversight structure over public resources in the municipalities and ensures a total separation of powers between the executive and the municipal council. The provincial governments developed a framework on the establishment and operation of MPACs. The framework, proposes that these accountability and oversight structures, be established along the principles of the national and provincial Standing Committee on Public Accounts (Gauteng Local Government and Housing, 2012:23).

In addition, the Gauteng Local Government and Housing (2012:23) indicates that the functions of MPACs, include *inter alia*, to examine financial statements of all executive organs of municipal councils, to examine any audit reports issued on those statements, to examine any reports issued by the Auditor-General on the affairs of any municipal entity; to examine any other financial statements or reports referred to the committee by councils; to examine annual reports on behalf of municipal council; and to make recommendations and to monitor the extent to which its recommendations and those of the Auditor-General are carried out (Gauteng Local Government and Housing, 2012:23).

According to the Western Cape Government (2012:4), the MPACs will assist municipal council to hold the executive and municipal entities to account, and to ensure the efficient use of municipal resources (Western Cape Government, 2012: 2). The MPAC may engage directly with the public and consider public comments when received and will be entitled to request for documents or evidence from the MM of the municipality or municipal entity. The MPAC can also request the support of both the internal and external auditors when necessary. It should be noted that the standard rules for the municipal council apply to MPAC (Western Cape Government, 2012:4).

The Western Cape Government (2012:4) further points out that the MPACs, similar to other committees of Municipal council should comprise solely of councillors appointed by resolution of a full municipal council meeting. However, the committee may invite representatives of the community and co-opt members of the public who have expertise in relevant specific fields to assist and advise in the deliberations when the need arise. These representatives will have no voting rights as they are not elected councillors. The Western Cape Government (2012:4) maintains that the MPAC shall comprise of councillors excluding any councillor who is serving as executive mayor or deputy executive mayor, mayor or deputy mayor, speaker, chief whip, a member of mayoral committee, a member of the executive committee. Where the municipality has a sufficient number of councillors, councillors serving on the MPAC should preferably not serve in other committees of council to minimise possible conflict of interest (Western Cape Government, 2012:7).

In light of the above, it is clear that the MPACs can be seen as a key oversight committee, however the Auditor-General warns in the 2017-2018 audit report that MPACs lack the legal mandate to enforce their recommendations on municipalities. The Auditor-General further mentions that in some municipalities the municipal managers refused to attend hearing, respond to questions or supply required information to MPACs. Another challenge is that not all municipalities implement the recommendations of MPACs because of the inadequate legal mandate of the committees to enforce recommendations (AGSA, 2019:28).

4.12 OVERSIGHT REPORTS ON ANNUAL REPORTS

Annual reports were discussed in Section 4.7 of this chapter; subsequently attention is given to the purpose of the oversight report of the municipality. According to Sirovha and Thornhill (2017:151), in terms of Section 129(1) of the *MFMA*, 2003 the municipal council must consider the annual report of the municipality or that of any municipal entity under the control of the municipality. Mazibuko and Fourie (2013:137) concur that accountability is the cornerstone of financial reporting which are also fundamental to a municipality's sustainability. The oversight report of a municipality comments on the annual report, which must conclude by approving the report with or without reservations, reject the report or refer the report back for revision of those components that can be, revised. The municipal council must adopt an oversight report containing the municipal council commitment on the annual report, not later than two months from the data on which the annual report was tabled in the municipal council.

The oversight report must contain a statement on whether the municipal council has approved the annual report or whether the annual report was referred back for revision.

4.13 ACCOUNTABILITY AND RISK MANAGEMENT OF MUNICIPALITIES

Khalo and Vyas-Doorgapersad (in Van der Waldt *et al.*, 2018:228) point out that in terms of Chapter 7 and 8 of the *MFMA*, 2003 the MM as the accounting officer of the municipality is responsible for financial and risk management within a municipality. Fourie and Opperman (2015:45) state that although the MM is responsible for the management of risks, in practice the chief financial officer (CFO) and the heads of departments must accept joint responsibility for the management of risks including financial risks and in particular to report these risks to the relevant authority. In addition, the National Treasury (2004:5) provides that the municipal council should ensure that the municipality has and maintains a comprehensive and effective risk management plan and process and that key risks are quantified. Risk assessment should be done regularly and should adopt a top-down approach but should not be limited to strategic and high-end risks only. Operational risks should be part of the risk management plan. Although it may be problematic for smaller municipalities to do proper risk management and assessment, consideration should be given to a risk management unit established under the auspices of CoGTA the relevant provincial department to assist smaller municipalities and ensure skills transfer (Pricewaterhouse and Coopers, 2010:6).

Fourie and Opperman (2015:456) state that although risk management is primarily an administrative responsibility it clearly has political and financial implications. Therefore, the municipal council have to ensure that a relevant risk management policy is in place to counter in particular financial risks. The *MFMA*, 2003 provides a comprehensive framework concerning the management of the municipalities' budgets, revenue and income to minimise any risks relating to the mismanagement of its budgetary and financial resources (Thornhill and Cloete, 2014: 115; Fourie and Opperman, 2015:456).

Fourie and Opperman (2015:458) further maintain that the following aspects must be covered in the municipalities risk management policy:

- **Identification of risks.** The identification of risks is in general the responsibility of a line manager. Therefore, any activity which threatens the achievement of the

municipalities objectives or which may lead to any material loss or damage to the municipalities' financial resources, or which may have any disruptive influence must be identified and assessed.

- **Measurement of risks.** All risks must be evaluated and assessed in quantitative terms (the potential costs) where possible to determine the potential impact on the municipality. Qualitative terms such as a low, medium, high or extreme risk may also be used to determine the potential impact of the risk on the municipality.
- **Management of risks.** Effective identification and management of a potential risk will enable the municipality to minimise the impact of the risk. The MM, CFO and all heads of departments should be responsible for the management of risks and in particular financial risks.
- **Reporting of risks.** Any risk with a potential financial implication greater than a certain or agreed amount as determined by the MM and CFO must be reported to the accounting officer of the municipality. The CFO is responsible to report on any financial risk-related matter to the municipal political structure. Except for the financial risks as provided in the municipalities financial policies the following risks must be reported to the accounting office of the municipality; strategic impact, human resources, safety and security, health and environmental risks, service delivery related risks, legal compliance risks and any risk that have the potential to impact on the reputation of the municipality (Fourie and Opperman, 2015:459-461).

In addition to the municipalities risk management policy the municipalities financial management policies the revenue management policy and by-laws must make provision for the tariffs, property rates, credit control and debt collection. The latter form the basis on which the municipality tax property owners and consumers of municipal services. In this regard Pricewaterhouse and Coopers (2010:8) warns that one of the major areas of concern in municipalities is the accuracy and condition or the municipalities billing systems. Members of the community and clients are frustrated by these systems and often find municipal billing incomprehensible. Incorrect and unclear municipal accounts exacerbate the problem even further and add to risks municipalities must face. Another concern by Pricewaterhouse and Coopers (2010:8) is the fact that municipalities lost billions of rand to uncollected debts. The non-payment for municipal services often leads to serious financial challenges and is a financial risk for the municipality. Therefore, the reconciliation of debtors and a proper credit control

system should take place to ensure that all debtors information is correctly capture on the billing system. The credit control system which includes the effective implementation of credit control and revenue collection is also a key element of the municipalities risk management system (Pricewaterhouse and Coopers, 2010:8); Fourie and Opperman 2015; 466).

Except for the above the management of the municipalities supply chain management (SCM) and procurement activities is susceptible to various risks. Munzhedzi (2016:2) aver that tender irregularities, bribery, corruption, non-compliance with SCM acts and regulations and the municipalities own SCM policy, incompetence and negligence of public officials are some of the concerns related to SCM and procurement practices. The SCM policy of the municipality must guard against all the risks mentioned. In this regard Thornhill and Cloete (2014:122-123) maintain that councillors are not allowed to attend any municipal bid committee meeting responsible for evaluating tenders, quotations, contracts or bids. No politician, councillor or any other person can interfere or try to influence with the municipalities SCM and procurement system or amend or tamper with any tenders, quotations, contracts or bids after their submissions. Another concern is that most fraud and corruption in local government occurs through the SCM and procurement processes. Prices are inflated, bid committees are not properly constituted, conflict of interest not properly management, tenders are not advertised as required by SCM Act, policies and regulations and contracts are awarded to friends and family members. The latter pose a serious financial risk for the municipality and it defeats the aim of effective SCM and procurement management (Munzhedzi, 2016:2; Thornhill and Cloete, 2014:122-123).

In terms of the National Treasury Municipal SCM Regulations (2003:10) the municipal council and the board of directors of a municipal entity is responsible for oversight of the implementation of the municipalities SCM policy. The municipality must report on the implementation of its SCM policy within 30 days of the end of each financial year.

Another risk is that municipalities have to guard against are concerned with asset management. In this regard, Fourie and Opperman (2015:469) caution that except for the financial risk inherent in the loss of a fixed asset, the wastage of resources through the neglect or abuse of assets also pose a financial risk for the municipality. The effective management of fixed assets is not only the responsibility of the accounting officer of the municipality, all line managers must safeguard the assets of a municipality. The CFO must ensure that the data relevant to the

municipalities fixed asset are regular and correctly recorded in the asset register of the municipality. Stock taking as an effective control measure must take place at the end of each financial year to identify any surpluses and losses of fixed and movable assets. Apart from effective record keeping general control measures must be instituted to limit any risks and losses. Regular inspections and reporting is critical to identify any risks or loss of the municipalities movable and immovable asset (Gildenhuys, 2018:193-194; Fourie and Opperman, 2015:469).

In light of the above, the Auditor-General report for 2016-2017 reported that a total of 78% of all municipalities were in non-compliance relating to quality of financial statements. In addition, a total of 73% of all municipalities were in non-compliance concerning the management of SCM and contract management (AGSA, 2017:29). A total of 72% of all municipalities were in non-compliance relating to the prevention and unauthorised, irregular and fruitless and wasteful expenditure. A total of 395 of all municipalities have ineffective system of internal control for assets. The latter leads to a financial loss and pose a threat to the effective financial management of municipalities. The Auditor-General, report for 2016-2017 further states that the Free State province the continued disregard of SCM and procurement processes by the administrative and political leadership resulted in irregular expenditure with limited consequences and accountability for these transgressions. Effective oversight and accountability are critical in ensuring compliance with legislation to prevent financial losses and irregularities (AGSA, 2017:55). Thus, effective risk management is an imperative to promote accountable local governance.

4.14 OTHER INTERNAL FINANCIAL CONTROL SYSTEMS

According to Ntonzima (2011:1011), the aim of financial controls is to ensure that there is reasonable transparency and accountability on how public finances are generated, managed and spend. Financial controls ensure that spending of scarce financial resources take place in accordance, with prescribed legislation, policies, rules, regulations, directives, and that it incurred in line with predetermined plans such as the IDP and budgeted items. Financial reporting is the most important means to determine the extent to which the accounting officer, the CFO and other municipal officials responsible for municipal finances fulfil their responsibilities. One of the key requirements of an effective financial control is the

establishment of an effective financial management system that consist of a planning system, a budget system, an accounting system, financial control systems and allocation systems.

According to Sibanda (2017:320), the MM and senior management including the CFO as the head of the SCM of the municipality, must implement basic financial and performance controls. Financial and performance controls include proper record, keeping, relevant and accurate information that is addressable and available to support financial and performance reporting. Financial and performance controls include daily and monthly processing and reconciling transactions.

Fourie and Opperman (2015:477) are of the opinion that the following internal controls must be instituted to promote effective financial management and accountability:

- **Control environment.** An effective control environment relates to the municipality's overall governance and management functions. It includes the institutionalisation of its value system and the municipality's commitment to these values, integrity and accountability. Sibanda (2017:318) avers that organisational structures such as the internal audit unit and audit committees are key elements of the control environment within the municipality.
- **Risk assessment.** It entails the identification, management and reporting of serious financial risks. The internal audit unit of the municipality prepares a risk-based audit plan and an internal audit programme for each financial year and advises the MM (as the accounting officer). It also reports to the audit committee on the implementation of the internal audit plan, internal controls, accounting procedures and practices, risks and risk management, loss control and compliance with the *MFMA*, 2003, *DoRA* and other relevant legislation and regulations (Sibanda, 2017:319).
- **Control activities.** Control activities refer to external (legislative frameworks, acts, policies and regulations) and internal control activities (accurate and complete processing of transactions, accounting standards and systems, information reports and approval of physical control measures) which should limit fraud, losses and non-compliance with legislation and other prescripts.
- **Information and communication.** These are part of the internal control system of a municipality. They entail effective and reliable communication systems as well as

proper procedures, policies and reporting mechanisms. Information should be well-managed, relevant and reliable as part of the reporting system and record management (Sibanda, 2017:318).

- **Monitoring.** Effective monitoring includes performance indicators to monitor activities, risks and progress. It also involves reporting on weaknesses and ensuring that appropriate corrective actions are taken.

According to Sibanda (2017:317-318), financial control involves matters such as policies, procedures, reporting and auditing and reporting procedures to report wrongdoing, and transparent action when wrongdoing is discovered. Sibanda (2017:318) avers that organisational structures such as the internal audit unit and audit committees can be seen as key elements of the control environment that assist within the municipality.

Considering the above, a concern was raised by Nbaba (in The Star, 27 June 2018) that the Auditor-General's report for 2017-2018 financial year showed a total breakdown in internal control (AGSA, 2018:10). Therefore, one could argue that internal controls are critical important to promote oversight and accountability. Thus, any decline in the effectiveness of internal controls, weakens oversight and accountability of the financial management of the municipality.

4.15 CURRENT OVERSIGHT AND ACCOUNTABILITY CHALLENGES OF FINANCIAL MANAGEMENT OF MUNICIPALITIES IN THE FREE STATE PROVINCE

According to Mazibuki and Fourie (2013:138-140) and Khalo and Vyas-Doorgapersad (in Van der Waldt *et al.* 2018:220-221), municipalities face many serious overwhelming financial management challenge that have a particular effect on service delivery regarding delivering of water, electricity, sanitation housing and refuse collection. Most municipalities including metropolitan municipalities which are supposed to be less dependent increasing relies on transfers of grants from national government. A concern is that most municipalities of the country are dysfunctional due to political interference, political faction infighting that weakens political oversight that often leads to mismanagement of limited financial resources.

As mentioned in Section 2.10 of Chapter 2 of this study the Auditor-General (2018:2) reported that municipal councils failed in 61% of all municipalities to conduct investigations concerning unauthorised irregular and fruitless and wasteful expenditure during 2016/2017 financial year. Other concerns that weakened oversight and accountability include the lack of relevant skills of municipal councillors and mayors that directly leads to a lack of oversight by municipal councils. The latter led to insufficient implementation and maintenance of financial and performance management systems by municipal administrations. Nbaba (in The Star, 27 June 2019:1) mentions that the Auditor-General pointed out in the audit outcomes of the financial year 2017-2018 that accountability deteriorated while irregular expenditure remains very high. A concern is that only 18 of the 257 municipalities received clean audits in the 2017-2018 financial year, which is an indication that accountability remains a challenge to hold municipalities to account for the management of their municipal finances. Nbaba (in The Star, 27 June 2019:2) further states that the financial health of municipalities in the country continued to worsen from a net liability positions of R4.8 billion in the 2016-2017 financial year to R6.1 billion in the 2017-2018 financial year. Mangaung Metropolitan Municipality of the Free State province received for the second consecutive financial year a qualified audit opinion with comments. Nbaba (in The Star, 27 June 2019:2) maintains that the Auditor-General reported that since 2012-2013 financial year till date, Mangaung Metropolitan Municipality showed a total of R552 million of irregular expenditure, while a total of R4,460 billion of unauthorised expenditure was reported. During the 2017-2018 financial year the metro irregular expenditure was R127 million, the fruitless and wasteful expenditure was R26 million and the unauthorised expenditure was R874.1 million. One could argue that the latter is a clear indication of the functionality of oversight and accountability of the financial management of most of the municipalities in the country including all municipalities in the Free State province including the Mangaung Metropolitan Municipality. The further deterioration of the financial affairs of the Mangaung Metropolitan Municipality, resulted in an intervention by the Free State provincial government. According to Gericke (In “Die Volksblad” 30 Janaury 2020), Mangaung Metropolitan Municipality became the first metropolitan to be placed under provincial administration. A concern is the continued disregard of internal controls including proper record keeping and financial reporting and compliance with key financial management legislation. The continued inaction of municipal councils, mayors, MMs and other relevant executives to implement the recommendations of the Auditor-General weakened oversight and accountability of the financial affairs of most

municipalities. The above led to the creation of a culture of no consequences that weakens effective oversight and accountability.

4.16 SUMMARY

In this chapter the various mechanisms and strategies to promote accountable, ethical and responsible municipal financial management were discussed. The oversight and accountability role of senior municipal officials were scrutinised. The role of the national treasury and provincial treasuries to ensuring oversight and accountability of municipalities finances were discussed. It was emphasised that national treasury must execute its constitutional monitoring and oversight role over municipalities as it relates to adherence and compliance to the legislative framework governing local government. A concern was raised that one of the main reasons why political oversight and accountability fails in most municipalities is due to a lack of the leadership of municipalities and provincial governments to hold municipalities to account for their continued blatant non-compliance with the constitutional obligation as provided in Chapter 7 of the *Constitution*, 1996 including non-compliance with key municipal legislation.

It was accentuated in this chapter that since 2003 there was a significant rapid growth in transfers of grants from national government to local government. It is evident that municipalities dependence on grants from national government obscure the accountability of municipalities to raise and collect their own financial revenue as required in terms of *MFMA*, 2003. Oversight and accountability are the cornerstone of financial reporting of local government. It was emphasised that the annual report of the municipality is to promote accountability to the local community for the decisions made by the municipality in a given year. The process of adoption of the annual report by the municipal is an indication of the importance of the annual report as an accountability instrument. Another key oversight instrument over the municipal administration that was discussed is the mayor's mid-year budget and performance assessment report. In this regard it was mentioned that the Auditor-Generals reported on the audit outcomes of municipalities in the 2016-2017 and again in the 2017-2018 financial year that financial reporting has rapidly weakened in most municipalities

In the discussion about the role players and internal mechanisms to promote financial oversight and accountability it was mentioned that one of the key instruments to promote transparency and public accountability in a municipality is the IDP of the municipality. Therefore, the IDP must be reviewed annually to ensure effective implementation and budgets, which are an annual expression of the resource allocations for implementation of the municipality's strategic priorities. It was further emphasised that municipal council together with the mayor and MM fulfil an important role to promote accountable financial management of the municipality. On the one hand the executive committee of the municipality is subject to the municipal council to ensure public accountability. On the other hand, individual members of the municipal council (councillors) are accountable to the taxpayers/voters. It was stressed that the mayor is expected to oversee and manage the MM to ensure delivery on the agreed outputs. The municipal council must exercise oversight of the executive mayor or executive committee. The municipal council must consider the annual audit report and adopt the oversight report containing the municipal council's comments on the annual audit report.

The CFO of the municipality is directly accountable to the MM concerning all financial matters including the implementation of the financial system, the accounting system and the financial control function within the municipality. It was mentioned that the internal audit committee of the municipality is one of the key political oversight structures while, the internal audit unit can assist the municipal council in improving oversight of its financial function and in particular over municipal projects. However, concerns were raised about the functionality the internal audit committees. One of the concerns is that there is a lack of sanctions taken against management for non-compliance with the *MFMA*, 2003. Another concern is that no attention is paid to keep deadlines provided for giving feedback to the internal audit committee. Another concern is that it is difficult for members of the internal audit committee to function without accurate, reliable information from management and internal audit units. The performance audit committee is another key political oversight structure of the municipality. It was argued that that the representativeness of these committees may exert a significant influence on the way in which oversight is conducted. The more the representative of different political parties the more effective oversight is exercised.

It was stressed that one of the key political oversight structures in terms of Section 79 of *Municipal Structures Act*, 1998 is the MPAC to exercise oversight of the executive officials of

the municipal council with the intention to promote good governance and public accountability. Effective oversight and accountability are critical to ensure compliance with legislation to prevent financial losses and irregularities. Therefore, effective risk management is an imperative to promote accountable local governance. In terms of Chapter 7 and 8 of the *MFMA*, 2003, the MM as the accounting officer of the municipality is responsible for financial and risk management within a municipality. However, it was mentioned in this chapter that the Auditor-Generals report on the audit outcomes of municipalities of the 2017-2018 financial year showed a total breakdown in internal control. Therefore, one could argue that internal controls are critical important to promote oversight and accountability. Any decline in the effectiveness of internal controls, weakens oversight and accountability of the financial management of the municipality.

The chapter emphasised that the continued disregard of internal controls including proper record keeping and financial reporting and compliance with key financial management legislation remains a concern. The continued inaction of municipal councils, mayors, MMs and other relevant executives to implement the recommendations of the Auditor-General weakened oversight and accountability of the financial affairs of most municipalities. It was emphasised that despite the existence of laws and numerous regulations and a code of conduct related to SCM and procurement, the continued noncompliance and irregularities in municipalities of the Free State province remains a concern. The above led to the creation of a culture of no consequences that weakens effective oversight and accountability.

The following chapter will provide theoretical review of administrative and social accountability and oversight in context. The accountability role of the municipal administrative structures is key to ensure effective and efficient utilisation of Municipal council resources.

CHAPTER 5: THEORETICAL OVERVIEW OF ADMINISTRATIVE AND SOCIAL ACCOUNTABILITY IN THE SOUTH AFRICAN LOCAL GOVERNMENT CONTEXT

5.1 INTRODUCTION

South Africa is a constitutional democracy that requires that the administration and executives of all three spheres of government are monitored and held to account by a distinct organ of government. The municipal council of a municipality is directly elected by the electorate within the municipal area. In order to promote transparency and accountability the municipal officials responsible for the administration (executives) of the municipality are answerable to the elected representatives (political officials) of the municipality. On the other hand, the elected representatives of the municipality are accountable to the electorate or broader community concerning service delivery and the performance of the municipality. In this manner accountability is promoted through participatory governance and representation.

In Chapter 1 of this study it was mentioned that administrative accountability refers to the constitutional and legislative framework, systems, processes and structures that were established to ensure accountability within the three spheres of government. Administrative accountability in the context of local government refers to internal systems of control, which include ethical codes of conduct, administrative reviews, norms and standards to promote a system of checks and balances (Sibanda, 2017:324). On the other hand, social accountability refers to an approach to ensure transparency and accountability by involving local communities and community organisations in the affairs of the municipality.

In this chapter, the following was discussed, the statutory and legislative frameworks for administrative accountability and oversight, national and provincial support, followed by an overview of institutional arrangements to promote administrative accountability. The important role of staff development and training to promote administrative accountability were emphasised. The current challenges of administrative oversight and accountability were provided. An overview about social accountability was provided, followed by a detail discussion about the statutory and legislative frameworks of community participation to promote social accountability. Conceptualisation of community participation was provided, followed by a detail discussion about the various mechanisms to promote community

participation in local government. The importance of community participation during the different phases of a municipalities integrated development planning was also outlined. The chapter concluded with an overview of the current challenges to promote community participation and social accountability at local sphere.

5.2 STATUTORY AND LEGISLATIVE FRAMEWORK FOR ADMINISTRATIVE ACCOUNTABILITY AND OVERSIGHT

In this section the statutory and regulatory framework pertaining to administrative accountability and oversight was explained. The statutory and regulatory framework establishes a basis for oversight and accountable administration and management of municipalities.

5.2.1 *Constitution of the Republic of South Africa, 1996*

The *Constitution*, 1996 makes provision for the establishment of local government as a separate and distinct sphere of government., to deliver services to local communities through the support of national and provincial governments. Section 40(1) requires that national and provincial governments must support local government. Section 151(2) provides the responsibility and assign the functions of the municipal council which is the legislative and executive authority of a municipality. Section 152(a) of the *Constitution*, 1996 makes provision for the following objectives of local government namely; to provide a democratic and accountable government to local communities; to ensure the provision of services in a sustainable manner; to promote social as well as economic development; to promote a safe and healthy environment and to encourage the involvement of local communities in the affairs of local government. In terms of Section 153 of the *Constitution*, 1996 local government must fulfil its developmental mandate. In this regard the *Constitution*, 1996 requires from local government to structure and managed its administration in such a manner that municipalities must budget and plan effectively to prioritise the needs of local communities (Madumo, 2015:156; Sirovha and Thornhill, 2017:136).

In terms of Section 155(7) of the *Constitution*, 1996 the national government, subject to Section 44 as well as the provincial governments, has the legislative and executive authority to oversee the effective performance of municipalities regarding their functions and the manner in which

they fulfil their service delivery functions listed in Schedule 4 and 5. Thus, municipalities are accountable to their local communities for the manner in which the municipality achieve its constitutional mandated objectives. According to Landsberg and Graham (2017:164), Section 139 of the *Constitution*, 1996 provides that provincial governments should intervene in the affairs of a municipality where it fails to fulfil an executive obligation. Such interventions may include instructions to requiring a provincial government to take over the responsibility to fulfil certain functions. A provincial government may issue instructions to a municipal council to take a particular action, or it may dissolve the municipal council and appointing an administrator. Madumo (2015:158) points out that a provincial government is responsible for municipal oversight and support, and it may intervene in the affairs of a municipality, who cannot fulfil its constitutional mandate or its statutory ad legislator executive (administration) obligations.

In terms of Section 195 of the *Constitution*, 1996 requires that public administration of which the administration of a municipality cannot be excluded, must strives to promote a high standard of professional ethics; to provide services to communities impartially, fairly, equitable and without bias, to use resources in an effective, efficient and economic manner, to respond to people's needs, to encourage the public to participate in policy making and public affairs, and to be accountable and that transparency to the public must be fostered through the provision of timely, accessible and accurate information.

In order to fulfil these requirements an effective monitoring and evaluation system should promote accountability and transparency, but it should promote an efficient and effective public service that is responsive to the needs of its citizens. Whereas, Van der Westhuizen (2016:147) point out that the values and principles as provided in Section 195 of the *Constitution*, 1996 set out important standards against which the performance of public officials should be measures. Section 215(1) requires that national, provincial and municipal budgets and budgetary processes must promote accountability and effective and efficient financial management. Section 216 of the *Constitution*, 1996 provides that the National Treasury is responsible for treasury control to ensure both transparency and expenditure control in each sphere of government by, introducing general recognised accounting practices, establishing uniform expenditure classifications, and by establishing uniform treasury norms and standards.

Thornhill (2015:81) maintain that by implications the municipal council is accountable and should be able to provide reasons for the manner in which the municipality achieved its constitutional mandated objectives and functions.

5.2.2 Intergovernmental Relations Framework Act (IGFA), 2005

According to Kahn, Madue and Kalema (2011:252), and Landsberg and Graham (2017:163), Chapter 3 of the *Constitution*, 1996 each of the three spheres of government are distinctive, interrelated and interdependent. Chapter 3 of the *Constitution*, 1996 further makes provision for the concept co-operative governance and intergovernmental relations. The *IGFA*, 2005 was established to give effect to the constitutional requirements of co-operative governance and intergovernmental relations. Kahn *et al.* (2016:174-175) maintain that the *IGFA*, 2005 provides a framework for written implementation protocols as a mechanism by which organs of state must co-operate with each other to exercise a statutory power, perform a function, implement a policy or deliver a service.

The *IGFA*, 2005 makes provision for monitoring and evaluation in the following ways; firstly, Chapter 1, Section 4(c) emphasises the important role of all three spheres of government to monitor and evaluate the effective implementation of policies and legislative frameworks in a co-operative manner. Secondly, Chapter 2 Section 7 of the *IGFA*, 2005 states that the Presidents Co-ordinating Council (PCS) must reconcile the performance reports of the three spheres of government to national priorities. While, Section 11(b)(iii) and (c) and Section 18(a)(viii) of the *IGFA*, 2005 states that the national intergovernmental forums must co-ordinate and align the strategic and performance management plans, including priorities, objectives and strategies across the three spheres in order to detect failures and take corrective action in a timely manner (Landsberg and Graham, 2017:163).

In terms of Chapter 3, Section 35(d) and (e) of the *IGFA*, 2005 each organ of state must work together to establish oversight and monitoring mechanisms for the effective implementation of the intergovernmental relations protocols. Section 47(e) of the *IGFA*, 2005 stipulates that the Minister of each of the various national departments in his or her capacity can issue specific regulations regarding indicators for monitoring and evaluation to promote the effective implementation of this Act.

5.2.3 *Municipal Systems Act (MSA), 2000 (as amended by Act 7 of 2011)*

According to Madumo (2015:161), the *MSA, 2000* makes provision for the establishment of an appropriate municipal administration including internal control systems to guaranteeing efficiency and effectiveness in the delivery of municipal services. In terms of Section 6 of the *MSA, 2000* the municipalities' administration must be governed in accordance with the constitutional values and principles for public administration. Section 6(2) of the Act, provides that municipal administrations are responsible for the following; to be responsive to the developmental needs of their communities; to promote a culture of accountability and public service amongst its municipal officials; to take steps to prevent corrupt activities; to promote co-operation and communication with local communities; to provide the local community with accurate and reliable information about the level and standard of service delivery; and to inform and involve local communities and community organisations in the affairs of local government. While, Section 11 of the *MSA, 2000* makes provision for the executive and legislative authority which is exercised by the municipal council.

Section 51 of the *MSA, 2000* states that the MM of a municipality is accountable for the overall performance and administration of the municipality. Apart from the accountable functions of the municipal council and MMs, there are also committees and political officials who must fulfil the functions of oversight of municipal administration to ensure that municipalities are able to meet their constitutional obligations, such as the executive committees, mayoral committees, council portfolio committees, municipal public accounts committees and audit committees. Section 55 of the Act provides that the MM as head of administration is responsible and accountable for the development of an effective, efficient, economic and accountable municipal administration. Section 56 makes provision for the appointment of managers directly accountable to MM while, Section 57 set out the employment contracts for municipal managers and managers directly accountable to MMs. In terms of Section 67 of the Act, a municipality must develop an effective, efficient and transparent municipal administration. Section 68, of the *MSA, 2000* provides that a municipality must develop its human resource capacity in such a manner that the municipality is able to exercise and performs its functions in an economical, effective, efficient manner.

In addition, Chapter 10 of the *MSA, 2000* provides in Section 105 the guidelines as to how the provincial government should monitor and evaluate the performance of municipalities, and to

assess the support needed to improve the performance of municipalities as well as to develop relevant capacity development initiatives. In terms of Section 106 of the Act, when the Member of Executive Council (MEC) for Local Government has a reason to believe that the municipality does not perform its statutory obligations or that maladministration, fraud, corruption or any other serious malpractices are taking place, the MEC must request the municipal councillor MM as the head of administration to provide the MEC with information as required in a written notice. The MEC must also issue a written statement to the relevant National Council of Provinces (NCOP) to motivate the action (Madumo, 2015:161-162).

A Code of Conduct for Municipal Staff Members is provided in Schedule 2 of the *MSA*, 2000 which set out the general conduct of municipal officials who are part of the municipal administration.

5.2.4 *The Municipal Finance Management Act (MFMA), 2003*

According to Sibanda (2017:326), Section 53(1)(c)(ii) of MFMA, 2003 provides that the municipalities Service Delivery and Budget Implementation Plan (SDBIP) serves as a basis for performance agreements as the budget implementation plan. The Service Delivery and Budget Implementation Plan of a municipality must indicate the monthly projections of revenue that must be collected by source and it also makes provision for the operational and capital expenditure by vote. The SDBIP must further makes provision of the service delivery targets and performance indicators. The SDBIP is an important administrative mechanism to promote administrative accountability within a municipality (Anon in Community Law Centre, 2008:30-31).

The *MFMA*, Circular 32 of 2006 provides the guidelines for the establishment of the Municipal Public Accounts Committee (MPAC). In terms of Section 66(1) of the *MFMA*, 2003 each municipality must have an audit committee that does not form part of the administration. The purpose of the audit committee is to identify risks to which a municipality could be exposed, and to advise the Municipal council. Section 166 of the *MFMA*, 2003 provides that each municipality must have an audit committee to advise the council on internal financial control, internal audits, risk management, accounting policies, the adequacy, accuracy, reliability of financial information and reporting. In terms of Section 71 of the *MFMA*, 2003, the MM must submit a statement on the state of the budget to the mayor at the end of each month. The

statement must provide the following information; the actual revenue; the actual borrowing, the actual expenditure as per vote, the actual capital expenditure, as per vote, the amount of allocations that were received and the actual expenditure compared to the allocations. According to Anon in Community Law Centre (2008:32), the statement must also make provision for corrective or remedial action to be taken to ensure that the revenue and expenditure projections remain within the municipalities budget.

5.2.5 *Municipal Structures Act, 1998 (as amended by Act 51 of 2002)*

The *Municipal Structures Act, 1998* was developed to give effect to the vision of the *WPLG, 1998*, which includes among other things the development and implementation of an effective performance management system at the local sphere of government (Tsatsire, 2008:132). The *Municipal Structures Act, 1998* predominantly makes provision for the following:

- The establishment of municipalities in agreement with the requirements of the different types and categories of municipalities;
- To establish criteria for determining the category of municipality for an area;
- To provides an appropriate division of powers and functions for each of the categories of municipality;
- To regulate the internal structures of political office and senior municipal officials; and
- To provide for appropriate electoral systems.

In this regard, Madumo (2015:161) avers that the Act provides for the appropriate division of powers and functions, depending on the different categories of municipality by ensuring a proper governing structure, which culminates in the election of municipal councils. Sections 79 and 80 of the *Municipal Structures Act, 1998* make provision for the establishment of portfolio committees to exercise oversight of service delivery projects.

5.2.6 Local Government: Municipal Performance Regulations, 2006 and Performance Management Guide for Municipalities, 2001

Section 37 of the *Municipal Performance Regulations (2006:27)* provides that the MM who is also the head of administration as well as the accounting officer of the municipality is

responsible to perform the following functions, which must be detailed in the MM's job description:

- responsible for municipal transformation and organisational development;
- responsible for basic service delivery to the communities within the municipal area;
- responsible for local economic development;
- responsible for municipal financial viability and management; and
- to promote good governance and public participation.

According to Van der Waldt *et al.* (2014:126) the Municipal Performance Regulations for Section 57 Employees, 2006 makes provision for employment contracts and performance agreements for MM and other Section 57 managers. The Performance Management Guide for Municipalities, 2001 serves as a guideline for municipalities to develop and implement their own performance management systems.

5.2.7 Promotion of Access to Information Act, 2000

Thornhill (2015:92) avers that the *Promotion of Access to Information Act, 2000* is critical important to promote accountability as it compels the municipality to make information of its actions and performance available to local communities. In this manner the local community or electorate may call the municipality to account for any omission or inefficient or unethical right of access to information.

5.2.8 Promotion of Administrative Justice Act (Act 3 of 2000)

In terms of the *Promotion of Administrative Justice Act, 2000* was established to give effect to the right constitutionally right of all citizens to have access to fair administrative action, that is lawfully, reasonable and procedurally fair. By implication it means that any person of a local community may call the relevant decision maker of a municipality to account for a decision or the failure to take a decision that is lawful, reasonable and procedurally fair (Thornhill, 2015:93).

An overview of the institutional arrangements to promote administrative accountability of local government were outlined in the discussion below.

5.3 NATIONAL AND PROVINCIAL SUPPORT TO LOCAL GOVERNMENT

According to Koma (2017:33), the supervisory powers of national and provincial governments over local government include the following; the power to regulate and to monitor local government; the power to support local government; and the power to intervene in the affairs of local government. In this regard, Section 154(1) of the *Constitution*, 1996 requires from national and provincial governments to support and strengthen the capacity of municipalities to exercise and perform their functions and to manage their own affairs. Section 155(6) of the *Constitution*, 1996 provides that provincial governments must monitor and support the municipalities within the province. Koma (2017:33) further avers that provincial governments must further promote the development the capacity of municipalities to ensure that they perform their functions and managed their own affairs. Section 155(7) of the *Constitution*, 1996 requires that national and provincial spheres of government have the authority (legislative and executive) to ensure that municipalities perform their functions as provided in Schedule 4 and 5 of the *Constitution*, 1996.

As discussed in Section 4.5 of this study, the *Constitution*, 1996 makes provision in Section 139 for provincial supervision of local government when a municipality cannot or does not fulfil an executive obligation in terms of legislation, the relevant provincial executive any intervene by taking any appropriate steps to ensure fulfilment of that obligation. The provincial executive must issue a directive to the municipal council, by describing the extent of the failure to fulfil its obligations by stating the required steps to meets its obligations. Furthermore, the provincial executive must assume responsibility for the relevant obligation to maintain essential national standards or meet established minimum standard for the rendering of services or to prevent a municipal council to take any unreasonable action that is prejudicial to the interest of another municipality or to the province as a whole or to maintain economic unity.

The former DPLG introduces in 2004 Project Consolidate as an intervention strategy to support struggling municipalities. Experts with relevant skills were deployed to provide support at these struggling municipalities. As a result of numerous public protests about poor service delivery the Departments of Co-operative Governance and Traditional Affairs (CoGTA) conduct an assessment and its report on the State of Local Government, 2009 revealed major findings related to governance, administration, financial management, policy management and service delivery throughout the country. The Local Government Turnaround Strategy (LGTAS) was

introduced in 2011 to address the challenges. However, it failed to improve the capacity and performance of most municipalities and was replaced by the Back-to-Basic campaign, which was launched in 2014 with the aim to build effective, efficient, and viable municipalities that priorities the concerns and demands of local communities. The Back-to-Basic campaign focused on the improvement of good governance (administration), public participation, financial management, infrastructure and institutional capacity (Koma, 2017:28; Landsberg and Graham, 2017:174).

Except for CoGTA other role players such as the Office of the Premier of the nine provincial governments, the Provincial Treasuries and SALGA must support and monitor all municipalities to ensure that the achievement of their constitutional mandate. The role of CoGTA, Provincial Treasury, SALGA and district municipalities should include the following:

- To ensure that municipalities have the required human and financial resources to assist in the implementation of their management, administration and financial systems and processes;
- To monitor and co-ordinate the capacity building initiatives provided to municipalities;
- To ensure that key vacancies within municipalities are filled.

Koma (2017:34) is of the opinion that CoGTA should develop and maintain a database with the details of experienced, qualified and skilled individuals to ensure that key vacancies are filled as administrators in municipalities that are placed under supervision by a provincial government in terms of Section 139 of the *Constitution*, 1996. Except for the above support mechanisms SALGA implemented numerous support programmes to capacitate municipalities such as the Councillor Induction Programme, the Municipal Audit Support Programme with the aim to improve the municipal administrative leadership, governance, institutional capacity, financial and administrative practices in local government.

In terms of the *IGFM*, 2005 specific statutory structures or intergovernmental relations forums were established to facilitate co-operative governance to ensure integrated planning, co-ordination and sharing of information between the national, provincial and local spheres of government.

A concern is that the strategies to assist struggling municipalities did not yield the required results. A concern is that the Auditor-General, report for 2016-2017 (AGSA, 2017:1) raised concerns that accountability and the need for appropriate consequences for accountability failures still featured as prominent element of failures in most municipalities. A concern was raised by the Auditor-General that in particular in the Free State municipalities there is a continued lack of accountability and leadership failures (AGSA, 2017:2). In light of the above, one could argue that the intention of the Back-to-Basic campaign to improve good governance (administration), public participation, financial management, infrastructure and institutional capacity did not achieve the required results in municipalities of the Free State province.

Although, national and provincial governments are obligated by constitutional precepts to support local government, a concern was raised by the Auditor-General in the report for 2016-2017 (AGSA, 2017:3) that national and provincial governments did not sufficiently support municipalities. The Auditor-General (AGSA, 2017:3) further argues that many of the financial and administrative challenges of municipalities could be turned around with, the support of provincial governments. Thus, national and provincial governments should do more to support municipalities to ensure that the administration of municipalities are capacitated to achieve their constitutional mandate in an ethical, efficient and effective manner.

The institutional arrangements to promote administrative oversight and accountability of local government were provided in the discussion below.

5.4 INSTITUTIONAL ARRANGEMENTS TO PROMOTE ADMINISTRATIVE OVERSIGHT AND ACCOUNTABILITY IN LOCAL GOVERNMENT

The executive institutions at local sphere consist of the political executive institutions (Executive mayor and executive committee) and the administrative executive institutions which, is undertaken by the municipal departments or municipal divisions. The MM as the head of the municipal administration is responsible and accountable to the executive mayor for the administration, management and performance of all the functions including as assigned by the municipal council and executive mayor (Van der Waldt, 2016;159-161; Thornhill, 2012:28-32).

According to Thornhill (2014:28), the *Constitution*, 1996 does not specifically make provision for municipal, legislative, governmental and administrative functionaries (political office-bearers). In terms of the *MSA*, 2000, Section 4(1)(b) the municipal council exercise the municipalities executive and legislative authority. Section 4(2)(a) of the *MSA*, 2000 further states that the municipal council of a municipality must exercise the municipalities executive and legislative authority and use the resources of the municipality in the best interest of the local community. While, Section 4(2)(b) of *MSA*, 2000 clearly provide that the municipality has to do so without favour or prejudice, democratic and accountable government.

Van der Waldt (2014:74) points out that the municipal council of a category A municipality (Metropolitan municipalities) have exclusive legislative and executive authority in their areas. The municipal council of a metropolitan municipality may make by-laws as provided in the *Constitution*, 1996 on all matters as listed in Schedule 4B and Schedule 5B. In terms of the *MSA*, 2000, Section 4(1)(b) the municipal council exercise the municipalities executive and legislative authority. Local municipalities (Category B) and district municipalities (Category C) share the authority to make by-laws. While, the executive authority is vested in the municipal council. The executive authority (municipal council) has the right to administer the local government matters listed in Schedules 4B and 5B of the *Constitution*, 1996, subject to the division of powers regarding local and district councils as provided in Section 156(1) of the *Constitution*, 1996 (Landsberg and Graham, 2017:161).

Van der Waldt (2014:74) further point out that a municipal council must develop a system of delegation of executive authority to the executive committee or executive mayor. In the case of a metropolitan municipality the municipal council must develop a system of delegation of executive authority to the sub-council or ay political office-bearer or staff member to promote its administrative and institutional efficiency. Landsberg and Graham (2017:166-167) maintain that the executive committee or executive mayor and other delegates must report their decisions to the municipal council. While, Section 4 of the *MSA*, 2000 imposes duties on the municipal council with regard to the exercise of their legislative powers and consultation with their communities about the provision of services, development as well as the provision of democratic and accountable government.

The administrative executive institutions of a municipality are undertaken by the various municipal departments or directorates. The functions allocated to these

departments/directorates are in accordance with the areas of specialisation such as a health department, engineering department, financial department of the chief financial officer (CFO) and human resource management (Thornhill, 2012:32).

The *MSA, 2000* provides in Section 6(1) that a municipality administration must be governed by the democratic values and principles embodied in Section 195 of the *Constitution, 1996* by doing the following:

- To be responsive to the local need of local communities;
- To facilitate a culture of public service and accountability amongst its staff members;
- To take measures to prevent corruption;
- To establish clear relationships and facilitate co-operation and communication, between it and the local community;
- To give members of the local community full and accurate information about the level and standard of municipal services they are entitled to receive and inform the local community how the municipality is managed, of the cost involved and person in charge.

Bearing the above in mind, the *MSA, 2000* further provides in Section 11(1) the executive and legislative authority of a municipality is exercised by the council of the municipality. The section further provides that that the municipal council must takes all the decisions of the municipality in accordance with Section 59 of the *MSA, 2000*.

Anon (2008:29) avers that one of the most important tools to promote administrative accountability at local sphere is bureaucratic control. Bureaucratic control also means that municipal councils may appoint the personnel (municipal officials) it requires to ensure the effective achievement of its constitutional mandate.

5.4.1 Administrative oversight of the administration of a municipality

According to Van der Walt *et al.* (2014:87), the political office-bearers such as the speaker, the mayor and in in an executive mayoral system the executive mayor fulfils the oversight role over the administration, to ensure that the municipal council resolutions and policies are executed by the administration. Sirovha and Thornhill (2017:140) agrees that the executive

mayor and mayoral committee members is responsible to oversee the administration of the municipality to ensure effectiveness and efficiency in service delivery.

In addition, it was discussed in Chapter 3 of this study that portfolio committees such as Section 80 and Section 79 committees in terms of the *Municipal Structures Act*, 1998, are significant structures to promote oversight of the municipal council. Portfolio committees are classified as Section 80 committees and are permanent structures in the municipal council. Section 80 committees or portfolio committees have to report and is accountable to the mayoral committee, while Section 79 committees or portfolio committees report to the municipal council. In addition, Sections 79 and 80 portfolio committees also exercise oversight of service delivery projects in municipalities. In particular, the MPAC as a Section 79 portfolio committee and the most important oversight mechanism, of the municipal council, to hold the executives and municipal administration to account and to ensure efficient and effective use of municipal resources (Kraai *et al.* 2017:64; Van der Waldt, 2015:58; Napier, 2007:387; Sirovha and Thornhill, 2017:151).

As mentioned in Chapter 4, Section 4.11 MPACs, fulfil a key oversight role over the executives and administration of the municipality. The MPAC not only has to examine financial statements and financial reports, it has to examine annual reports on behalf of municipal council and it has to make recommendations and to monitor the extent to which its recommendations and those of the Auditor-General are carried out (Gauteng Local Government and Housing, 2012:23).

The municipal council must determine the functions and procedures of a portfolio committee and may delegate powers and duties to such a committee in terms of Section 32 of the *Municipal Structures Act*, 1998. Besides the powers allocated to portfolio committees in terms of Section 32 of the *Municipal Structures Act*, 1998, powers are delegated to elected representatives and senior officials heading the functional or cluster areas. A municipal council may establish a portfolio committee for a specific function or cluster of functions such as health, planning, finance, environment and social services, public safety and transport, governance and administration or local economic development (Van der Walt in Van der Waldt *et al.* 2018:83-84; Thornhill and Cloete, 2014:74; Napier, 2007:387).

In light of the above, municipal councils can be seen as an important link in the accountability chain, to create an enabling environment for good governance and public accountability (Krishnan, 2008:23). The Auditor-General (AGSA, 2018:87) maintains that mayors have a monitoring and oversight role within a municipality and municipal entities. In terms of the *MSA, 2000* mayors have to review the IDP, the budget and has to ensure that a municipality address the issues raised in the Auditor-General audit reports on local government. However, the Auditor-General warns in the report for 2016-2017 that inadequate skills led to a lack of oversight by municipal councils and mayor and insufficient implementation and maintenance of financial and performance management systems by the administration (AGSA 2018:3). In terms of the *Municipal Structures Act, 1998* the mayor of a municipality presides at meetings of the executive committee and performs the duties, including any ceremonial functions, and exercises the powers delegated to the mayor by the municipal councillor the executive committee (Krishnan, 2008:23; Napier, 2007:386-387).

Siddle and Koelble (2012:100) state that in the executive mayoral system, members of the mayoral committee are appointed by the executive mayor. The choice of particular executive system will have an impact on the power relationships within a municipality. A mayor in a collective executive system may, be subject to the directives of the executive committee. The powers and functions delegated to the executive committee are similar to those imposed on the executive mayor. It may be argued that in a municipality with an executive mayoral system a vast range of powers are concentrated in a single office. One executive council member is elected to serve as mayor and has to presides over meetings of the executive committee and must performs any other functions as assigned to it by the municipal councillor executive committee. The executive committee members report not to the mayor but to the municipal council. In the executive mayoral system, by contrast, members of a mayoral committee are appointed by the executive mayor and report directly to and are accountable to the mayor, who may dismiss them.

Landsberg and Graham (2017:167) maintain that the executive mayor must monitor the management of the municipalities administration in accordance with the policies of the municipal council. The executive mayor is also responsible to recommend to the municipal council, strategies programmes and services to address the needs of the local communities through the IDP and estimates of revenue and expenditure.

SALGA (2015:21) states that the executive mayor and the mayoral committee or the executive committee headed by the mayor, together with Section 80 committees assisting the executive mayor and executive committee to fulfil the executive functions and oversight of the municipality. Thus, Section 80 committees are accountable to the executive mayor and not to the municipal council. In terms of Section 8 of the *Structures Act*, 1998 a mayoral executive system allows for the exercise 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.

As discussed in the previous chapter of this study the mayor or executive mayor has a particular responsibility concerning budgetary control and oversight function concerning implementation of the budget. The mayor may also give instructions to the accounting officer to ensure that the budget is implemented in accordance with the service delivery and budget implementation plan (Thornhill and Cloete; 2013:112). The mayor or executive mayor has oversight role in municipal financial and administrative matters by providing general political guidance over fiscal and financial affairs of the municipality; taking reasonable steps to ensure that a municipality performs its constitutional obligations within the limits of the municipality's approved budget, and reporting to the provincial executive if the budget has not been approved as required or if financial problems necessitates provincial intervention. The mayor must also perform oversight concerning municipal entities. In terms of the *MSA*, 2000 mayors must review the IDP, the budget. Thus, the mayor or the executive mayor of a municipality fulfils a critical political oversight role in financial and administrative matters of the municipality (Thornhill and Cloete, 2013:112).

From the above, one could argue that the executive mayor and mayoral committee members have to perform the governing function and oversee the administration of the municipality to ensure effectiveness and efficiency in service delivery. The mayor or the executive mayor is also responsible to perform oversight concerning municipal entities. As part, the mayor or executive mayor has to provide political guidance over fiscal and financial matters and has to take the necessary steps to ensure that a municipality performs its constitutional obligations within the limits of the municipality's approved budget. It is also the responsibility of the mayor or the executive mayor to reporting to the particular provincial executive if the municipalities budget was not approved and if any financial challenges necessitates provincial intervention.

5.4.2 Administrative structures and the accountable role of the municipal manager (MM) as the head of the municipal administration

Botha and Khan (in Hussein 1999:42) indicate that administrative accountability refers to all the various control mechanisms that are created to keep the municipal administration or bureaucracy under surveillance and in check. The elective representatives are accountable to the local communities and therefore, municipal officials responsible for municipal administration must be accountable and answerable to the elected representatives. Elected representatives are elected by the local communities, while municipal officials are appointed based on their qualifications, skills and competencies to perform a specific job (Landberg and Graham, 2017:169).

5.4.2.1 The municipal manager (MM)

According to Craythorne (2006:190), it is a statutory requirement of a municipality to have a municipal administration, the administrative leadership of the municipality is vested in the MM and the heads of departments/directorates. The MM and heads of departments/directorates are responsible for the implementation of policies, and programmes and the overall administration of the municipality. The heads of departments/directorates have to report to the MM for the performance of their departments. The MM has to submit regular performance reports to the municipal council. The MM of a municipality is responsible and accountable for the development of an effective, efficient, and accountable municipal administration. The MM as the head of the administration is accountable to the executive mayor for the administration, management and performance of all the functions as assigned by the municipal council and executive mayor. Except for the above the MM of a municipality is responsible for the appointment of municipal officials and other personnel, subject to the Employment Equity Act, 1998 (Act 55 of 1998) and the maintenance of discipline of municipal officials and other personnel Van der Waldt, 2011:74; Landsberg and Graham, 2017:168-169; Napier, 2007:386; SALGA; 2015:24).

In terms of Section 2(1), of the Municipal Regulations on Minimum Competency Levels (2007:8) academic qualifications are a requirement and are attached to the position of the MM. The accounting officer of a municipality must generally have the skills, experience and capacity to can assume and fulfil their administrative responsibilities assigned to them. Section

3 of the Municipal Regulations on Minimum Competency Levels (2007:9-10) provides that the accounting officer must comply with the minimum competency levels required for higher education. The accounting officer must at least be in possession of a bachelor's degree or relevant qualification at National Qualifications Framework (NQF) 7 with a minimum of at least 360 credits.

According to Thornhill (2015:91-92), the head of the municipal administration namely the MM has to ensure the following:

- To ensure that relevant administrative polities are established within which the administrative function of the municipality can performed;
- To introduce relevant institutional arrangement within the municipality to maintain clear lines of communication and lines of authority among all administrative;
- To ensure that proper procedures are in place to ensure that each municipal official will be able to render account for their actions;
- To ensure that all municipal officials perform their duties an effective, efficient and ethical manner; and
- To ensure that relevant control measures and mechanisms are in place to enable the head of the municipal administration to report on the achievement of the objectives as provided in its IDP through the most effective use of resources.

In light of the above, the MM as the accounting officer and head of the municipality's administration must ensure that proper administrative arrangements are in place to promote accountability of the administrative function of the municipality. It was mentioned in the previous chapter of this study in Section 4.84 that the MM as the accounting officer is responsible to provide administrative leadership to the municipality. The MM may develop a system of delegation to promote administrative and operational efficiency and to provide sufficient accountable mechanism, but the MM may not delegate any financial or any other administrative responsibilities to a political structure (Sibanda, 2017:320).

According to Mazibuko and Fourie (2013:134), the MM has the most distinct responsibilities to fulfil in the municipality, namely, to ensure effective financial management and administration. It requires that the MM must accept his/her responsibility and accountability for the administrative and administrative activities of the municipality. SALGA (2015:24-25)

point out that there must be consequences if a MM failed to give effect to his/her responsibilities, that should result in the removal of the MM from office. The MM as the accounting officer can personally be held accountable for any loss of allocated funds or assets as a result of any deficiency in the administrative or managerial arrangements of the municipality (Thornhill, 2015:92). Thus, the MM is accountable for the performance of the municipality's administration. Failure to give effect to assigned responsibilities should result in the removal of the MM from office.

5.4.2.2 Senior managers

In terms of Section 56 of the *MSA*, 2000, the municipal council of a municipality, after consultation with the MM, appoints managers who are directly accountable to the MM. Senior managers play an important accountable role regarding the administration of a municipality. According to Van der Waldt *et al.* (2014:83) senior managers will be held accountable for any transgressions in exercising their delegated responsibilities. According to SALGA (2015:25), senior managers refers to the managers directly accountability to the MM, including the CFO, heads of departments/directorates, the heads of the internal audit unit and risk management unit as well as other managers appointed in terms of the *MSA*, 2000, Regulations on the Appointment and Condition of Service of Senior Managers.

The CFO in an administrative capacity is responsible for the financial management and SCM activities of the municipality. The MM depends on senior management, including the CFO of the municipality for designing and implementing effective financial and performance management controls to promote administrative and financial accountability. Administrative accountability requires that municipal officials be accountable and answerable to the MM for the performance of their administrative functions (Sibanda, 2017:320). Napier (2007:380) is of the opinion that municipal officials or bureaucrats are accountable to their (line managers and the MM). Administrative and managerial municipal officials (head of municipal departments/directorates) have certain authorities and delegations to execute administrative functions in a municipality. The municipal officials and head of municipal departments/ are accountable to the MM for the performance of their administrative functions. The head of municipal departments/directorates and the MM must ensure that relevant administrative arrangements are established to ensure effective administrative performance and to obtain effective and efficient service deliver.

According to Van der Waldt *et al.* (2014:84), senior managers are responsible to perform their delegated functions related to their departments/directorates. They must also determine IDP objectives, goals, strategies, projects and programmes. They are responsible to compile budget of income and expenditure, control the implementation of the approved budget. Senior managers are also responsible for the management of their personnel, providing sound labour relations and disciplinary measures.

Landsberg and Graham (2017:168) aver that in a municipality with an executive mayor, the members of the mayor committee are assigned to specific departments/directorates to act as the political head of that department or directorate to ensure the effective and efficient administration of the particular department/directorate in close collaboration with the head of the department/directorate. Members of the mayoral committee should participate in the IDP and budgetary processes of the particular department/directorate to oversee the implementation of the IDP and relevant projects assigned to the particular department/directorate. However, members of the mayoral committee as the political heads of departments/directorates should monitor and fulfil an oversight function and should not be involved in the activities and decisions associated with implementation of any administration function. In this regard, the Auditor-General warns (AGSA, 2017:3) that political interference in the administration of municipalities weakened their oversight functions.

5.5 OTHER MECHANISMS TO PROMOTE ADMINISTRATIVE ACCOUNTABILITY IN MUNICIPALITIES

Mechanisms to promote administrative accountability include all the internal control mechanisms produced to keep the functionaries (political and public officials) under surveillance and in check. Except for the above institutional arrangements there are other mechanisms and tools to promote administrative accountability with particular reference to local government that will be outline in the discussion below.

5.5.1 Code of Conduct for Municipal Officials

According to Venter (2011:94), the Code of Conduct for Municipal Officials deals primarily with the relationships between the municipal officials and the political officials, relationships with the community and relationships with municipal officials as administrative officials. The

Community Law Centre (2008:29) notes that administrative accountability is an essential component of local democracy. The accountability of municipal officials to the elected representatives (political officials) is based on the premise that the elected representatives are accountable to local communities and therefore, municipal employees must be answerable to elected representatives. There are different institutional arrangements and mechanisms by which municipal officials responsible for the administration of local municipalities can be held accountable by the elected representatives.

Sing and Ntshangase (2003:117) point out that the Code of Conduct for Municipal Officials was established to ensure that the municipal officials addresses the priority needs of the communities as well as to delivery services in an effective, efficient and accountable manner. In addition, all municipal officials must strive to promote the constitutional values and principles of public administration as provided in terms of Section 195 of the *Constitution*, 1996.

Cloete and Thornhill (2005:209-210) state that Section 69 and 70 as well as Schedule 2 of the *MSA*, 2000 provides for a Code of Conduct for Municipal Officials. Cloete and Thornhill (2005:211) further state that it should be general practice for each MM to provide a copy to every municipal official. The MM of a municipality must ensure that the purpose, contents and consequences of the code are explained to staff members who could not read.

Schedule 2 of the *MSA*, 2000 the Code of Conduct for Municipal Officials provides the following:

- Municipal officials must always execute the lawful policies of the municipal council;
- Municipal officials must perform their administrative functions in good faith, diligently and honesty and in a transparent manner to promote the basic values and principles of public administration as provided in Section 195 of the Constitution of 1996.
- Municipal officials may not improperly influence or attempt to influence the municipal council of the municipality;
- Municipal officials may not use any confidential information obtained as a staff member for private purpose or to improperly benefit another person;

- Municipal officials may not take a decision on behalf of the municipality regarding a matter in which a municipal official or his/her spouse, partner or business associate, has a direct or indirect personal or private business interest;
- Except with the prior consent of the municipal council of a municipality a municipal official may not be a party to a contract for the provision of goods or services to the municipality; or the performance of any work for the municipality otherwise than as a staff member; or obtain a financial interest in any business of the municipality; or be engaged in any business, trade or profession other than the official work of the municipality.

Section 14(A) of the *Municipal System Amendment Act*, 2011 provides that any breach of the Code of Conduct of Municipal Officials is grounds for dismissal. This implies any municipal official can be dismissed or relieved from their duties if the ethical prescripts of the Code of Conduct of Municipal Officials are not followed. In this regard, Thornhill (2015:89) argues the above amendments to the Code of Conduct of Municipal Officials ensure that the Code of Conduct of Municipal Officials carries the same weight as the legal conditions of an Act of Parliament concerning the possible abuse of the ethical guidelines. Sing and Ntshangase (2003:119) agrees that relevant disciplinary steps must be taken against any municipal official should there be a breach of conduct regarding any of the relevant prescripts of the Code of Conduct of Municipal Officials. These disciplinary procedures should be part of a staff code of ethics that allows for the investigation of allegations of misconduct and complaints against any municipal official. Furthermore, whenever any municipal official has reasonable grounds for believing that the Code of Conduct of Municipal Officials has been breached, the official must immediately report the matter to a supervisory officer and in particular the MM.

5.5.2 Integrated Development Plan (IDP) and the Service Delivery and Budget Implementation Plan (SDBIP)

According to Madumo (2015:156), Section 153(a) of the *Constitution*, 1996 mandated municipalities to structure and manage its administration, budgetary and planning processes to promote social and economic development of the community. As part of the municipalities planning process the IDP mandates the municipal planning to be developmentally oriented. Kwele (in Draai *et al.*, 2016:265) maintains that the IDP of a municipality is the five-year

strategic plan of a municipality for the short, medium and long term. The IDP as the key strategic management instrument of a municipality which, must capture the priorities and service delivery needs of the local communities. The IDP is legislated by the *MSA*, 2000 that supersedes all other plans that guide development in municipalities. The IDP must be in line with the national and provincial growth and developmental strategies (Madumo, 2015:158).

Pillay, Tomlinson and Du Toit (2006:15) state that the IDP provides the vision for the municipality, detailed the priorities of the municipal council, co-ordinate and link sectoral plans and strategies, align human and financial resources with the priorities and needs of local communities, it supports and promote environmental sustainability and is serves as the basis for the annual and medium-term municipal budget.

According to Motingoe (2011:18), the IDP consist of the following five sequential phases:

- **Phase 1: The analysis phase.** The analysis phase deals with the current situation within the municipalities area. It involves an analysis of the external and internal environment such at the legal, political, economic, social and technological aspects that has an impact on the functionality of the municipality. Internal aspects refer to the municipalities internal administrative processes, its structures, resources and practices. Motingoe (2011:24) maintain that during this phase the municipality should identify its strengths, weaknesses, opportunities and threats, to make certain conclusions and to translate these conclusions into strategic action plans.
- **Phase 2: The strategies phase.** During this phase the municipality formulate its vision statement, formulate of strategic objectives and strategies that the municipalities wants to achieve in the short, medium and long term. Specific strategies in accordance with the municipality's development mandate must be formulated (Motingoe, 2011:25; Van der Waldt and Knipe, 2001:182).
- **Phase 3: The projects phase.** Once strategies are formulated the identification, design and specifications of projects for implementation must be identified. During this phase the municipality has to take into account the beneficiaries, the project location the target dates, who will manage the project and the funding requirements required for a specific project (Motingoe, 2011:26).

- **Phase 4: The integration phase.** During this phase the municipality has to ensure that the identified projects are aligned to the municipalities, vision, objectives, strategies and resources to ensure an integrated process (Motingoe, 2011:26; DPLG, IDP Guide Packs: General Overview, 2000:17).
- **Phase 5: The approval phase.** During this phase all relevant stakeholders, interested parties, and local communities must have an opportunity to comment on the draft IDP plan, before the municipal council adopt the municipalities IDP (Motingoe, 2011:26).

Fourie and Opperman, (2015:130) indicate that the municipalities annual budget must conform with the IDP. The municipalities budget must be outcomes-driven to ensure that the intended outcomes are align with the service delivery objectives as provided in the IDP. Thus, the municipalities budget allocates resources to the ensure the achievement of defined objectives as priorities in the approved IDP of the municipality.

Landberg and Graham (2017:169) point out that once the municipal council approves the IDP, the MM and the heads of departments/directorates, has to draft a Service Delivery and Budget Implementation Plan (SDBIP). The municipalities IDP and budget are high-level strategic plans and are not implementation plans. The IDP is operationalised through the SDBIP which is a detailed plan to execute the municipalities delivery of services, as provided in the IDP and the execution of the annual budget. The SDBIP serves as a measurable implementation plans to give effect to the IDP of the municipality to ensure the operational alignment between the municipality's budget and the IDP; as well as the performance agreements. Each department/directorate must design their own plans to execute programmes and projects as provided in the SDBIP. The senior managers in the municipality must entered annually their performance agreements to ensure cohesion and alignment of individual plans to the strategic priorities as provided the IDP and budget (Krishnan, 2008:27; Motingoe, 2011:32; Landsberg and Graham, 2017:169-170).

Van der Waldt (2015:55) agrees with the above by stating that the SBDIP serves as a key management, implementation and monitoring tool, which sets out the operational content and targets for service delivery as provided, in the municipalities IDP and annual budget. Van der Waldt (2015:55) further avers that the SDBIP must determine and ensure consistency with, the performance agreements between the mayor and the MM, and that of the MM and other senior

municipal officials. Furthermore, the SDBIP must be consistent with the agreements between the municipality and that of municipal entities and other private service providers. The SDBIP as an implementation plan of the municipalities IDP and budget serves also as a tool to promote oversight and accountability to ensure that a municipality to deliver on its constitutional and developmental mandates.

5.5.3 Performance management

In the context of local government, performance management refers to a strategic approach to review or to measure the performance of the municipality and its employees based on specific targets and performance indicators. Performance management equips the management, employees and the community with a set of tools and techniques to plan, monitor and review continuously the performance of the municipality as well as the performance of its employees to promote effectiveness, efficiency and impact of service delivery (Fourie and Opperman, 2015:353).

Landsberg and Graham (2017:170) point out that performance measurement is seen as an administrative control mechanism to assign internal and external accountability. In terms of Section 38 of the MSA, 2000 provides that a municipality must establish a performance management system to achieve the following:

- To administer its affairs in an economical, effective, efficient and accountable manner;
- To promote a culture of performance management among its political structures, political office-bearers, the municipal councillors and its administration (municipal officials);
- To ensure that its performance management system is best suited for the specific circumstances and in line with the priorities, objectives, indicators and targets as indicated in the municipalities IDP.

Overall, the MM of a municipality (as head of the municipal administration) is responsible for the formation and development of an economical, effective, efficient and accountable administration. The MM should fulfil his/her functions within the municipalities performance management system, be responsive to the needs of the community and must ensure that the

community participate in the affairs of the municipality (Van der Waldt *et al.*, 2014:127-128). In terms of Section 44(3) and 56(3) of the *Municipal Structures Act, 1998* the executive committee or the executive mayor is responsible for the development of the performance management system including the development of evaluation criteria and key performance indicators (SALGA, 2011:48). SALGA (2011:48) further argues that the MM must implement and manage the performance management reporting system and provide advice to the municipal council regarding the reporting system that must be adopted.

Kwele (in Draai *et al.*, 2016:266) indicate that in terms of Section 38 of the *MSA, 2000* municipalities must develop a performance management system that is commensurate with its resources and in line with the contents of its IDP. Section 55 of the *MSA, 2000* provides that the MM of a municipality is responsible for the development of an economical, effective, efficient and accountable municipal administration, which operates in accordance with its performance management system. Whereas, Section 66 of the *MSA, 2000* requires that the MM within the municipal council frameworks must establish a process or mechanism to continuously evaluate the performance of the municipality and to review the performance of its personnel, as well as to review the remuneration and conditions of service of all personnel except managers appointed in terms of Section 57 of the *MSA, 2000*.

Section 56 of the *MSA, 2000* states that the municipal council of a municipality, after consultation with the MM, appoints managers directly accountable to the latter. Section 57 makes provision for the employment contracts for MMs and managers directly accountable to MMs. It indicates that a person appointed as the MM or as a manager directly accountable to the MM may be appointed to that position only in terms of a written employment contract with the municipality, complying with the provisions of this MSA section and subject to a separate annual performance agreement.

In terms of Section 57(5) of the *MSA, 2000* the performance objectives and performance targets must be measurable, practical and based on the key performance indicators provided in the municipalities IDP. Section 57(6) of the *MSA, 2000* provides that the employment contract for an MM and head of administration and the accounting officer of a municipality must:

- be for a fixed term of employment not exceeding a period ending two years after the election of the next council of the municipality;

- include a provision for cancellation of the contract in the case of non-compliance with the employment contract or, where applicable, the performance agreement;
- stipulate the terms of the renewal of the employment contract, but only by agreement between the parties; and
- reflect the values and principles referred to in the relevant Code of Conduct as provided in Schedule 2 of the *MSA*, 2000.

Fourie and Opperman (2015:355) maintain that a performance management system of a municipality must adhere to the following general requirements:

- When developing a performance management system for a municipality it must demonstrate how the system is managed, how it will be reviewed and how reporting will take place;
- The rate of reporting and the lines of accountability for performance must be determined;
- The process of implementing the performance management in accordance with the municipalities integrated development planning process must be clarified;
- The roles and responsibilities of all role payers concerning the development of the performance management system including the ward committee members to represent the community need to be clarified; and
- It must indicate how the system relates to the performance management of its employees.

In addition to the above (Community Law Centre, 2008:33) states that the mid-year budget and performance assessment report is a useful mechanism to ensure that the mayor of a municipality exercise his or her oversight role regarding the municipal administration. In terms of Section 72(1(a) of the *MFMA*, 2003 the MM of a municipality have to assess the performance of the municipality by taking into consideration the monthly budget statements, the service delivery performance indicators and targets as well as the previous annual report and progress on previous challenges that were identified.

5.6 STAFF DEVELOPMENT AND TRAINING TO PROMOTE ADMINISTRATIVE ACCOUNTABILITY

As a starting point the following concepts will be explained, training, staff development, education and capacity building. Nel, Werner, Poisant, Sono, du Plessis and Ngalo (2011:359) describe training as a tool which aims to improve an employee's job performance. Van der Waldt *et al.* (2014:194) outline training as the activities that are particularly designed to improve the skills of employees with the intension to improve the performance and productivity. Reddy (1996:115) is of the opinion that training is primarily directed in preparing an employee to perform a task in relations to his/her abilities while, staff development is concerned with the growth of the employees. Reddy (1996:115) defines education as the combination of processes of general knowledge transfer that need not be related to improving the performance and productivity of employees.

Nel *et al.* (2011:358-359) state that education refers to a systematic effort with the specific aim to transmit acquire knowledge, attitudes and values. Therefore, education can be seen as a general basis to prepare an individual for life without the development of any specific job-related skills. Capacity building on the other hand, entails the transfer of knowledge, skills, and information through training with the aim to perform a specific task that could not be performed previously (Van der Waldt, *et al.*, 2014:194).

According to Nel *et al.* (2011:377-384), there are different training methods such as off-the job training methods that takes place away from an employee's workplace and on- the-job- training methods which takes place within the workplace. Off-the job training methods takes place away from the workplace and include delivery methods such as lectures, case study methods, role-playing, in-basket training and management games. On-the-job training methods occurs at the workplace and the methods used includes coaching, job rotation, junior boards, job instruction training, mentoring, learner-controlled instruction. While, contemporary methods of training which could take place at the workplace or away from the workplace includes online learning, computer-based training, web-based training, action learning and adventure training (Nel *et al.*, 2011:381-385).

It is important that local authorities create an environment and opportunities for employees to acquire skills and to develop their abilities in order to perform their duties in an effective

manner. Section 68(1) of *MSA, 2000* clearly provides that a municipality must develop its municipal officials in such a manner that they will be able to perform their functions and exercise their powers in an economical, effective and efficient and accountable way. In terms of Section 68(2) and (3) of *MSA, 2000* a municipality may in addition to the provision for a training levy in terms of the Skills Development Levies Act, 1999 budget for the development and implantation of training programmes. Furthermore, a municipality who does not have the financial means to makes provision for training programmes may apply to the Sector Education and Training Authority for Local Government for such funds.

Thornhill and Cloete (2014:155) aver that all employees from so-called unskilled labourers to top officials require training, to meet the demands of specific positions. Each municipality should make its own arrangements for on-the job training opportunities or in-service training of its employees. Community Law Centre (2008:37) argues that capacity constraints within municipalities often results in malpractices and poor internal accountability. Community Law Centre (2008:38) further point out that a skills shortage on the part of councillors have a negative impact on the ability of the municipal council to hold the administration accountable. Another concern is that often there is a skills and education gap between the elected representatives and the municipal officials who are in general more skilled and educated. This situation often hampered the elected representatives to hold the municipal officials to account for their actions. Thus, the administrative accountability of municipal officials is often very poor.

Another concern is that since 2005 the South African municipal administration had faced many challenges as a result of transformation. Not only were valuable skills been lost, many municipalities make appointments on the basis of political or cadre deployment and family ties, while junior post in many municipalities were filled buy inadequately trained employees. Furthermore, the municipalities are plagued with serious service delivery bottlenecks and staff with a poor attitude towards delivering service in an effective and efficient manner.

Nealer (in Van der Waldt *et al.* 2014:194) further warns that once an organisational culture of incompetence and nepotism is created, it is likely that skilled and employees with integrity may decide to resign and it will become very difficult to attract and retain skilled employees into municipalities. Thus, municipalities have to invest in staff development, training and capacity building initiatives to ensure that all municipalities adhere to the constitutional requirements of

public administration and to ensure that the administrative function of municipalities is achieved in an effective, efficient and accountable manner.

In the next sections the important role of social accountability to promote participatory local government will be discussed in detail.

5.7 CURRENT CHALLENGES OF ADMINISTRATIVE OVERSIGHT AND ACCOUNTABILITY

After 25 years of South Africa's democracy the performance of local governments performance remains a concerning. Koma (2017:36-37) assert to this by indicating that the South African national government implement various interventions over the years to restore the performance including the administrative and financial performance of municipalities. These interventions include Project Consolidate that was introduced from 2004 to 2006 to improved integration and co-ordination of provincial programmes, as well as to capacitate local government service delivery capacity through harmonised national and provincial interventions. The National Department of Co-operative Governance and Traditional Affairs (CoGTA) introduced the Local Government Turn Around Strategy (LGTAS) after their State of Local Government Report of 2009 revealed major challenges related to governance, service delivery, financial management, policy management and policy implementation issues. After it became clear that the LGTAS failed to improve the institutional capacity and performance of most of the municipalities the Local Government Back-to-Basics campaign was introduced in 2014.

The Local Government Back-to-Basics campaign focused on the improvement of good governance, public participation, financial management, infrastructure services and institutional capacity. The main objectives of the Back-to Basic campaign was to ensure a suitable interface between political matters and administration, to develop effective credit control and debt collection policies, develop and implement audit and post-audit action plans, build institutional and administrative capacity, processes and systems and to provide capacity building initiatives for councillors (Koma, 2017:28; Van der Waldt *et al.* 2018:105; Van der Waldt in Landberg and Graham, 2017:164; Kroukamp, 2016:113).

Kroukamp (2016:113-114) is of the view that the essential elements of the Back-to- Basics Approach is to establish a responsive municipal administration to ensure, political and

administrative stability, council committee and management meetings are held on a regular basis between the political and administrative branches of local government, to ensure that spending aligned with the IDP and that the capital budget is fully spend and that at least 7% is spend on maintenance; institutional administrative management is characterised by clear policy and delegation frameworks, community satisfaction is measured on an annual basis and proper financial management results in clean/unqualified audits.

Except for the above strategies and interventions, SALGA also introduced numerous programmes such as the Councillor Induction programme and the Municipal Audit Support Programme (MASP) to improve municipal leadership, governance, administration, institutional capacity and financial management practices. However, Koma (2017:28-29) is of the view that these interventions fail to improve the administration, institutional and financial performance of most municipalities. The Auditor-General reports for 2016-2017 and 2017-2018 confirmed that the accountability and the need for appropriate consequences for accountability failures of most municipalities featured as the prominent elements of the poor performance of most municipalities (AGSA, 2018:22; AGSA, 2019:12). The slow response by the political and administrative leadership of municipalities in the Free State province to address the weak internal control environment, the lack of consequences, and failure to adhere to the requirements of local government legislative frameworks are the main causes of poor performance of all municipalities in the Free State province (Auditor-General, 2018:6; Auditor-General, 2019:3).

Except for continued poor audit outcomes of most municipalities as shown in the Auditor-General Consolidated Reports on local government audit outcomes SALGA (2015:19) purposes measures to strengthen accountability, governance, administration, and financial capacity of municipalities with clear consequences for non-performance. Koma (2017:35) further point out that current service delivery protest engulfing most municipalities may necessitate the need for national government to revisit national interventions to restore the confidence in most municipalities. SALGA (2015:24) further states that although the appointment, functioning and roles of administrative leadership in municipalities are highly regulated, it does not necessarily lead to good governance, effective administrative and financial management and service delivery in the municipality.

In light of the above, Ambe (2016:26) points out that the lack of compliance and accountability remains a concern in most municipalities. The most municipalities fail to comply with SCM legislative frameworks, and these defaulters have not been held accountable for their actions. Municipal SCM practitioners who forms part of the municipality administration have defaulted in SCM processes without any action being taken against them. Ambe (2016:26) further argues that there is an urgent need to rethink innovative ways of curbing corruption and other administrative malpractices within municipalities. Other challenges in the administration of municipalities include the following; lack of clarity of roles and responsibilities of administrative technical staff and political office-bearers creates opportunities for interferences, that give rise to allegations or instances of corruption. The Auditor-General in the report of 2016-2017 and 2017-2018 warns that political interferences in the administration weakened oversight and did not enable the effecting of consequences (AGSA, 2018:3; AGSA, 2019:12). Many officials lack appropriate knowledge for proper implementation of SCM legislation. Another concern is that SCM policies and regulations overlap. This creates confusion for administrative staff responsible for SCM in municipalities and it inhibits proper implementation, which could lead to poor service delivery. Lastly, there has been a lack of ethics, professionalism and a lack of consequences along SCM practices.

Koma (2017:35) further point out that current service delivery protest engulfing most municipalities may necessitate the need for national government to revisit national interventions to restore the confidence in local government. According to Subban and Wissink (2015:47-48), ongoing service delivery protest are an indication of local communities, frustration with the failures of municipalities. Continued challenges of municipalities are the following; collapse in main municipal infrastructure services in some communities result in services are either not provide or provided at unacceptable low levels; slow responses to service delivery challenges are often linked to a lack of trust in municipalities and councillors by local communities. Other challenges include inadequate involvement of local communities in the affairs of municipalities as a result of poor functioning of ward committees and ward councillors. High vacancy rates in the administration of municipalities remain a challenge and corruption amongst functionaries further contributes to a breakdown in the functionality of the municipalities (Subban and Wissink, 2015:47-48).

Koma (2017:34-35), Ambe (2016:27) and Kroukamp (2016:113-114) recommended the following to restore the functionality of most municipalities:

- Strong ethical leadership in the administrative, financial and SCM practices in municipalities is critical important;
- Sufficient human and financial resources to assist in the implementation of the municipalities administration and financial management systems and to ensure that there is effective co-ordination of capacity building opportunities;
- Filling of key vacancies within the municipality must be an imperative to ensure sound administrative and financial management;
- A database involving experienced and skilled individuals must be kept and maintained by CoGTA, to ensure that the right people are appointed as administrators in municipalities that are placed under supervision in terms of Section 139 of the *Constitution*, 1996. Deployment of administrators cannot be afforded to appear to be learning on the job, this undermine the legitimacy and authority of the provincial intervention;
- Municipal officials should understand the prescribed SCM policies and processes to prevent SCM irregularities;
- Except for SCM, sound financial management systems and process must be developed and implemented;
- Budgetary and spending processes must be aligned with the IDP;
- Involvement of local communities is an imperative to promote accountability. Satisfaction of local communities must be measured annually.

CoGTA should ensure that reports are submitted and analysed and that corrective actions are taken should it require interventions. Implementing of strategic interventions should be monitored and evaluations of the success should be undertaken to ensure successful implementation. Lastly, non-compliance with SCM and other financial and administrative legislation, regulations and policies should have consequences and accountability must be enforced. In the next section an overview of social oversight and accountability were provided.

5.8 AN OVERVIEW OF SOCIAL ACCOUNTABILITY

The involvement of citizens or local communities to ensure that municipalities provide democratic and accountable government is required in Section 152(1)(a) of the *Constitution*, 1996. While, Section 15(2)(e) of the *Constitution*, 1996 requires that local communities and

community organisations must be encouraged to participate in the affairs of local government. To give effect to the constitutional requirements Section 16 of the *MSA*, 2000 mandates municipalities to establish systems to promote participatory governance. Section 16 of *MSA*, 2000 further requires that community members should participate in the preparation, implementation and reviewing of its IDP, the municipal performance management system; the monitoring and review of the municipal performance and the impact of the performance, involvement in the preparation of the municipal budget; and to involve the local community in any strategic decisions related to the provision of municipal services. It does not mean that local communities have to intervene in the administrative duties of municipalities. However, municipalities are mandated to create conditions for all relevant stakeholders, including members of the community to be involve in the affairs of municipalities (Kwele in Draai *et al.*, 2016:269).

According to Mavee (2014:204-205), civil society in terms of democratic governance include a range of self-reliant organised groups and institutions, such as non-governmental organisations (NGO), independent mass media, universities, and social and religious groups. Civil society as part of democratic societies fulfil an important role to hold government, political and public officials (functionaries) to account for their decisions and actions (Sikhakane and Reddy, 2011:92). Citizens or members of the local community are increasingly forming groups to place pressure on government to account in situation where there have been failures. These societal pressure groups such as community organisations express significant concerns regarding the implementation of government policies that results in debates to improve accountability (Ijeoma and Sambumbu, 2013:289). These authors further state that increasing consultations with members of local community, requires that local government must consider ordinary citizens' developmental needs, but it also improves the extent to which government policies and developmental programmes meets the needs of society.

As indicated in Chapter 1, Section 1.6.5 of this study, social accountability refers to citizen or community participation by assessing or generating relevant information and building a credible evidence that will serve to hold functionaries to account for their actions (Compte, 2008:45). Camargo and Jacobs (2013:10) maintain that social accountability means that citizens must be able to express their preferences, opinions, views and demand accountability from government and functionaries. Whereas, Adeyemi *et al.* (2012:83) are of the opinion that social accountability refers to the wide range of actions by civil society to hold government

and functionaries to account for their actions. Adeyemi *et al.* (2012:83) further mention that community members must be able to participate and be allowed to assess the performance of a public institutions, such as a municipality. However, Camargo and Jacobs (2013:10) point out that community members may not even be aware of their rights and the specific obligations that functionaries have to fulfil in the course of their work. Therefore, the opinions of community members as a result of social accountability need to be aggregated and articulated. It means that the opinions, views and demands of community members need to be transmitted to relevant role players or decision makers who can act upon the information.

A concern is that the contributions of citizens, community pressure groups within society has limitations in, that they often intervene only after there have been failures to implement a policy or to address the needs of a particular community (Ijeoma and Sambumbu, 2013:282). In this regard, Compte (2008:44) argues that the effectiveness of social accountability is that communities and community members have limited enforcement capacity. Another concern is raised by Diale, Maserumule and Mello (2007:642) that the involvement of citizens or community members in the matters of local government faces many challenges, which functionaries can use as an excuse not to involve the public in their decision-making and policy-making processes in an effective manner. One of the challenges is that social accountability can be time consuming, in that it requires that municipalities must arrange meetings with representatives of all relevant stakeholders. Diale *et al.* (2007:643) further point out that most citizens are not keen to attend community participatory meetings. Another concern is that community members often lack relevant competencies such as basic analytical and decision-making skills or they are illiterate. The latter situation increases the cost of citizens' involvement into the affairs of municipalities. The participation of ordinary citizens or members of local communities in the affairs of local government will lead to more accountability and responsiveness local communities (Diale *et al.*, 2007:643). Irrespective of the above concerns about the role of ordinary citizens or local communities to promote social accountability, municipalities are obliged to give effect to the constitutional requirements to provide a democratic and accountable local government. The role of community participation to promote social accountability was outline in the discussion below.

5.9 THE ROLE OF COMMUNITY PARTICIPATION TO PROMOTE SOCIAL ACCOUNTABILITY

A good starting point for the purpose of this study is to define the term community and community participation. Van der Waldt *et al.* (2014:26) state that the term community refers to a specific district or an area that falls under the jurisdiction of a municipality. Van der Waldt *et al.* (2014:26-27) further explain that the community of a specific district or an area of jurisdiction where citizens or community members live, comprises the following:

- Local residents within that area,
- Community-based organisations within the area;
- Small business owners within the area;
- Public interest groups within the area;
- Independent media in the area;
- Labour market within the area;
- Various schools within the area;
- Various religious groupings; and
- Various NGOs and community-based organisations (CBOs) in the area.

De Beer and Swanepoel (2012:19) maintain that the term community in the context of developmental local government should be the main actors and main beneficiaries of development. On the other hand, participation is connected to the actions of communities, groups or individuals related to the development initiatives within a specific area. Mavee (2014:207) views participation as the need to involve those who are supposed to benefit from any developmental activity. The terms community, citizen and/or public participation or community participation are often used similarly. The WPLG (1998:53) refers to citizen participation, while the MSA, 2000 refers to community participation. Diale *et al.* (2007:642) state that citizen participation is the result of a social contract between elected representatives (political officials) and member of the municipal community which, include voters, non-voters and the members of the community who choose not to vote. The National Policy Framework for Public Participation (2007:4) refers to community participation as an accountable process through which members of a community can take part in the affairs of local government, to exchange views and to influence decision-making. As far back as 1996, Bekker (1996:133) maintains that citizen or community participation may mean different things to different people. While, Fox and Meyer (1995:20) clarify that community participation entails the involvement of citizens in aspects such as administrative policy-making activities, the

involvement of citizens to prioritise their developmental needs, and to determine the levels of service delivery.

Tshabalala (2006:44) made a distinction between community participation and public participation. Community participation involves the broader public that is not bound by a specific geographic area. In addition, Brynard (in Tshabalala 2006:45) is of the opinion that community participation provides a mechanism through which the public exercise their democratic right to be involved in the planning and decision-making processes of local government. Thus, community participation refers to the involvement of the local community or community members in the affairs of a municipality while, public participation is not bound by a specific geographic area. Therefore, the term community participation was used in this study.

In light of the above, Ijeoma and Sambumbu (2013:282) warns that participation and involvement of the citizens or community members in the affairs of local government only validates the process for decision-making and cannot be treated as accountability. The effectiveness of accountability should be measured according to factors such as information, justification and the consequences should be considered in combining different measures to improve accountability at local sphere. These measures to improve social or public accountability include political, administrative, judicial and societal mechanisms. In this regard, Craythorne (2006:314) argues that community participation must be focussed if it is to succeed. Therefore, further argues that community participation in the affairs of a municipality must take place through the various political structures for participation as provided in the Municipal Structures Act of 1998 such as sub-councils and ward committees. Thus, mere involvement of citizens in the affairs of local government does not necessarily constitute social accountability. Social accountability requires that community participation in the affairs of local governments must take part through established structures and mechanisms for participation such as sub-councils or ward committees.

5.10 THE LEGISLATIVE AND POLICY FRAMEWORK TO PROMOTE SOCIAL ACCOUNTABILITY

Since 1994 the government has put in place many policy and legislative frameworks which require some form of community participation in local government. The *Constitution*, 1996, *WPLG*, 1998, the *Municipal Structures Act*, 1998, the *MSA*, 2000 and the *MFMA*, 2003 requires the involvement of the public in local matters to promote a democratic government.

5.10.1 The *Constitution of the Republic of South Africa, 1996*

According to Meyer and Venter (2013:96), the *Constitution*, 1996 is the supreme law and provides for a developmental model of local government. Chapter 2 thereof makes provision for the Bill of Rights that includes the rights of all citizens to equality, human dignity, freedoms, environment and the right to housing, health care, food, water and social security. The notion of community participation is mandated in terms of Section 151(1) of the *Constitution*, 1996. Section 151(1) of the *Constitution*, 1996 places an obligation on local government to provide democratic and accountable government for all local communities; to ensure the provision of services to communities in a sustainable manner; to promote social and economic development; to promote a safe and healthy environment; and to encourage the involvement of communities and community organisations in the matters of local government (Van der Waldt in Landsberg and Graham, 2017:171).

In terms of Section 40(1) of the *Constitution*, 1996 each sphere of government is distinctive, interdependent and interrelated. It means that local government as a distinctive sphere, is mandated to provide services to local communities but also to give effect to social and economic development for local communities. Sirovha and Thornhill (2017:136) and Meyer and Venter (2013:96) assert that in terms of Section 152(a) and (e) of the *Constitution*, 1996 the municipality is mandated to provide a democratic and accountable government for the local community. Sirovha and Thornhill (207:136) point out that the developmental duties of municipalities are rooted in Section 153 of the *Constitution*, 1996. Section 153 of the *Constitution*, 1996 further provides that the municipality must structure and manage its administration, and budgeting and planning processes to give priority to the basic needs of the community, and to promote the social and economic development of the community; a municipality must also participate in national and provincial development programmes.

According to Sibanda (2017:317) Section 195 (1) of the *Constitution*, 1996 provides the basic values and principles governing public administration that require that the people's needs must be responded to and public must be encouraged to participate in policy-making matters. In this regard, Van der Waldt (in Landsberg and Graham, 2017:171) point out that municipal councils rely on the inputs from the local community to stay informed about their needs, concerns and priorities. Therefore, well organised citizens and community interest groups can have a meaningful influence on municipal council decisions, actions and policies. What is contemplated from the above provisions is that local communities should fulfil an accountable role, to hold functionaries to account. It further implies that local communities and community organisations must be involved in the matters of the municipality.

5.10.2 *White Paper on Local Government, 1998*

According to Meyer and Venter (2013:96), the *WPLG*, 1998 introduced the concept of developmental local government. It defines developmental local government as a commitment to work with local communities to find sustainable ways to meet their social, economic and material needs, to improve the quality of their lives. Madumo (2015:160) states that the *WPLG*, 1998 provides the following characteristics of developmental local government:

- To maximise the social development and economic growth of local communities;
- To integrate and to co-ordinate local development planning;
- To give effect to the constitutional requirement to promote democratic development; and
- To involve local communities to find solutions for local development challenges.

According to Mathane (2013:107), the *WPLG*, 1998 makes provision for the following objectives of community participation:

- To ensure that political officials of municipalities remain accountable to local communities and perform their oversight functions;
- To allow community members to have an interest into local politics;
- To allow local communities as the consumers of municipal services to view their satisfaction or dissatisfaction about services delivery; and

- To afford organised civil society the opportunity to enter into partnerships and contracts with local government in order to mobilise additional resources.

In addition, the *WPLG* (1998:53-54) provides that municipalities should develop mechanisms to ensure participation of local communities in the municipalities IDP processes, policy initiation and formulation, and to promote monitoring and evaluation (M&E) of decision-making and implementation (Raga *et al.*, 2011:155). The *WPLG* (1998:5) further refers to the importance of municipalities as a space where citizens can participate to shape their own living environments and extend their democratic rights. Thus, the intention of developmental local government is to give effect to the constitutional requirement to promote democratic governance and to promote accountability.

5.10.3 *Municipal Structures Act, 1998*

According to Netswere and Phago (2013:25), public participation is of such critical importance that it is prescribed in the *Constitution*, 1996 and the *Municipal Structures Act*, 1998 and *MSA*, 2000. Section 5(1) of the *Municipal Structures Act*, 1998 sets out the rights and duties of the members of local communities. In terms of the Act the community has the right to contribute to the decision-making process of the municipality as well as to be able to submit written or oral recommendations, representations and complaints to the municipal council. The Act also provides that a metropolitan municipality or local council may take administrative arrangements to enable ward committees to perform their functions and practice their powers effectively. Madumo (2014:134) assert that Section 73 of the *Municipal Structures Act*, 1998 provides that the council of a metropolitan municipality or a local municipality may decide to have ward committee structure. The Act also sets out the powers and functions of a ward committee.

In terms Section 73 of the *Municipal Structures Act*, 1998, a ward committee must be established for the various wards within the municipalities. The ward councillor must represent that ward on the municipal council. The ward councillor must be the chairperson of the ward committee. In addition, the municipal council must make rules regulating the ward committee including the procedure to elect ten other members of a particular ward to serve on the ward committee by taking into account equitably to ensure that woman is represented on the ward committee. The municipal council must indicate in the rules the frequency of meetings of ward

committees and the circumstances under which ward committee members must vacate their term (Van der Waldt in Landsberg and Graham, 2017:173; Mathane, 2013:108-109). Thus, ward committees are structures that should promote community participation to ensure that local communities are involved in the affairs of the municipality.

5.10.4 *Municipal System Act (MSA), 2000*

The statutory principles for developmental local government are contained in the *MSA, 2000* in terms of Section 4 of the *MSA, 2000* municipalities must consult with local communities concerning the quality and impact of municipal services provided by the municipality, either directly or through another service provider. The *MSA, 2000* further requires that local communities should be informed about the decisions of the municipal council. Municipal councils are further obliged to kept local communities informed about the affairs of the municipality including the financial affairs of the municipality (Mathane, 2013:109; Meyer and Venter, 2013:96).

According to Raga *et al.* (2011:156), Section 5(1)(a) to (e) of the *MSA, 2000* provides that local communities have the right to take part in the decision-making processes of the municipality. Local communities may submit written or oral recommendations, representations and complaints to the municipal councillor to any political structure or administration of the municipality. Local communities must receive prompt responses to written or oral communications or complaints. Local communities must be informed of the decisions of the municipal councillor another political structure or a political office-bearer of the municipality. Local communities have the right to regular disclosure of the state of affairs of the municipality and demand that proceedings of the municipal council and other committees must be open to the public.

According to Sirovha and Thornhill (2017:136), Section 16(1) of the *MSA, 2000* provides that a municipality should develop a culture of municipal governance that promotes a system of participatory governance. Therefore, municipalities must encourage, and create conditions for local communities to participate in the preparation, implementation and review of the IDP and budgetary processes, monitoring and review of its performance management system, and related decisions about the provision of municipal services.

Mathane (2013:111) emphasises that Section 17 of the *MSA*, 2000 requires that local communities must participate in the affairs of the municipality through the political structures for participation as set out in the *Municipal Structures Act* of 1998. Section 17 of the *MSA*, 2000 further requires that municipalities must create conditions to allow members of the community, such as disabled people, other disadvantaged groups and people who are illiterate, to participate in the affairs of the municipality. In terms of Section 18(1) of the *MSA*, 2000 municipalities must communicate with local communities the available mechanisms, processes and procedures that are in place to encourage and facilitate participation. Section 19 of the *MSA*, of 2000 requires that the MM must give notice to the local community as determined by the municipal council, about the date, time and venue of every meeting and urgent meeting of the council and every special or urgent meeting of the council, unless time constraints make it impossible. In terms of Section 20 of the *MSA*, 2000 the meetings of the municipal council and its committees that discusses or votes on matters such as by-laws, budgets; and amendment to the IDP, the performance management system or amendments, and service delivery agreements must be open to the public and the media. The Act further requires that municipal council meetings in which the annual report of a municipality will be discussed, or any decision will be taken about the annual report must be open to the public or any organ of state. Raga *et al.* (2011:158) state that Section 42 of the *MSA*, 2000 provides that a municipality must involve members of the local community to participate in the development, implementation and review of the municipalities IDP and performance management practices. Other than the above, the Code of Conduct for Councillors as provided in Schedule 1 of *MSA*, 2000 provides that municipal councillors must be accountable to local communities and report back at least on a quarterly basis to constituencies concerning council matters, such as the performance of the municipality in terms of established performance indicators.

5.10.5 *Municipal Finance Management Act (MFMA), 2003*

According to Sibanda, (2017:317), and SALGA, The Ward Committee Resource Book (2005:17), states that one of the requirements of the *MFMA*, 2003 is to promote transparent and effective financial management in municipalities and municipal entities. The *MFMA*, 2003 requires that municipalities must involve local communities in the annual review processes of the IDP, related policies and the budgetary processes such as the preparation, tabling and approval of the annual budget. Raga *et al.* (2011:158) maintain that the *MFMA*, 2003 also makes provision for the alignment between the municipalities IDP and the municipal budget.

The Act provides that a Service Delivery Budget Implementation Plan (SDBIP) serves as the mechanism that ensure that the IDP and the budget are aligned. It can be inferred from the above that local communities must be involved in the preparation, implementation and review of the IDP and municipal budget.

5.10.6 Municipal Property Rates Act, 2004 (Amended in 2009)

According to Raga *et al.* (2011:156), the *Municipal Property Rates Act*, 2004 provides that before a municipality can adopt a rates policy, there must be community participation as prescribed in the *MSA*, 2000. The Act further requires that the MM must make known the draft rates policy for a period of at least 30 days at the municipality's head and satellite offices, at libraries and on an official website of the municipality to ensure that the public has access to the information. It should further be advertised in the local media newspapers. Mathane (2013:112) avers that the municipality must invite the local community to submit their comments to the municipality within a period specified in the notice which may not be less than 30 days. In addition, a municipal council must take all comments and representations made to it or received by it into account when it considers the draft rates policy. The *Municipal Property Rates Act*, 2004 also requires that public participation in amendments to a rates policy must be reflected through the municipality's annual budget process.

5.10.7 The National Policy Framework for Public Participation, 2007

According to Mathane (2013:113), the National Policy Framework for Public Participation, 2007, serves as a guideline to promote community participation in all municipalities. It identifies requirements that all municipalities must meet to achieve its constitutional obligation concerning participatory governance. These requirements include the following:

- All municipalities must implement a community complaints management system. The municipality has to publish and distribute its own Public Participation Framework that indicates the public participation mechanisms that exist within the municipality.
- Municipalities have to conduct satisfaction surveys within the local communities to become aware of the community satisfaction concerning service delivery within its area.

- Ward committees must be involved and participate in the key municipal administration processes such as the IDP, budgetary and performance management system processes.
- Representatives from the ward committees should serve on the municipalities audit committees as well as on the personal performance evaluation panel.
- Municipalities should keep comprehensive local stakeholders register, to encourage the involvement of as many community members as possible.
- Public participation should be one of the key performance agreements of municipal officials to secure a basic threshold of participatory governance.

Thus, all municipalities should ensure that the above requirements as provided in the Policy Framework for Public Participation, 2007 are in place to promote effective involvement of local communities in the affairs of the municipality.

5.10.8 The South African National Development Plan, 2030

According to the National Development Plan 2030 Executive Summary (2012:16), the aim of the NDP is to eradicate poverty and to reduce inequality by 2030. In the context of community participation, the NDP provides the following priorities:

- To encourage active citizenry with the aim to strengthen development, democracy and accountability;
- To promote economic growth, higher investment and greater labour absorption;
- To focus on key capabilities of communities and the state;
- To promote and strengthen a capable and developmental state; and
- To promote strong leadership from all spheres of government, business, labour and throughout society to resolve current challenges effectively

The National Development Plan, 2030, Executive Summary (2012:44-45) further emphasised that more needs be done to resolve poor performance of the three spheres of government. In particular, transparency, oversight and accountability must be strengthened, and public interest needs to be promoted. Especially municipalities should not undermine their accountable responsibilities related to the provision of municipal services and to involve local communities in the matters of local government. It was mentioned in Chapter 2 of this study that the

Medium-Term Strategic Framework derived from the National Development Plan (NDP) provides the overall outcome for local government which is known as outcome 9 which, requires from municipalities to be a responsive, accountable local government, that focuses on its developmental role.

From the above discussions, South Africa seems to have progressive legislator frameworks and policies in place to promote community participation, however there are some challenges in implementing these prescripts effectively to promote social accountability. These challenges are discussed in Section 5.13 of this chapter. The various mechanisms to promote social accountability in municipalities were outlined below.

5.11 COMMUNITY PARTICIPATION MECHANISMS TO PROMOTE SOCIAL ACCOUNTABILITY IN MUNICIPALITIES

According to Davids and Theron (2014:121-126), community participation can take place at three levels. The first level is where councillors inform members of the community about activities of the municipality. This takes place through flyers and general announcements with the monthly bill, legal notices, advertisements, press releases, reports, websites, radio and other media releases, and community or municipal newsletters. The second level is where the municipality allow members of local communities through consulting with them about service delivery issues. These include response sheets, electronic polling, structured surveys, questionnaires and opinion polls, face-to-face interviews or focus group discussion. Other consulting mechanisms include formal resident feedback registers, community forums such as CDWs who supply specific knowledge to local communities. The third level refers to participation through empowering participation strategies, such as public meetings where project leaders of a developmental project meet with the community at a public space. Conferences, symposia and workshops or key stakeholder meetings to provide information through mutual social learning. Advisory committees and panels are other advisory methods to help decision-makers and debate specific developmental issues, which often composed of community groups such as NGOs, CBOs or consulting representing the local community. Other platforms to address common concerns and which influence and direct future policy outcomes of the municipality include *Imbizo's* and *Indaba's*.

In addition to the above, Mathane (2013:103) cited the following seven levels of community participation to ensure participation in the affairs of local government:

- The lowest level of community participation refers to information giving which is a very passive level of community participation. An example of this type of community participation is when a municipal council of a municipality makes a policy without any proper consultation but only informs the community afterwards about the policy
- Consultation is another level of community participation that is still relatively reactive. An example of this level of community participation is when the municipal council sets the agenda to formulate a policy, but also invites the community through community ward committee members to participate in the debates about the policy making process. It does not mean that the municipal council be committed to consider any of the outcomes of the debates about a specific policy (Mathane, 2013:103).
- The third level of community participation refers to advice or advisory level. An example of this level of community participation entails that community members and politicians jointly set the policy agenda and the community through the ward council committee participate during the policy, making process.
- The fourth level and fifth level of community participation refers to co-producing and co-agenda setting that can be seen as a more interactive process of participation. An example of this level of community participation is when the functionaries (political officials and public or municipal officials) and interest groups from the community jointly identify policy issues, and jointly set the agenda. This level of community participation entails that the municipal council is then committed to the outcome of the joint policy decisions (Mathane, 2013:103).
- The sixth level of community participation entails co-responsibility for policy decisions in that the community assist in assuring that the policy outcomes and the decisions taken are put into practice.
- The fifth level of community participation refers to co-agenda setting

The above discussion showed that active participative community participation is more acceptable than a passive approach such as in the case of information sharing and consultation. Interaction between the municipality and local communities depends on various aspects such as the general knowledge of citizens regarding local government matters, its structures and

processes, its policies and by-laws. Other aspects that could influence community participation include the attitude of municipal councillors and municipal officials towards community participation. The functionality of the municipalities participation mechanisms, policies and procedures as well as the availability of adequate resources to strengthen community participation could have an impact on the effectiveness of community participation to ensure that citizens fulfil their watchdog role (Van der Waldt in Landsberg and Graham, 2017:172; Shihakane and Reddy, 2017:92).

Van der Waldt (in Landsberg and Graham 2017:172-173) further contend that there are various mechanisms available to engage local communities in the affairs of municipalities, such as local newspapers, open council meetings, suggestion boxes, ward committees and intergovernmental forums for example the IDP and LED forums. Municipality areas are divided into wards for the purpose of local elections. The ward participatory system allows members of local communities to raise their local concerns through ward committees. In this way ward committees are a vehicle for local communities to make their concerns known to municipal councils. Civil society organisations such as NGOs and other civil pressure groups can promote good local governance, through their watchdog function. These include local elections, monitoring of municipal project implementation, and to take part in the IDP and budgetary processes of the municipality. Thus, civil society, and civil organisations fulfil an important watchdog function, to hold municipalities and functionaries to account.

Mathane (2013:129) and Shihakane and Reddy (2011:94) concur that the following are ways to involve citizens in the affairs municipalities:

- Local newspapers provide a means to keep local communities informed about the activities of the municipality, but it serves as a mechanism to keep citizens informed about concerns regarding to service delivery;
- Dialogue forums such as the IDP or LED forums, sectoral forums and other applicable ward-based forums are platforms for local communities to participate in the developmental issues of the municipality;
- Ward participatory structures such as ward committees that exist in many municipalities were established through formal provincial notices and requiring by by-laws;

- Using social surveys and advisory panels to consult with citizens to obtain their views on developmental and service delivery matters; and
- Other mechanisms include community radio stations, local municipality websites as part of e- governance to keep community members informed about their activities. Other mechanism includes community centres or one stop centres where a range of public services are combined in one area, self service facilities and electronic services including help desks where all inquiries can be lodged.

The above mechanisms should assist municipalities to keep local communities informed and to promote community participation. While, dialogue forums and ward committees should enable citizens to keep municipalities and functionaries to account for their policy, decisions and actions.

Advantages of social accountability through community participation mechanisms is that it contributes to value added decision-making by involving members of the community to participate in the affairs of the municipality. Community participation provides a clear direction for communities to raise their concerns about service delivery issues and community related issues. It serves as a mechanism to clear any misconceptions about community projects, their objectives and outcomes, when members of the community are well informed. they legitimise local authority and provide elected representatives with a mandate for action. Community participation. Community participation enhances participatory democracy by promoting or ensuring the active interest and responsibility of not only the municipal functionaries but also that of citizens. It could eliminate corruption which is flourishing at local government. (Sikhakane and Reddy, 2011:94-95; Van der Waldt in Landsberg and Graham, 2017:172; Mathane, 2013:126-127).

The various community participation mechanism to promote social accountability such as local elections, were discussed below.

5.11.1 Local elections as a community participation mechanism to promote social accountability

In Chapter 1 of this study it was mentioned in the discussion about social contract theory that the society have a justification to resist any political authority by electing a new one to act in their best interest, if a political authority such as a municipal council who does not meet the required requirements and obligations (Van der Waldt in Landsberg and Graham, 2017:162). The right to vote is a constitutional right of all citizens from the age of eighteen years. In this regard, Chapter 10 of the *Constitution*, 1996 provides that citizens have direct access to elected local government representatives.

According to the World Bank (2005:5), in any democratic state elections is one of the mechanisms by which citizens hold the government to account. Elections, however, have proved to be a very weak and blunt instrument with which to hold government accountable. Van der Waldt *et al.* (2014:38) holds that one of the building blocks for local democracy refers to representative and accountable local government in which municipal councils are elected. In this way members of local communities might feel that they have a stake in the municipal council in that the person for which they vote will represent them in the municipal council. The *Local Government: Municipal Electoral* (Act 27 of 2000) makes provision in Section 7 for a proportional representation vote for every municipality as well as for segments of the voters roll to be divided with regards to the voting district. Diale *et al.* (2007:643) are of the opinion that voting can be seen as a mechanism by which ordinary citizens can show their satisfaction or dissatisfaction with the performance of elected representatives. Citizens have the option to vote the political party in power out of office if they are dissatisfied with their progress. The election of public representatives (political officials) to represent the community in municipalities is one mechanism to promote accountability. Therefore, the public must play a direct role in holding decision makers (political representatives) to account for their decisions and their conduct. In this way voters promote and ensure democratic accountability.

Advantages of social accountability through community participation mechanisms it that it contributes to value added decision-making by involving members of the community to participate in the affairs of the municipality. Community participation provides a clear direction for communities to raise their concerns about service delivery issues and community related issues. It serves as a mechanism to clear any misconceptions about community projects,

their objectives and outcomes, when members of the community are well-informed, they legitimise local authority and provide elected representatives with a mandate for action. Community participation enhances participatory democracy by promoting or ensuring the active interest and responsibility of not only the municipal functionaries but also that of citizens. It could eliminate corruption which is flourishing at local government. (Sikhakane and Reddy, 2011:94-95; Van der Waldt in Landsberg and Graham, 2017:172; Mathane, 2013:126-127).

Thus, the various participation mechanism should promote opportunities for members of local communities to be involved in matters of the municipality. It should serve as a key mechanism to ensure social accountability, which could be attained through voting incumbents out of office or demanding regular accounts of actions and policies.

5.11.2 Citizen interest groups and other stakeholders

According to Bovens (2005:16), in most of the western democracies there is a perceived lack of trust in government. Therefore, there is a need for more direct and explicit accountability relations between public agencies such as municipalities and civil society. Influenced by the need for social responsibility, participatory governance, more attention has been being paid to the role of NGOs, interest groups and citizens as relevant stakeholders not only in determining policy, but also to hold local government to account. Community participation and information mechanisms constitute what is widely considered to be a critical feature of participatory governance and decentralisation. The form of participatory democracy which community participation provides, is considered a vital aide to the more formal forms of representative democracy. In this regard, the *WPLG*, 1998 requires that one of the key aspects of developmental local government is to involve members of local communities and community organisations in the matters of municipalities (Siddle, 2011:192).

Bovens (2005:16) stresses that municipalities or individual functionaries must account for their performance to the public at large or, at least, to civil interest groups, and community organisations. A step in this direction has been the institution of public reporting and the establishment of public panels (Bovens, 2005:16). The rise of the internet has given a new dimension to this form of public or social accountability. The results of inspections,

assessments and benchmarks must be made available to the citizens on websites of government institutions.

Since 1994 there have been several initiatives to promote to social accountability and community participation. These have ranged from establishing statutory institutions, such as intergovernmental forums at all three spheres of government and ward committees at local government level, to non-statutory mechanisms such as 'izimbizos' and working groups. The Thusong Service Centres have also been established to achieve this objective (The Presidency, 2015:21).

Van der Waldt *et al.* (2014:39) believe that NGOs fulfil an important “watch dog” role. The South African National Non-Governmental Organisation Coalition (SANGOGO) was established in 1995 to co-ordinate the input of NGOs into government policy. In this way NGOs promote that members of local communities must participation in public policy-making processes. The SANGOGO represent different types of NGOs from various range of developmental fields such as health, human rights, environment and land issues. In this regard, the following NGOs fulfil and important role to promote local democracy:

- The Democracy Development Programme (DDP) NGOs focus on capacity building at the governance and civil society level to promote meaningful citizen participation in governments social transformation (Van der Waldt *et al.*, 2014:40).
- The Open Democracy Advice Centre is another NGO, which focus on the promotion of transparent democracy. This NGO aims to promote a culture of corporate and government accountability by assisting citizens to realise their constitutional rights (Van der Waldt *et al.*, 2014:40).
- The Centre for Public Participation (CPP) is another NGO that aims to establish a well-informed social society who can participate and engage with municipalities, and accountable government structures such as ward committees and municipal councils, to participate in the development of developmental policies and local economic development policies in a participatory manner (Van der Waldt *et al.*, 2014:40).

Mavee (2014:205-206) agrees that NGOs should play an important role by educating citizens about their rights and obligations by encouraging them to participate by voting in elections.

NGOs fulfil an important role to capacitate citizens to express their views, to solve common problems and to take part in debates about municipal and other public matters. In this way NGOs can provide forums for debating public policies and disseminating information about issues that affect local communities

The above are some of the important non-governmental organisations that assist with the promotion of local participatory governance and democracy. Community-based Organisations (CBOs) for example civic and taxpayer associations also fulfil an important role to democratising municipal decisions. These, community-based organisations also contribute to aspects such as community development through training and skills development initiatives, with the aim to empower citizens with decision-making skills, to improve their participatory responsibilities (Van der Waldt, *et al.* 2014:41). However, a concern is that many of the CBOs are not well-informed how local government functions and how their community-based organisations could influence municipalities that it will benefit the communities in an effective manner. One could argue that in order to promote participatory governance and social accountability NGOs and CBOs should fulfil an important role to ensure that municipal councils and ward committees actively engage with communities and community members to address their needs in an effective manner at grassroots level.

5.11.3 Ward Committees

According to Sikhakane and Reddy (2011:95), ward committees fulfil an important role to promote participatory democracy in municipalities. Ward committees serve as independent, advisory consultative committee structures is a mechanism through which local communities can express their dissatisfaction with the performance and service delivery of the municipality. Van der Waldt *et al.* (2014:64) assert that a ward committee may make recommendations on a matter affecting its ward to the ward councillor, or through the ward councillors to the metropolitan or local council, executive committee, executive mayor or the relevant sub-council. Ward councillors are directly elected to represent a specific ward (Joseph, 2002:20). In terms of the *Municipal Structures Act*, 1998 only metropolitan municipalities and local municipalities may have ward committees. Section 73(1) and (2) of *Municipal Structures Act*, 1998 stipulates that a ward committee must consist of the ward councillor representing the ward in the council, who must also be the chairperson of the ward committee. The *Municipal*

Structures Act, 1998 or any other legislation do not make provision for any qualifications of ward committee members.

Sirovha and Thornhill (2017:151) are of the opinion that ward committees and residents from the formal ward committee and those ward committees operating within the area of traditional leaders should attend municipal council meetings in which both the annual and oversight reports are tabled. Thus, ward committees can be seen as key link between the municipal council and the local community. Ward committees can also be seen as a key mechanism with which municipalities can communicate with local communities and also to promote and enhance efficient and effective service delivery.

The objectives of ward committees are the following includes the following; to enhance participatory local governance; to assist the ward councillor on matters of the ward; to contribute to the improvement of the quality of life of all its residents; to make recommendations to the ward councillor or to the other structures of the metropolitan council; and to engage residents in matters of local governance (Raga and Taylor, 2005; 143; Sikhakane and Reddy, 2011:95; Van der Waldt *et al.*, 2014:63-64).

Van der Waldt *et al.* (2014:63-64) further submit that the ward participatory system of municipal government allows for the establishment of ward committees to facilitate community participation. Ward committees can improve communication between municipal council and local communities and play in identifying community needs. This gives residents a more direct voice in the governance of their neighbourhoods. It enhances participatory democracy in local government by providing a vehicle for local communities to make their views and needs known to the municipal council.

According to the Handbook for Municipal councillors (2011:39-40), the main function of a ward committee is to be a formal communication channel between the local community and the municipal council. In terms of Section 21 of the *MSA*, 2000 concerning communication to the local community information of the municipality must be notified through the media to local communities, such as public notice boards, local newspapers, and radio broadcasts. Section 21(2) of the *MSA*, 2000 requires that such notifications must be in the official language determined by the municipal council. While, Section 18(2)(3) of the *MSA*, 2000 requires that the municipality must take into consideration the special needs of the local community such as

people who cannot read or write. Sikhakane and Reddy (2011:95) aver that the ward committee must ensure that pamphlets, posters and reports of the municipal council are made available at strategic places within the local community or ward including, libraries, clinics, community notice boards. The ward councillor can also display their own notices on community notice boards. A critical mechanism to hold functionaries to account is when ward councillors establish a relationship with community newspapers and radio stations relating community participation opportunities. Sikhakane and Reddy (2011:96) emphasise that local newspapers or other media mechanism could promote social accountability by highlighting negative issues including poor service delivery, corruption and conflicts within the municipality. In this regard, functionaries will refrain from unacceptable behaviour for fear of being exposed by the media.

Except for the above methods of communication, the ward councillors must ensure that important information of the municipal council is communicated to local communities by other means such as radio and community newspapers. According to the DPLG (2005:38) the roles and responsibilities of ward committees are:

- To ensure that formal unbiased communication channels and co-operative partnerships between the municipality and the community within a ward are created;
- To ensure that communities are made aware of the importance to pay for services through the ward committee system;
- To facilitate public participation in the process of development, review and implementation management of the municipalities IDP and budgetary process;
- Act as advisory and consultative structure to consult with local community on the municipal council's policies and matters affecting the community and wards;
- To serve as an effective citizen participatory structures of the municipality;
- To make recommendations to the municipal council regarding any matter affecting the ward;
- To execute any other functions as delegated by the municipality;
- To ensure that ward committee members participate in their municipalities' stakeholder cluster forums; and
- To promote a harmonious relationship between the local community and the municipality.

In light of the above, the Handbook of Municipal Councillors, (2011:39) states that ward councillors are responsible for the following:

- To explaining the decisions of the municipal council by providing local communities with a progress report relating to the IDP and budgetary processes of the municipality;
- To monitoring whether the municipalities programmes and plans as provided in the IDP are having their intended objectives;
- To assess whether municipal services are being delivered in a sustainable way;
- To establishing whether capital projects as indicated in the IDP are met;
- To ensure that the municipality communicate with their constituencies and involve members of local communities in the affairs of the municipality.

Raga *et al.* (2011:158) agrees that local government legislation requires that members of local communities are required to participate in the preparation, adoption, implementation and review of the municipalities IDP and budgetary processes. The voices of citizens must be heard, and their input must feed into the IDP and budgetary processes of the municipality. Thus, ward committees have a significant role to fulfil in conveying the needs of local communities and to ensure that their needs are adopted in the municipalities IDP and met by their respective municipal councils.

The Presidency (2015:21) states that government established many forums and other participatory means to involve citizens in decision-making process such as ward committees and the Community Development Worker Programme (CDWP), which uses workers drawn from the community to assist citizens in accessing government services. Community Development workers (CDWs) and ward committees must be involved in the preparation, implementation and review of the municipalities IDP, budgetary processes and performance management systems.

Raga *et al.* (2011:158) point out that despite good intentions of government policies and legislation, to promote participatory governance through ward committee a concern is that delegation powers to ward committees are limited. Therefore, ward committees do not have many decision-making powers, which limits their capacity to consult and to participate effectively with ward members of the municipal area. Sikhakane and Reddy (2011:96) concur

that like any other participatory structure ward committees experience certain challenges to promote citizen accountability such as the following:

- Participatory structures such as ward committees are still in the developmental stages and there are still challenges such as that communities do not know how to constructively engage with government. One could argue that local communities still focuses on public protest rather than use participatory structures such as ward committees to engage with municipal councils;
- Some local communities have low levels of education and cannot comprehend effectively on certain technical aspects and decisions which could prevent them to make meaningful contributions;
- Ward committee members are reluctant to participate on a voluntary basis; and
- Capacity building remains a challenge. The municipality is responsible to ensure that ward committees are capacitated, and they must provide guidance and resourcing to promote effective citizen participation in the affairs of local government.

As consultative advisory committees, ward committees fulfil a crucial linkage between the local community and the municipal council, the executive committee, the executive mayor or the relevant metropolitan sub-council. Ward committees also fulfil a critical role to ensure citizen accountability by promoting citizen participation and to make recommendations on any matter affecting their wards. However, a concern is that ward committees have limited decision-making powers. The latter could limit the capacity of ward committees to consult and to participate effectively with ward members of the municipal area.

Kahn *et al.* (2016:179) maintain that community surveys and other assessments identified a number of challenges with the functioning of ward committees. The lack of clarity of the roles of the ward committees and the availability of resources to conduct their activities effectively are some of the challenges that were identified. Other challenges include difficulties by the poor to participate in the activities of ward committees, poor representatively, poor election procedures, and the failure of ward councillors to attend to ward committee meetings on a regular basis. Madumo (2014:139) argues that ward committees were established with the aim to enhance community participation in municipalities, however the efficacy through which the ward committees achieve this aim is doubtful. Ward committees are lacking executive

authority or power, the capacity to promote genuine community participation, clarity about their responsibilities and political stability. Except for these challenges, Raga *et al.* (2011:162) point out that the findings of a study point out that the ward committee system is not functioning properly to promote public participation in government.

Notwithstanding the above challenges ward committees fulfil an important role in municipalities, and if they are function effectively, ward committees could be effective and used in determining the needs and concerns of local communities. For ward committees to promote participatory governance and accountable local governance, it is imperative that they serve as a platform for local communities to raise their concerns and influence municipal policies that affect them. Ward committees should also seek answers from functionaries to hold them to account for their policies, decisions and actions. This will ensure that ward committees are function properly and that worthwhile contributions are made by the local community and will further enhance community participation in decision-making processes of the municipality.

It can be inferred from the above that ward committees fulfil a critical important role to enhance community participation in the affairs of the municipality. It was emphasised that ward committees as the link between citizens and the municipal council should fulfil an important role to hold functionaries to account. However, it appears that local communities in the Free State province failed to hold municipalities and functionaries to account for their poor performance, including poor financial performance, decisions and actions. It is confirmed by the Auditor-General (AGSA 2018:4) report of 2017-2018 that the financial performance and administrative control measures of all municipalities (100%) in the Free State province had deteriorated. The continued lack of accountability and leadership contributes to the development of a culture of no consequences in all municipalities in the Free State province. Social accountability should be promoted through citizen participation in participatory structures such as ward committees. Thus, ward committees fulfil a key role to promote participatory democracy in local government.

5.11.4 Traditional leaders

According to Sirovha and Thornhill (2017:140-141), Section 211 of the *Constitution*, 1996 provides that the institution, the status and role of traditional leaders are recognised, subject to

the *Constitution*, 1996. Section 21(2) thereof provides that national or provincial legislation may provide for the establishment of houses of traditional leaders. Section 21 of the *Constitution*, 1996, further provides that traditional leaders should fulfil an important role at local sphere concerning matters affecting local communities. According to Van der Waldt *et al.* (2014:42), the task of participatory local government and democracy requires the participation of all leaders including elected religious and traditional leaders. Therefore, municipalities should make provision to include traditional leaders in various policy development processes and programmes.

According to *Municipal Structures Act*, 1998, Section 81(1), traditional authorities that traditionally observe a system of customary law in the area of a municipality, may participate through their leaders, in the proceedings of the council of that municipality, and those traditional leaders must be allowed to attend and participate in any meeting of the council. Section 81(3) of the *Municipal Structures Act*, 1998 further indicates that before a municipal council takes a decision on any matter directly affecting the area of a traditional authority, the council must give the leader of that authority the opportunity to express a view on that matter. However, it should be noted that the *Municipal Structures Act*, 1998 does not outline a clear accountability and oversight roles of traditional leaders in the municipal council. Section 81(4)(b) of the *Municipal Structures Act*, 1998, only indicates that the MEC for local government in a province, after consulting the provincial House of Traditional Leaders, may by notice in the Provincial Gazette, prescribe a role for traditional leaders in the affairs of a municipality.

Sirovha and Thornhill (2017:140-141) further avers that Section 5 of the *Traditional Leadership and Governance Framework Act* (Act 41 of 2002) state that traditional leaders should be part of democratic leadership and governance structures in local government. It entails that traditional leaders should facilitate community participation regarding service delivery and policy decisions affecting rural communities. Section 4 of the *Traditional Leadership and Governance Framework Act*, 2002 states that the functions of traditional councils are to support municipalities in identifying community needs, to make recommendations appropriate interventions that will contribute to development and service delivery in the area of jurisdiction of the traditional councils, and to participate in the development of policies and by-laws of the municipality. Thus, traditional leaders should play

an important role to promote co-operative government, sustainable development and service delivery.

Kahn *et al.* (2016:180-181) are of the view that the following challenges were identified on the role of traditional leaders and their responsibility to work together with municipalities; lack of clear understanding of the roles of both institutions; getting all role players to work together; reconstitution of all traditional councils in accordance with legislation; execution of the Capacitation Programme for all traditional leaders and traditional councils; inclusion of traditional leaders in ward committees; creation of a clear understanding of the status and roles of both municipalities and traditional institutions; and provision of resources to traditional councils to be able to perform their customary and statutory functions and co-operation with municipalities. Thus, municipalities should harness the capacity of traditional leaders in the local developmental effort. Municipalities should find ways to involve traditional leaders more effectively in planning and other developmental issues. Kahn *et al.* (2016:182) further contend that municipalities should consult with traditional leaders and allow them to serve as ex-officio members of ward committees to enhance the participation of traditional leaders in local government.

5.11.5 Open municipal council meetings and councillors

In terms of Section 22 of the *Municipal Structures Act*, 1998 a metropolitan and a municipal council consist of a determined number of councillors. Section 157 of the *Constitution*, 1996 provides that the municipal council consist of elected ward councillors and councillors nominated in terms of proportional representation on the basis of the number of votes cast in favour of their specific part in relation to the total number of votes. This means that a specific number of councillors are elected in accordance with the number of wards in its area of jurisdiction. An equal number of councillors must represent the various parties proportionally depending on the percentage of votes attained by the party during the general elections in the area.

Municipal councillors are elected political representatives of local communities in a municipality (Thornhill and Cloete, 2014:63-64). Therefore, they have the responsibility and accountability, as elected representatives, to govern on behalf of, and in the interest of citizens. The roles of municipal councillors are guided by the framework set out in the *WPLG* (1998:42-

44) that proposes a developmental model of local government. This means that municipal councillors must be familiar with how the local government is structured in order to operate.

In order to effectively achieve the objectives of local government municipal councils are required to manage and structure their administration, budgeting and planning processes in such a manner that they are prioritising the needs of the community, that they ensure social and economic growth within their constituencies and to ensure the promotion of national and provincial development programmes including the promotion of the national development plans (SALGA, 2011:9).

According to the *WPLG* (1998:40), municipal councils play a central role in the promotion of local democracy. As such municipal councillors should promote the involvement of its communities and community groups in the design and delivery of its municipal programmes. In terms of Section 152(i)(e) of the *Constitution*, 1996 municipalities have to encourage the involvement of communities and community organisations in matters of local government.

The open meeting requirements in Section 19 of the *MSA*, 2000, seem to go far enough to ensure that municipal meetings do not take place away from public scrutiny, thereby facilitating the accountability of local representatives to the public. The *MSA*, 2000, provides a clear obligation on the municipal manager to provide the public with notice that sets out the date, time and venue of all meetings (Community Law Centre, 2008:2). Section 19(2) of the *MSA*, 2000 provides that the municipal council may not exclude the public, including the media, when considering voting on any of the following matters; a draft by-law tabled in the council; a budget tabled in the council; the draft IDP, or any amendment of the IDP; the draft performance management plan, or any amendment of the plan tabled in council; the decision to enter into a service delivery agreement; or any other matter prescribed by regulation.

The duty to conduct council meeting in public is one such type of accountability and oversight tool. The increasing expansion of the concept of accountability and its application is also accompanied with the introduction of new tools and instruments that are essential to promote accountability and oversight. With the expansion of the concept of accountability came, for example, the institutionalisation of performance measures and reports designed to provide more systematic information on government results. A final aspect of accountability and oversight relates to the extent to which the stakeholders in the accountability and oversight

system, which includes politicians, bureaucrats, political parties and civil society, are taking proper ownership of system. (Community Law Centre, 2008:9).

5.11.6 Other mechanisms for consultation, participation and to provide information

Another mechanism which does not directly establish public or social accountability but can be an important element to promote accountability is the flow of information about the performance of local government (Community Law Centre, 2008:9). In terms of Section 20 of the *MSA*, 2000, the meetings of the municipal council and its committees that discusses or votes on matters such as by-laws, budgets, amendments to the IDP, the performance management system and service delivery agreements must be open to the public and the media. All municipal council meetings in which the annual report of a municipality is discussed, or any decision taken about the annual report must be open to the public. In this way, municipalities' accountability to the community for decisions made in the year under review is promoted.

Gildenhuis and Knipe (2000:112) describe that direct participation means the empowerment of all citizens in such a manner as to allow them to articulate their will and their needs directly to political representative and public officials. This demands delimitation of small subunits for representation within the national, provincial and municipal boundaries. These are geographical constituencies and wards. The mechanisms through which locally elected representatives can be accountable to the public include, among other things, elections, public meetings and formal grievance procedures (Community Law Centre, 2008:2). The use of the mass media, pressure groups and consultative groups has gained some credence in making functionaries accountable for their actions in the course of performing their duties. The mass media specifically the media and local newspapers have been in the forefront of revealing the various mismanagements committed by corrupt officials (Asha, 2014:400).

5.12 PUBLIC PARTICIPATION IN THE MUNICIPAL INTEGRATED DEVELOPMENT PLAN (IDP)

According to Sirovha and Thornhill (2017:148), the extensive impact of the IDP on the local community, participation is of critical importance. One mechanism to ensure community participation is the IDP forum. The IDP forum provides a structure for discussions,

negotiations, joint decision-making and participation in the planning and implementation process of the municipalities IDP processes (DPLG, IDP Guide Pack VI, 2000:120-123). Van der Waldt *et al.* (2007:105) state that the following members should form part of the municipalities IDP Forum:

- Members of the municipalities IDP committee;
- Municipal councillors, including various districts council members;
- Traditional leaders within the community;
- Members of the ward committee;
- MM and senior municipal officials;
- Representatives from community group such as NGOs and CBOs;
- Any other appropriate citizen representatives.

Except for the IDP forums Meyer and Venter (2013:100) aver that ward committees serve as a mobilising agent for community action, through the IDP process and the municipalities' budgetary process. In terms of Section 16 of the MSA of 2000 the local community must take part in the preparation, implementation and review of the municipalities IDP. This mandated all municipalities to involve members of the local community to participate in the municipalities IDP processes.

According to Mathane (2013:132) and Davids and Theron (2014:135-136), the community must participate in the different phases of the IDP namely, the analysis, strategy, programme and projects, integration and approval phases, which were discussed sections below.

5.12.1 Phase 1. The situation analysis phase

During Phase 1 (the situation analysis phase), the municipality identifies the needs and priorities of the community by involving local communities through an interactive participatory process. The situation analysis phase provides an opportunity to the local community to inform the municipality about their developmental needs. The municipality should engage with local communities through community meetings with IDP forum, ward committee or combined ward committee and ward meetings, sectoral engagements, stakeholder

meetings, surveys and opinion polls to collect information from members of the community about their developmental challenges and needs (Mathane, 2013:132-133; Davids and Theron).

5.12.2 Phase 2: Strategies to define local vision and the objectives phase

During phase 2 (the strategy phase), the municipality review its vision, development objectives, strategies and appropriate various projects that it wishes to achieve. It is important that the community supports the vision and strategic objectives of the municipality. Therefore, the vision of the municipality should not merely be imposed upon local communities by the municipality (Tshabalala, 2006:62; Mathane, 2013:133-134).

Van der Waldt *et al.* (2018:122) state that the vision is a roadmap of what a municipality wants to achieve in the future. In order to achieve the vision, the municipality has to formulate objectives that serve as statements of what the municipality wants to achieve in the medium term to address its challenges. Thereafter, they should formulate specific strategies to achieve its objectives. At this stage the municipality should consult with the local community and allow them to debate on the appropriate strategies. Community participation during this phase should take part through IDP forums, ward committee and organised community groups such as NGOs and CBOs (Tshabalala, 2006:62; Mathane, 2013:134).

5.12.3 Phase 3: The project phase

According to Davids and Theron (2014:136), the municipality has to identify and design programmes and projects per strategy which are aligned with the developmental needs and priorities of the community as well as the identified main objectives that were identified in the previous phases. The local community should engagement with local communities by arranging meetings with relevant representatives and stakeholders on project sub-committees. During this phase the municipality should review its programmes and projects, finalise the draft IDP and budget and provide opportunities for community members to participate in these processes.

5.12.4 Phase 4: The integration phase

According to Mathane (2013:134-135) the municipality has to ensure that the programmes and projects are linked to the main objectives, strategies and available resources of the municipality. Tshabalala (2006:64) states that during this phase the municipality has to consolidate its strategies with the integrated sectoral programmes. These include the municipalities' Local Economic Development Programme (LED), HIV/AIDS programme, environmental program, integrated institutional plan, the 5-year financial plan, the 5-year capital investment programme, Spatial Development Framework and its consolidated monitoring and performance management system. During this phase the municipality has to arrange interdepartmental planning sessions, and IDP Indaba's involving provincial government. Community participation takes place through the IDP forum meetings.

5.12.5 Phase 5: Approval of the municipality's Integrated Development Plan (IDP)

Section 25 of the MSA of 2000 requires that the community must be given an opportunity to comment on the draft IDP of the municipalities within 14 days of the adoption its IDP. After the municipality amends its IDP by incorporating the input from the community, the municipal council must consider the IDP for approval. Thus, all relevant stakeholders and interested parties, including provincial government, must be granted the opportunity to comment on the draft IDP.

From the above it can be deduced that community participation in all phases of the IDP process is an important mechanism to promote participatory governance and social accountability. Therefore, effective community participation of communities is required in all processes of IDP, mainly in identification of needs and priorities, strategy formulation, project implementation and monitoring and evaluation of achievements.

5.13 CURRENT CHALLENGES CONCERNING PARTICIPATORY LOCAL GOVERNANCE AND SOCIAL ACCOUNTABILITY

Despite numerous local government legislative and policy framework and community participation mechanisms to promote participatory governance and social accountability, the success of these prescripts and mechanism to effectively promote community participation and

social accountability remains a concern. Kroukamp (2016:110-116) contends that a lack of engagement with local communities and community organisations leads to a lack of accountability and responsibility of functionaries, undermines participatory democracy and community participation. Furthermore, citizens are losing confidence in local government. Protest and violent confrontations about service delivery and continued underperformance of municipalities have become a regular occurrence throughout the country. The Auditor-General audit report of 2017-2018 (AGSA, 2019:27) indicates that service delivery protests have become a regular occurrence in municipalities in South Africa, with KwaZulu-Natal, leading in the number of municipalities affected, followed by the Free State and the Eastern Cape. Thornhill (2009:43) warns that the future of local government in a developmental state has become uncertain. A concern is that citizens are often not consulted effectively or excluded from local policy making that undermines their constitutional rights. Municipalities are mandated to involve members of community and community organisations in the matters of local government. Citizens should be afforded opportunities to raise their views, concerns, and needs and they must be certain that their issues will be accommodated in local policies. Mavee (2014:216) argues that community participation is the key principle of participatory governance. Community participation not only empowers local communities, it promotes accountability of elected political officials, delivery of services, formulation of policies and developmental initiatives.

Asha, Belete and Moyo (2014:259) point out that a study that was conducted in Stellenbosch municipality, Dwars River Valley, during 2010, to assess the effectiveness of the participatory planning model showed that one of the key reasons for the ineffectiveness of its IDP in the area was the failure of the community participation process and practices. Community members must be afforded opportunities to actively participate in the municipality's decision-making process, preparation of the IDP and budgetary processes, implementation of developmental projects, monitoring and evaluation to hold functionaries to account for their decisions.

Asha (2014:398) indicates that participatory local planning and implementation of development initiatives is crucial for improving quality of life at grass root level. It has been noted that many South African local authorities have been producing IDPs, in order to comply with the policy and legal requirements. However, the poor planning and implementation of development initiatives is the biggest challenge in South Africa. Therefore, development organisations should critically assess their process of formulating and implementing

programmes and policies towards improving people's quality of life. If the goal of development is to reduce poverty and deprivation, then development planning and implementation should be process-oriented, people-focused, institution-centred, and based on strategic decisions (Asha, 2014:398).

Lack of administrative capacity, community trust or the constraining effects of poverty can further limit the success of social accountability projects, requiring due attention in project design and implementation. The challenges facing social accountability are however not solely practical in nature but also question the underlying assumptions and universal applicability of the model. This not only necessitates a deeper understanding of the contextual factors shaping the incentives of citizens to participate, but also an awareness of the limitations of the model's applicability (Camargo and Jacobs, 2013:10).

Asha (2014:400) stresses that another challenge is that lack of alignment in development processes in South Africa. The main challenge lies in poor translation of national development policies and plans into local contexts. It is related to the concern that whether national and provincial priorities are reflected in the municipal IDPs. Many municipalities are also experiencing shortage of capacity in terms of managing the process of integrated development. Because of this problem, small and rural based municipalities were compelled to outsource planning aspects to external consultants. This had caused chaos in relation to municipal expenses and the actual planning processes because consultants did not have adequate knowledge and understanding about the local situation. Though municipalities significantly reduced dependency on external consultants, IDP processes continue to show inadequate improvement in terms of meaningful participation of public in the decision-making process (Asha, 2014:400).

The other concern is related to the implementation of IDPs. The violent service delivery protests are an indication of the failure of local governments to achieve their development mandates. Studies have further indicated that the implementation of programmes and projects has been inadequate, slow, had limited impact on lives of beneficiaries, and generally lacks sustainability (Asha, 2014:400). The failure of municipal development programmes and projects has contributed to violent service delivery protests across the country from communities angry at the slow pace of service delivery (Asha, 2014:400). The overall situation indicates that local governments, especially in rural areas have been weak in terms of

responding to the critical needs of the community at large. It also appears that the support measures taken so far by national and provincial Sphere were inadequate, in relation to the magnitude of challenges that local governments are facing towards achieving their developmental mandates.

Mashamaite and Madzivhandila (2014:227) aver that most community members are not sufficiently informed on how to participate meaningfully in the affairs of the municipality. This makes municipal councillors and officials less willing to consider the views of local communities. Another concern is that the majority of community members are not clear about the role of a municipality. According to Mashamaite and Madzivhandila (2014:227), the question may be asked whether the community is really capacitated to participate in municipal matters that have an impact on their lives. Another concern is that a large proportion of the population do not vote, due to a lack of personal interest. Another contributing factor to the failure of effective participation is that the policies and by-laws of local government is not clearly understood by some of the illiterate citizens. The lack of effective community participation in the affairs of the municipality hampers effective accountability to hold the functionaries to account. On the other hand, a general dislike for and suspicion about community participation exists among functionaries, which further undermines social accountability. Thus, the lack of effective participation by members of local communities, undermines social accountability to ensure that functionaries are accountable to the community they serve.

Except for the above, Sikhakane and Reddy (2011:96) mentioned that the following challenges concerning ward committees' hampers accountability. Firstly, there is a tendency that citizens do not know how to engage constructively with municipalities and development agencies. Some community members are not even aware that they are the backbone of development initiatives in their areas. Thus, inadequate capacity building and information sharing and guidance on the side of municipalities hampers the function of ward committees. One could argue that municipalities do not inform community members about the purpose of their participatory structures such as ward committees and community participatory forums that hinders meaningful participation. The low levels of education of some communities make it difficult for them to comprehend effectively and to take part in decision that prevent them from making contributions. Baccus and Hicks (2008:534) are of the opinion that another concern is that community participation is voluntary, expensive and time consuming which requires some

commitment from community members to engage with the municipality through participatory structures such as ward committees. The current high levels of poverty and unemployment in particular rural areas creates high expectations of employment. These people realised that community work is voluntary and that their specific expectations of employment should not be realised. Van der Waldt *et al.* (2018:123) are of the view that municipal councils must have approved strategies in place to promote community participation and social accountability. Thus, municipalities should devise proper information sharing and participation strategies, to ensure that communities are involved in the affairs of local government to promote social accountability through participatory structures such as the ward committees and community participatory forums.

In light of the above, the continued poor performance of municipalities and in particular all municipalities in the Free State province raises a serious concern about the quality of community participation efforts to hold functionaries to account for their actions, decisions and policies. The Auditor-General confirms in the report for 2017-2018 (AGSA 2019:4) that the deterioration of all municipalities in the Free State province is due to a total breakdown in controls and poor leadership responses towards improving accountability, capacity and stability. The deterioration of all municipalities (100%) financial position in the province is an indication that citizens failed to hold functionaries to account for poor performance.

5.13 SUMMARY

This chapter dealt with administrative oversight and accountability and social accountability of local government. The discussion showed that a comprehensive set of legislative framework and policies make provision for administrative oversight and accountability of local government. It was emphasised that in terms of Section 51 of the *MSA*, 2000 states that the MM of a municipality is accountable for the overall performance and administration of the municipality. The discussion showed that apart from the accountable functions of the municipal council and MMs, there are also portfolio committees and political officials who must fulfil the functions of oversight of municipal administration to ensure that municipalities are able to meet their constitutional obligations. In this regard the executive mayor and mayoral committee is responsible to oversee the administration of the municipality to ensure effectiveness and efficiency in service delivery. Portfolio committees such as Section 80 and Section 79 committees in terms of the *Municipal Structures Act*, 1998, are significant structures to promote oversight of the municipal council. It was emphasised that the MPAC, as a Section 79 portfolio

committee, is one of the key oversight mechanisms that assist the municipal council to hold the executive and municipal administration to account and to ensure efficient and effective use of municipal resources.

It was further emphasised that national strategies and interventions such as the LGTAS and the latest Back-to-Basics campaign failed to yield the required results. Except for the above national strategies SALGA also introduced numerous programmes such as the Councillor Induction Programme and the Municipal Audit Support Programme (MASP) to improve municipal leadership, governance, administration, institutional capacity and financial management practices. It was highlighted that these interventions failed to yield the required results to improve the financial, administrative performance of most municipalities. This was confirmed by the Auditor-General, report for 2016-2017 (AGSA, 2017:1) which raised concerns that accountability and the need for appropriate consequences for accountability failures who still featured as prominent element of failures in most municipalities. A concern was raised about the continued lack of accountability and leadership failures of the Free State municipalities. It was argued that national and provincial governments are obligated by constitutional prescripts to support local government particularly in struggling municipalities. The numerous service delivery protest engulfing most municipalities may necessitate the need for national government to revisit national interventions to restore the performance and public confidence in most municipalities.

It was highlighted in the chapter that the MM (as the accounting officer and head of the municipality's administration) must ensure that proper administrative arrangements are in place to promote accountability of the administrative function of the municipality. It means that there must be consequences if a MM failed to give effect to his/her responsibilities, that should result in the removal of the MM from office. The MM as the accounting officer can personally be held accountable for any loss of allocated funds or assets as a result of any deficiency in the administrative or managerial arrangements of the municipality. Failure to give effect to assigned responsibilities should result in the removal of the MM from office. Another concern as emphasised in the chapter is that most municipalities fail to comply with SCM legislative frameworks, and these defaulters have not been held accountable for their actions. Municipal SCM practitioners who forms part of the municipality administration have defaulted in SCM processes without any action being taken against them. It was argued that there is an urgent need to rethink innovative ways of curbing corruption and other administrative

malpractices within municipalities. Many administrative municipal officials lack appropriate knowledge for proper implementation of SCM legislation. It was mentioned that the above issues create confusion for administrative staff responsible for SCM in municipalities and it inhibits proper implementation, which could lead to poor service delivery.

A concern was further raised of the various mechanisms and internal controls to promote administrative accountability to keep the functionaries (political and public officials) under surveillance and in check. The accountability of municipal officials to the elected representatives (political officials) is based on the premise that the elected representatives are accountable to local communities and therefore, municipal employees must be answerable to elected representatives. It was emphasised that there are different institutional arrangements and mechanisms by which municipal officials responsible for the administration of local municipalities can be held accountable by the elected representatives. The SDBIP as an implementation plan of the municipalities IDP and budget serves also as a tool to promote oversight and accountability to ensure that a municipality to deliver on its constitutional and developmental mandates. It was mentioned that performance measurement is seen as an administrative control mechanism to assign internal and external accountability. Other mechanisms that was emphasised include the mid-year budget and performance assessment report. It was mentioned that these are useful mechanism to ensure that the mayor or executive mayor of the municipality exercise his or her oversight role regarding the municipal administration. In terms of Section 72(1(a) of the *MFMA*, 2003 the MM of a municipality has to assess the performance of the municipality by taking into consideration the monthly budget statements, the service delivery performance indicators and targets as well as the previous annual report and progress on previous challenges that were identified.

It was emphasised that the following must be in place to promote administrative accountability in the municipality such as; strong ethical leadership in the administrative, financial and SCM practices in municipalities is critical important; sufficient human and financial resources to assist in the implementation of the municipalities administration and financial management systems; and to ensure that there is effective co-ordination of capacity building opportunities; filling of key vacancies within the municipality must be an imperative to ensure sound administrative and financial management; budgetary and spending processes must be aligned with the IDP; and the involvement of local communities is an imperative to promote administrative and social accountability.

In the discussion about social accountability it was emphasised that in terms of Section 15(2)(e) of the *Constitution*, 1996 local communities and community organisations must be encouraged to participate in the affairs of local government. Section 16 of the *MSA*, 2000 mandates municipalities to establish systems to promote participatory governance. The elective representatives are accountable to the local communities and therefore, municipal officials responsible for municipal administration must be accountable and answerable to the elected representatives. It was further highlighted in the discussion that in order to promote public or social accountability it is an imperative that local communities should participate in the preparation, implementation and reviewing of its IDP and budgetary processes; monitoring and review of the municipal performance, and to involve the local community in any strategic decisions related to the provision of municipal services and developmental issues that will affect them. The discussion emphasised that mere involvement of citizens in the affairs of local government does not necessary constitute social accountability. Social accountability requires that community participation in the affairs of local governments must take part through established structures and mechanisms for participation such as sub-councils or ward committees.

It was emphasised in the discussion about ward committees that despite of the good intentions of government policies and legislation, to promote participatory governance through ward committee a concern is that delegation powers to ward committees are limited. It was mentioned that the latter means that ward committees do not have much decision-making powers, which limits their capacity to consult and to participate effectively with ward members of the municipal area. It was further argued that ward committees were established with the aim to enhance community participation in municipalities, however the efficacy through which the ward committees achieve this aim is doubtful. It was further argued that it seems that ward committees in the Free State province fail to hold municipalities and functionaries to account for their poor performance, including poor financial performance, decisions and actions. This is confirmed by the Auditor-General, report for 2017-2018 (AGSA, 2019:4) that the financial performance and administrative control measures of all municipalities (100%) in the Free State province deteriorated. The continued lack of accountability and leadership contributes to the development of a culture of no consequences in all municipalities in the Free State province.

In the next chapter the research methodology, design and findings of results of the empirical study was discussed.

CHAPTER 6: RESEARCH METHODOLOGY, DESIGN AND FINDINGS OF RESULTS OF THE EMPIRICAL STUDY

6.1 INTRODUCTION

The preceding chapters outlined the theoretical framework for the study. An in-depth descriptive literature study supported by an empirical study were conducted, with the aim of achieving the research objectives and answering the research problem outlined in Chapter 1, Section 1.10.2 and section 1.11.2 respectively.

This chapter seeks to articulate the processes involved in conducting research. The main aim of the study as provided in Chapter 1, Section, 1.11.1 was to positively contribute to instituted oversight and accountability in municipalities of the Free State province by developing a framework for oversight and accountability. The information obtained from the theoretical framework (Literature study) was used to draw up a structured questionnaire and a semi-structured interview schedule, which were used in dealing with the data that was captured for this study. This chapter examines the research design, methodology, and approaches used in dealing with the data that was captured for this study. All data obtained was obtained from the completed research questionnaire distributed to the MMs, CFOs and mayors or executive mayors to collect information concerning the practice of oversight and accountability within municipalities. Data was also obtained from conducting semi-structured interviews (Interview schedule) with the representatives from the ward committees of the selected local municipalities concerning social accountability through public participation. The chapter further presents a statement of the findings and an analysis of data obtained from the structured questionnaire and the interviews at selected local municipalities. The research methodology, and design was outlined in the next section, followed by a discussion on the research population and sampling, research instrument, data collection, data analysis. The findings and results of the data analysis both instruments were provided.

6.2 RESEARCH METHODOLOGY AND DESIGN

In this study, a comprehensive descriptive and post-positivism or interpretive paradigm (qualitative research) was applied by answering the research questions for this study. According to Terblanche, Durrheim and Painter (2006:561), research methodology refers to

the procedures used in the research to create new knowledge. Babbie and Mouton (2001:647) observe that research methodology refers to the methods, procedures and techniques that were utilised in the process of implementing the research design. According to Webb and Auriacombe (2006:591), social scientists select appropriate techniques and methods to enable them to carry out their research task. While a research method refers to the means required to execute a certain stage of the research process, such as data collection methods. Research techniques refer to the variety of tools that can be used when data is collected, such as questionnaires, interviews and observation. Webb and Auriacombe (2006:591) affirm that these techniques and methods are distinctively linked to quantitative or qualitative approaches.

Maree *et al.* (2017:40) summarise the purpose of qualitative research as that of describing and understanding a distinct phenomenon within its context with the intention of developing an understanding of the meanings revealed by the respondents. Welman *et al.* (2008:188) state that qualitative research can be described as an approach rather than a particular design. Welman *et al.* (2008:188) are of the opinion that the qualitative approach is fundamentally a descriptive form of research. This study followed a qualitative research approach to collect data about the research topic.

A qualitative research design refers to a plan or strategy which needs to be followed to answer the research questions (Bless, *et al.* 2014:130). Babbie and Mouton (2001:647) agrees by defining research design as a plan or structured framework of how a researcher intend to conduct the research process in order to solve the research problem. Nkatini (2005:28) explains that a research design refers to a plan which a researcher draws up when he/she embarks on a research project. This plan shows a step-by-step progression of the project, from the beginning to the end, including the type of research that is being undertaken, the data collection and data analysing methods that will be used to answer the research questions. In qualitative research the following research designs narrative studies, phenomenology, grounded theory, ethnography or case study designs can be used (Creswell *et al.* 2016:75-76; Du Plooy-Cilliers, *et al.* 2014:175-178). Whereas, Salkind concurs that (2018:20) there are two types of research non-experimental (qualitative) and experimental research (quantitative) of which the most popular non-experimental research designs are grounded theory, case study, ethnography and historical research designs. According to Zainal (2007:3), there are three types of case studies namely exploratory, descriptive and explanatory case studies. In Chapter 1, section 1.13.4 it

was mentioned that this study was based on a descriptive case study design. A case study design recounts a real-life context or situation by describing the specific circumstances of a specific occurrence or trend. A descriptive case study design describes an intervention or phenomenon and the real-life context in which it occurred. A case study design recounts a real-life context or situation by describing the specific circumstances of a specific occurrence or trend. A descriptive case study design describes an intervention or phenomenon and the real-life context in which it occurred.

6.3 Research population and sampling

According to Bless *et al.* (2014:163), the entire set of objects about which the researcher wants to determine some characteristics is called the research population. In this study the research population comprised the municipalities in the Free State province, namely; Mangaung Metropolitan Municipality, the four district municipalities, and the eighteen local municipalities within the Free State province.

Sampling is defined as the process of choosing a small group of respondents from a larger, defined target population. The idea is that the results discovered about the small group will allow the researcher to draw conclusions relating to the larger group (Hair, Bush and Ortinau, 2003:3-33; Bless *et al.* 2014:162). In qualitative studies such as in this study there are no rules for the sampling size. In qualitative studies, the sample size depends rather on what the researcher wants to determine, the purpose of the inquiry, what is credible and what can be done with available resources and time (Maree *et al.* 2017:84).

Nkatini (2005:38) believes that sampling should be understood as a technical measurement that is used to explain how specific information is selected from which data may be drawn. Sampling can be done by using either probability sampling methods (quantitative studies) and non-probability sampling methods (qualitative studies). While, Maree *et al.* (2017: 197-198) indicate that non-probability sampling methods includes convenience sampling, quota sampling, snowball sampling and purpose sampling.

Convenience sampling can be used when the sampling is selected on the grounds that elements of the population are easily and conveniently available (Maree *et al.* 2017:197). Nkatini (2005:39) further provides that in accidental/availability/convenience sampling, the researcher may visit a designated place where people of different classes will be available. The researcher

may then starts collecting samples from those people who are easily available, until the researcher reaches the required size of the study. In this way the researcher saved money and time, but it is risky to rely on samples that have been collected in this way in that their representativeness is questionable. Quota sampling refers to a sampling method where the researcher identifies quotas of the required number of people from the various categories of people that must be in the sample (Maree *et al.*, 2017:197-198). In quota sampling the researcher works out the number of elements from whom data must be collected and conducts the research in terms of the accidental procedure (Nkatini, 2005:39). Snowball sampling refers to cases where the population is difficult to find. The researcher contacts people from the population and asks for more information about others with the same characteristics who can be contacted next (Maree *et al.* 2017:198). Lastly, purposive or judgemental sampling refers relies on the judgement of the researcher to select the sample or elements within the target population (Nkatini, 2005:39). Bless *et al.* (2014:172) agrees that purposive sampling is based on the judgement of a researcher to choose the sample. Thus, a sample is chosen based on the judgement of what the researcher considers to be typical units or characteristics of the population.

In this study the researcher made use of the non-probability, purposive or judgemental sampling method to select a sample size of nine local municipalities, out of a total population of 18 local municipalities of the Free State province. Except for the selected nine local municipalities all four district municipalities and the one metropolitan municipality in the Free State province forms part of the sampling. In this study, the municipalities below form part of the sample to whom the self-administered semi-structured questionnaire was distributed to elicit information from the MMs, CFO, mayor or executive mayor of the one metropolitan municipality, the four district municipalities and nine of the 18 local municipalities in the Free State province, namely:

- Mangaung Metropolitan Municipality
- Xhariep District Municipality
- Lejweleputswa District Municipality
- Fezile Dabi District Municipality
- Thabo Mofutsanyane District Municipality
- Mohokare Local Municipality

- Kopanong Local Municipality
- Letsemeng Local municipality
- Tokologo Local Municipality
- Tswelopele Local Municipality
- Nala Local Municipality
- Moqhaka Local Municipality
- Ngwathe Local Municipality
- Metsimaholo Local Municipality

In addition, the researcher used the convenience sampling method which is also a non-probability sampling method to select representatives from the ward committee members of two of the affiliated local municipalities of the Lejweleputswa District Municipality namely, Tokologo Local Municipality and Tswelopele Local Municipality to conduct the semi-structured interviews. Convenience sampling means that elements of the population are selected because they are easily and conveniently available (Maree *et al.* 2017:197).

6.4 RESEARCH INSTRUMENT

In this study the self-administered semi-structured questionnaire consisted of open-ended and closed-ended questions was used to elicit information about oversight and accountability of municipalities in the Free State province. A five-point Likert scale was used in the closed ended questions. According to Du Plooy-Cilliers, Davis and Bezuidenhout (2014:159), a five-point Likert scale requires respondents to indicate whether they strongly agree (1), agree (2), don't know (3) disagree (4) and strongly disagree (5) on the variety of questions or statements. The self-administered semi-structured questionnaire was disseminated to the selected municipalities in the Free State province as indicated in the sample. A five- point Likert scale (1 for least satisfactory and 5 for most satisfactory) was used in the close-ended questions of the semi-structured questionnaire and the semi-structured interview schedule

A semi-structured interview schedule was also used consisting of structured (closed-ended) and unstructured (open-ended) questions/statements to conduct semi-structured interviews with representatives from the ward committees of the two selected affiliated local municipalities Tokologo Local Municipality and Tswelopele Local Municipality of the Lejweleputswa District Municipality to identify the current challenges pertaining to public

participation and social accountability. Wellman *et al.* (2005:167) state that an interview schedule or guide consists of a list of topics and aspects that have a bearing on the given theme and that the interviewer can raise during the interviews.

6.4.1 Validity and Reliability

Validity and reliability are key measures in quantitative research while trustworthiness is more applicable to qualitative research. According to Salkind (2018:105, validity measures whether an instrument such as a questionnaire measures what it supposed to measures. In this regard Welman *et al.* (2005:142) maintain that validity is used to determine whether the findings reflect what was measured. Babbie and Mouton (2004:122) agree that the results of an instrument is valid when the results provide the precise meaning that it intended to measure. Salkind (2018:105) and Welman *et al.* (20015:142-144) point out that there are different types of validity, namely content, construct and criterion validity. Content validity intends to measure how well the various items represent the whole universe of items or all components of all items (Salkind, 2018:105). It implies that an instrument has a high content validity if it looks at the various components holistically, not neglecting any of the component of the instrument (Bless *et al.* 2014:230). Face validity refers to the appearance of the research instrument. Bless *et al.* (2014: 233) explains that if the research instrument is too simplistic, it could mean that the respondents will not take the research seriously. The same is applicable if it appears too difficult, the respondents could give up even before they began completing the research instrument.

This study focussed on qualitative research, however, the content validity of the semi-structured questionnaire was assessed by asking an expert through the pilot study to assess if the items in particular of the closed-ended questions of both of the semi-structured questionnaire and the semi-structured interview schedule assessed what the researcher intends to assess.

Reliability means that the results of any measuring instrument must be consistent whenever tests are repeated (Welman *et al.*, 2005:145; Bless *et al.*, 2014:222). In qualitative studies as in this study reliability and validity of data can be acquired through the concept of trustworthiness which are based on four thoughts, credibility, dependability, transferability and confirmability

(Bless *et al.* 2014:236-237; Du Plooy-Cilliers *et al.*, 2014:253-254). Credibility implies that the research findings must be trustworthy. In this study credibility refers to the extent to which the researcher interpreted the data provided by the respondents to provide valid and trustworthy findings (Maree *et al.* 2016:123; Du Plooy-Cilliers *et al.*, 2014:258). Confirmability entails that the data which were collected from the respondents supports the findings and interpretations of the researcher (Maree *et al.* 2016:125; Du Plooy-Cilliers *et al.*, 2014:259). Transferability means that when the findings be applied to a similar situation it will deliver similar results (Du Plooy-Cilliers *et al.*, 2014:258). In this study, transferability refers to the extent to which the research findings can be generalised. Lastly, dependability refers to the quality of the process of integration it means that the data that was collected and analysed and the theory that was generated in this study must support the findings and interpretations (Du Plooy-Cilliers *et al.*, 2014:259). In this study, Cronbach's coefficient alpha was used as a reliability internal consistency method to determine whether the items, particularly the closed-ended items, in both the semi-structured questionnaire and the interview schedule provided consistent information on a measurement scale or test as outlined in section 6.4.2 below.

A pilot study was conducted by the Director-General of the Free State Provincial Government who is regarded an expert in the field of oversight and accountability to test the quality and appropriateness of the semi-structured questionnaire and the interview schedule. Any inconsistencies, ambiguities and uncertainties regarding the instruments were corrected before the actual research was conducted. The purpose of the pilot study was to ensure the reliability and trustworthiness of the semi-structured questionnaires and the interview schedule.

6.4.2 Reliability (Cronbach's alpha)

Reliability of a measuring instruments such as the semi-structured questionnaire and the semi-structured interview schedule which was used in this study was also determined by using an internal consistency method such as the Cronbach's coefficient alpha. As a reliability internal consistency method Cronbach's alpha provides a measure of the extent to which the items on a measurement scale provide consistent information. According to Chetty (2015:175), the scale in Cronbach's reliability test ranges from zero to one, which entails that scores close to one means that the instrument has high reliability, while scores close to zero means that the reliability of the instrument is very low. Gliem and Gliem (2003) outline the guidelines for the

interpretation of Cronbach's alpha coefficient have been suggested and the following scale seems generally accepted by researchers:

- 0.90 – high reliability
- 0.80- moderate or good reliability
- 0.70 – acceptable reliability
- 0.5 – poor reliability
- 0.4 – unacceptable reliability

6.4.2.1. Results of the Cronbach's alpha of the semi-structured questionnaire

On Section B of the semi-structured questionnaire, a reliability analysis on the political oversight and accountability scale comprising of 11 statements consisted of 11 items results in a Cronbach's alpha (α) of 0.73. Items 1, 3, 6, 9, 10 and 11 were reversed for the analysis, so that the opposite is true. The scale had an acceptable internal consistency ($\alpha > 0.60$). Most items appeared to be worthy of retention, resulting in a decrease in the alpha if deleted.

On Section C of the semi-structured questionnaire, a reliability analysis on the municipal financial oversight and accountability scale comprising of 12 statements consisted of 12 items results in a Cronbach's alpha (α) of 0.89. Items 7, 8, and 9 were reversed for the analysis, so that the opposite is true. The scale had an acceptable internal consistency ($\alpha > 0.60$). Most items appeared to be worthy of retention, resulting in a decrease in the alpha if deleted.

On Section D of the semi-structured questionnaire, a reliability analysis on the municipal administrative oversight and accountability scale comprising of 5 statements consisted of 5 items results in a Cronbach's alpha (α) of 0.85. The scale had an acceptable internal consistency ($\alpha > 0.60$). Most items appeared to be worthy of retention, resulting in a decrease in the alpha if deleted.

On Section E of the semi-structured questionnaire, a reliability analysis on the municipal social oversight and accountability scale comprising of 6 statements consisting of 6 items results in a Cronbach's alpha (α) of 0.62. Item 5 was reversed for the analysis, so that the opposite is true. The scale had an acceptable internal consistency ($\alpha > 0.60$). Most items appeared to be worthy

of retention, resulting in a decrease in the alpha if deleted. The one exception to this was items 1 and 3, which would increase the alpha respectively to 0.67 and 0.69.

6.4.2.2 Results of the Cronbach's alpha of the semi-structured interview schedule

On Section 2 of the semi-structured interview schedule, a reliability analysis on public participation on the scale comprising of 11 items results in a Cronbach's alpha (α) of 0.93. Items 1, 2, 4, 5, 8, and 11 were reversed for the analysis, so that the opposite is true. The scale had an acceptable internal consistency ($\alpha > 0.60$). Most items appeared to be worthy of retention, resulting in a decrease in the alpha if deleted. On Section 3 of the semi-structured questionnaire, a reliability analysis on administrative accountability quality of service delivery comprising of 12 items results in a Cronbach's alpha (α) of 0.92. Items 8, 10 and 12 were reversed for the analysis, so that the opposite is true. The scale had an acceptable internal consistency ($\alpha > 0.60$). Most items appeared to be worthy of retention, resulting in a decrease in the alpha if deleted. On Section 4 of the semi-structured questionnaire, a reliability analysis on administrative accountability service delivery performance comprising of 11 items results in a Cronbach's alpha (α) of 0.85. Item 10 was reversed for the analysis, so that the opposite is true. The scale had an acceptable internal consistency ($\alpha > 0.60$). Most items appeared to be worthy of retention, resulting in a decrease in the alpha if deleted.

6.5 LITERATURE REVIEW

Hussey and Hussey (1997:111) define a literature review as a written summary of the finding of a literature search, which demonstrates that the body of knowledge has been thoroughly engaged to get a clear understanding and clear insight of the previous researches.

In this study a comprehensive descriptive approach was applied in this study by answering the research questions for this study. The literature study was based on a comprehensive descriptive qualitative study which was covered in Chapter 2, Chapter 3, Chapter 4 and Chapter 5 of this study. As part of the qualitative research a semi-structured interview schedule was used to conduct semi-structured interviews with selected respondents of the two selected local municipalities attached to the Lejweleputswa District Municipality of the Free State province.

A semi-structured questionnaire was also used to collect data from the selected municipal respondents of the selected municipalities of the Free State province.

6.6 DATA COLLECTION

According to Bless *et al.* (2014:184), there are many ways of collecting data as determined by the aim, research questions and objectives of the study. Maree *et al.* (2017:37) agree with the above that there are many data collection sources, methods and techniques to collect qualitative data. Some of the qualitative data collection includes methods entail observations, semi-structured, unstructured interviews and document analysis.

Bless *et al.* (2014:184) maintains that the collection of data can be classified into primary or secondary data sources. Information for this study was required from both secondary and primary data sources. This method is preferred because both primary and to a larger degree, secondary information sources are available. According to Salkind (2018:179), primary data sources refer to original reports, journals abstracts and articles, scholarly books, documents, interviews, records of eyewitnesses, dairies. Bless *et al.* (2014:184) maintain that secondary sources refer to data which was collected by other investigators either in connection with other research problems, or as part of the usual gathering of social data for a population census. In this study specific information concerning oversight and accountability in the South African public sector in particular local sphere of government was extracted from recent research projects, scholarly journals, government reports and documents, and the data collected from the semi-structured questionnaire and the semi-structured interviews conducted for this study. Recent information and literature about oversight and accountability in local sphere of government were also collected from both primary and secondary sources.

Nkatini (2005:30) illustrates that data could be collected through interviews which could be structured or semi-structured. In structured interviews the interviewer asks each respondent the same questions in the same way. In semi-structured interviews the interviewer poses open-ended questions that allow both the interviewer and the interviewee (respondent) to discuss the given topic in detail. In unstructured interviews, rather than follow any structure, the interviewer covers as much ground on a given topic with the respondent as the latter may provide Nkatini (2005:30). While a scheduled interview is one conducted in terms of a given space and time, a structured or semi-structured scheduled interview keeps the same questions

for different respondents within a given space and time (Nkatini, 2005:30). Carey (2009:111) reports that in-depth interviews, usually with a small number of participants on one on one basis, provide one of the most reliable means by which to build upon a literature review and explore the key themes and objectives of a research question. This is due to many factors, including a realization that through language people can often best articulate and explain their thoughts, opinions, emotions and experiences. Carey (2009:111) further indicates that interviews are also one of the most popular means of data collection, principally because they provide a convenient, cheap, often uncomplicated and effective means by which to collect and extensive amount of data in a relatively short period of time.

Brewerton and Millward (2006:67) point out that if data is collected in a qualitative study, interviews can also be readily combined with other methods such as semi-structured questionnaires or observations. These authors contend that interviewing, like all data collection methods, is open to various biases and shortcomings, the most critical being the difficulty to achieve reliable and valid results (Brewerton and Millward, 2006:67). They laud the quantification and objectification of interview-derived data as being the best remedy and highlight the importance of the researcher maintaining an objective stance throughout the research process. However, Salkind, (2009:144-145) confirms that semi-structured interviews are more flexible to both the interviewer and the interviewee. This flexibility allows for the interviewer to probe for more information to get a better understanding of the information, facts and uncertainties, provided by the interviewee.

Nkatini (2005:30) avers that questionnaires are sets of questions that must be simple and short, unambiguous, understandable, not double-barrelled, and at the same time should not be leading the respondents. A questionnaire should be compiled after the researcher has made a list of topics that must be researched, followed by an analysis of the kind of data that must obtained. Engel and Schutt (2013:228) further argue that questionnaire involve the collection of information from a sample of individuals through their responses to questions. A questionnaire as a data collection instrument, consists of a standardised set of questions (Bless et al. 1995:106-107).

In this study a semi-structured interview schedule was used to conduct interviews with the selected respondents of the two selected local municipalities attached to the Lejweleputswa District municipality. Except for the semi-structured interview schedule a semi-structured

questionnaire was used to collect data from MMs, chief financial officers and mayors from the selected municipalities of the Free State province. The MM of each of the selected municipality assisted with the distribution and collection of the responses of the semi-structured questionnaire from the relevant municipalities.

6.7 DATA ANALYSIS

Data analysis refers to a continuous process of describing, classifying and interpreting data. In addition, data analysis is the conversion of raw data, into valuable, meaningful information for the researcher (Leedy and Ormrod, 2005:148-150). Nkatini (2005:40) proposes that while the researcher is busy reading, reviewing, listening, transcribing recorded material, organizing or indexing data for easy management and identification at a later stage, the researcher is of necessity, analysing the same. The real analysis of data involves the concretization of identified categories takes place when all data have been collected and systematically arranged. Nkatini (2005:40) further maintains that although data analysis takes place in terms of the rules and specifications of the discipline concerned, it is essential for the researcher to take note of how qualitative and quantitative data should be dealt with.

According to Salkind (2017:132), descriptive statistics describe some of the characteristics of the distribution of the scores of the collected data including average scores on one variable or the degree that one score differs from another score. In this regard Maree *et al.* (2017: 220) argue that in quantitative data analysis the researcher wants to go beyond just summarising and describing the collected data, therefore, inferential statistics which relies on probability theory is used.

In qualitative data analysis Maree *et al.* (2017:204-205) are of the opinion that descriptive statistics is one of the methods that can be utilised in a graphical or numerical way. The different response categories of a variable are shown numerically with the frequency of respondents (expressed as a percentage of the sample size) in each of the different categories. While the usage of a simple bar chart is another commonly used graphical way of summarising qualitative variables (Maree *et al.* 2017:204-205). Other than using descriptive statistics to analyse qualitative data, Du Plooy-Cilliers *et al.* (2014:250) point out that there are several data analysis methods to analyse qualitative data including coding, discourse analysis, conversation analysis, multimodal conversation analysis and semiotics. In this regard, Babbie (2010:418)

argues that three key tools for preparing data for qualitative data analysis are coding, memoing and concept mapping. In addition, researchers can take advantage of the capabilities of common software tools such as word processors, database programmes and spreadsheets.

In this study the researcher was assisted by an experienced statistician to analyse the data of the semi-structured questionnaire and the semi-structured interview schedule. The data analysis include description as well as a summary of the information obtained from the semi-structured questionnaire and semi-structured interviews. Simple, graphs, bar charts, tables and percentages were used to present data which could be viewed from different perspectives. In doing so, anomalies were identified and pursued. The Statistical Package for social Sciences programme (SPSS) was used to analyse the data. Davis, Pecar, Santana and Burke (2014:16) suggest that raw data, is often difficult to interpret because there are usually too many values to easily distinguish any patterns in the data. Therefore, an Excel spreadsheet was used to summarise the data created by tables that report how often certain sections of the data appear in the data set. Presenting raw data in a table can make even the most comprehensive collection of data more readily understandable. The data obtained from the semi-structured interviews was categorised into different themes and sub-themes or groups of meaning. The questions or statements were grouped into those themes to ensure a logical flow of information. The data analysis included a description as well as a summary of the information obtained from the semi-structured questionnaire and interview schedule. Only descriptive statistics were used in this study to analyse the data from the semi-structured questionnaire (qualitative), especially Section A of the semi-structured interviews. Bless *et al.* (2014: 348) confirm that descriptive statistics can be performed on qualitative data provided inferential statistical test are not used with qualitative data.

6.8 DATA PRESENTATION AND ANALYSIS OF FINDINGS OF THE SELF-ADMINISTERED SEMI-STRUCTURED QUESTIONNAIRE COMPLETED BY SELECTED MUNICIPAL OFFICIALS

The semi-structured questionnaire consisted of the following sections:

- Section A: Biographical Information (Comprise of 6 close- ended statements and 1 comments column (open-ended).

- Section B: Political Oversight and Accountability (Comprise of 11 close-ended statements and 1 comments column (open-ended).
- Section C: Municipal Financial Oversight and Accountability (Comprise of 12 close-ended statements and 1 comments column (open-ended).
- Section D: Municipal Administrative Oversight and Accountability (Comprise of 5 close-ended statements and 1 comments column (open-ended).
- Section E: Social Accountability (Comprise of 6 close-ended statements and 1 comments column (open-ended).

6.8.1 Section A: Biographical Information of senior municipal officials

This section contains the results of the 17 municipal official’s biographical information which includes population group, gender, disability, language commonly used, age group, highest level of education completed, municipal council currently employed. The tables and figures will report on the frequencies and percentages for each variable.

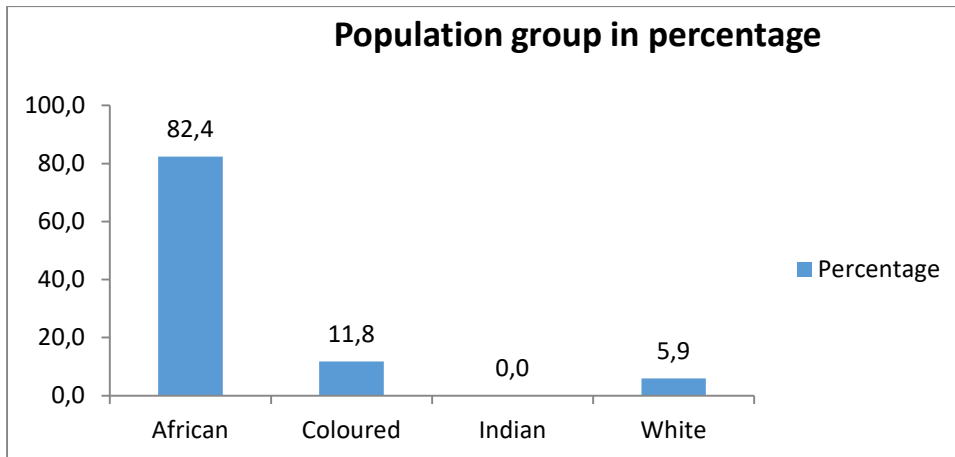
6.8.1.1 Population group

Table 6.1 and Figure 6.1 below identifies municipal officials according to their population group. Of the total sampled population of municipal officials, 82.4% were African, 11.8% were Coloured, 5.9% were white and there were no people of Indian origin. These findings roughly correlate with those of Statistics South Africa’s 2011 Census (2012:17) that the percentage distribution of the population, by population group and province in the Free State in 2011, was as follows: Blacks were at 87.6%, Coloured were at 3.1% and Indians were at 0.4%.

Table 6.1: Population group of the municipal officials (n = 17)

Population Group	Frequency	Percentage
African	14	82.4
Coloured	2	11.8
Indian	0	0.0
White	1	5.9

Figure 6.1: Population group of the municipal officials (n = 17)



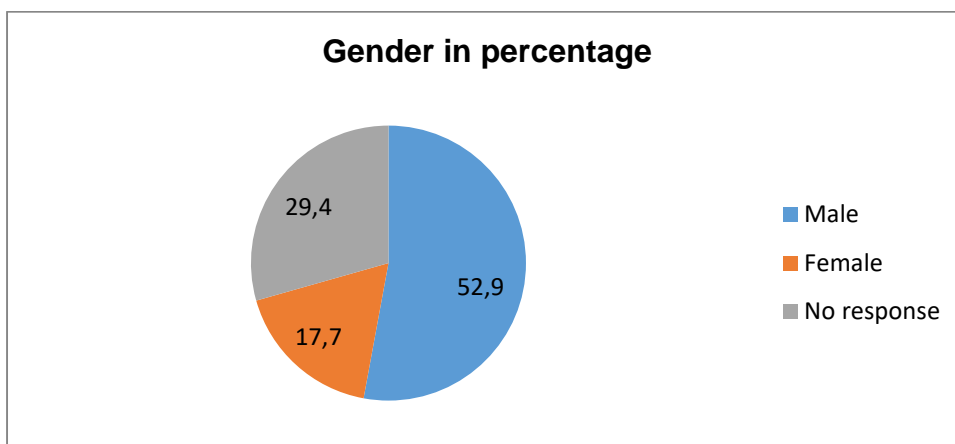
6.8.1.2 Gender

Of the interviewed respondents, 52.9% were males, 17.7% were female and 29.4% did not respond to this question. Table 6.2 and Figure 6.2 below tabulate respondents in terms of gender.

Table 6.2: Gender of the municipal officials (n = 17)

Population Group	Frequency	Percentage
Male	9	52.9
Female	3	17.7
No response	5	29.4

Figure 6.2: Gender of the municipal officials (n = 17)



6.8.1.3 Disability

None of the respondents were disabled.

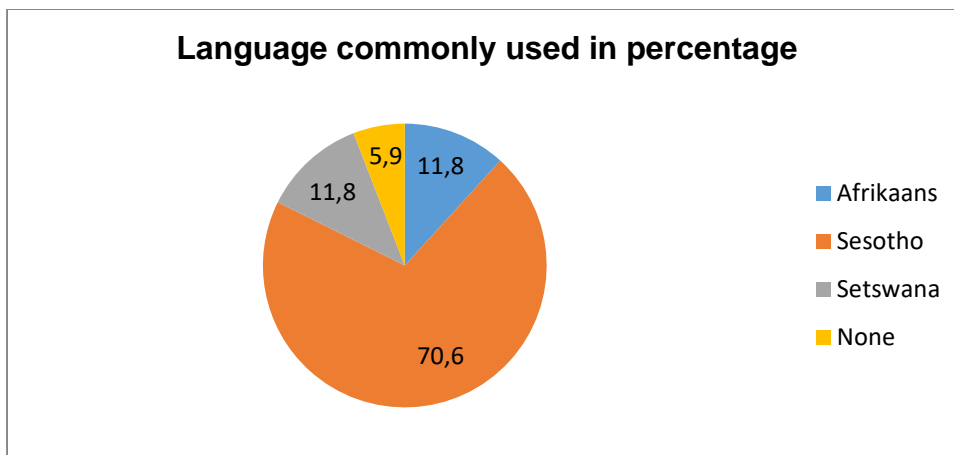
6.8.1.4 Language commonly used

Table 6.3 and Figure 6.3 below describe respondents according to the language commonly used. The respondents' responses were as follows; 70.6% were Sesotho speakers, 11.8% were Setswana and Afrikaans speaking. Of these respondents, 5.9% did not respond to the question.

Table 6.3: Language commonly used (n = 17)

Language	Frequency	Percentage
Afrikaans	2	11.8
Sesotho	12	70.6
Setswana	2	11.8
None	1	5.9

Figure 6.3: Language commonly used (n = 17)



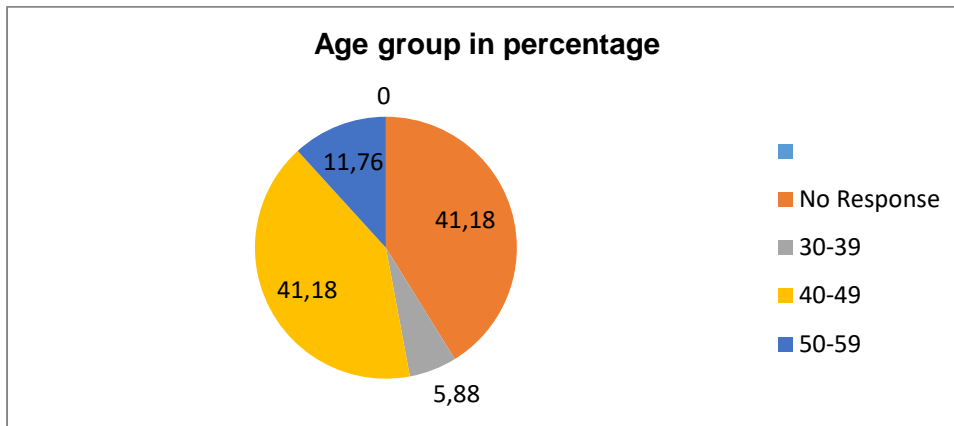
6.8.1.5 Age group

In this question, respondents within 30 to 39 years were 5.9%; respondents within 40 to 49 years were 41.2%, those within 50 to 59 years were 11.8% and 41.2 did not indicate their age group. Table 6.4 and Figure 6.4 below indicate respondents according to their age group.

Table 6.4: Age group (n = 17)

Age group	Frequency	Percentage
No Response	7	41.18
30-39	1	5.88
40-49	7	41.18
50-59	2	11.76

Figure 6.4: Age group (n = 17)



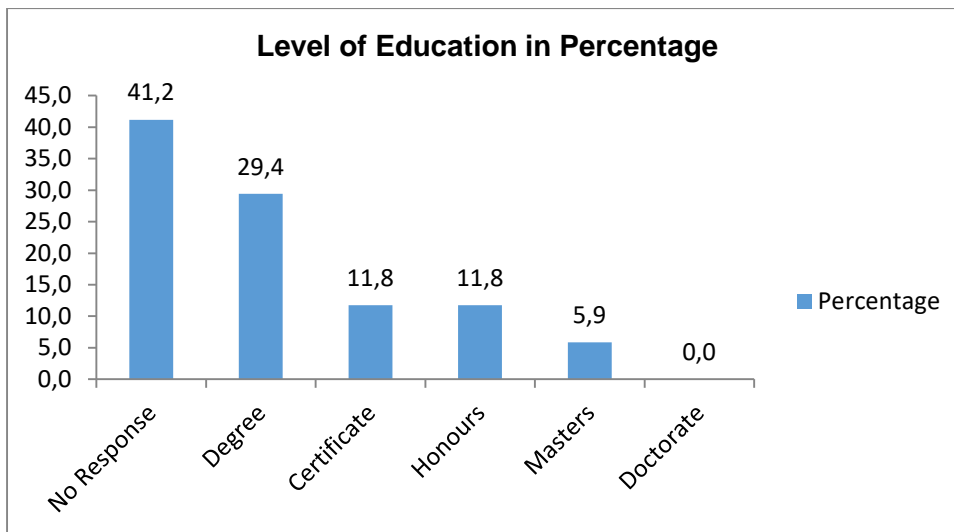
6.8.1.6 Highest level of education completed

Table 6.5 and Figure 6.5 show that, at 41.2%, the majority of the respondents did not indicate their highest level of education completed; 29.4% of respondents had a degree; 11.8% had a certificate or honours degree and 5.9% had a master's degree. None of the respondents had a doctorate degree.

Table 6.5: Highest level of education completed (n = 17)

Level of Education	Frequency	Percentage
No Response	7	41.2
Degree	5	29.4
Certificate	2	11.8
Honours	2	11.8
Masters	1	5.9
Doctorate	0	0.0

Figure 6.5: Highest level of education completed (n = 17)



6.8.1.7 Summary on the interpretations of questions 6.8.1.1- 6.8.1.6

This sub-section dealt with the results of the sampled municipal official’s biographical information which included population group, gender, disability, language commonly used, age group, highest level of education completed, and municipal council currently employed. Of the total sampled population of municipal officials, 82.4% were African origin, 11.8% were Coloured, 5.9% were white and there were no people of Indian origin. On gender of respondents, 52.9% were males, 17.7% were female and 29.4% did not respond to this question. None of the respondents were disabled. On the question on the language commonly used by the respondents, the responses were as follows; 70.6% were Sesotho speakers, 11.8% were Setswana and Afrikaans speakers. Of these respondents, 5.9% did not respond to the question. In the question of age group of respondents, respondents within 30 to 39 years were 5.9%; respondents within 40 to 49 years were 41.2%, those within 50 to 59 years were 11.8% and 41.2 did not indicate their age group.

On the question of the highest level of education completed by respondents, 41.2%; did not indicate their highest level of education completed. 29.4% of respondents have a degree, 11.8% have a certificate or honours degree and 5.9% have a master’s degree. None of the respondents had a doctorate degree. It is a concern that the majority of the respondents did not indicate their level of education. In Section 5.5.3 of Chapter 5 of this study, the *MFMA*, 2003 as amended, stated that senior managers of municipalities must at least have attained a bachelor’s degree, classified at NQF 7, with a minimum of 360 credits.

6.8.2 Section B: Political oversight and accountability

Section B of the semi-structured questionnaire was designed to investigate the perceptions of municipal officials, mayors or Executive mayors regarding political oversight and accountability. A five-point Likert scale ranging from strongly agree, agree, strongly disagree, disagree and don't know were used.

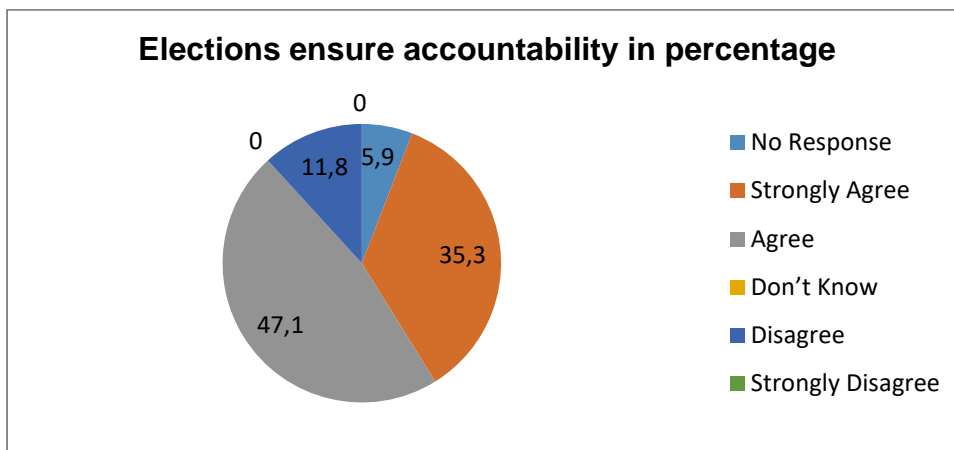
6.8.2.1 Municipal elections are a good tool to ensure accountability and transparency for political office-bearers

The Table 6.6 and Figure 6.6 below indicate whether municipal elections are a good tool to ensure accountability and transparency for political office-bearers. On the question of whether municipal elections are a good tool to ensure accountability and transparency for political office-bearers, 35.3% strongly agreed, 47.1% agreed, with 11.8% disagreeing. In Chapter 3, Section 3.5.1.2 of this study, it was mentioned by Adeyemi *et al.* (2012:84) that elections (national and municipal) can be used to revoke the electoral mandate of an elected official. However, voters do not have any direct way of holding elected representatives to account during the term for which they have been elected. The fact that ward councillors are directly linked to a constituency has not directly translated into local accountability. The Community Law Centre (2008:1) cautions that this deficit in local accountability begs the question whether a recall procedure would be an appropriate vehicle to enhance local accountability. Neither the Constitution of 1996 nor any of the legislation provides for a recall procedure. However, it was further argued in Chapter 3, Section 3.5.1.2 of this study, that the municipal council is elected directly by the electorate it represents and has constitutional mandate to oversee the administration and the executive of the municipality. In performing this constitutional mandate, the administration and the executive undertake vast powers that need proper oversight and accountability to avoid abuse and poor performance. Thus, municipal elections are a mechanism to hold municipal councils to account for the actions or in actions.

Table 6.6 Municipal elections are a good tool to ensure accountability and transparency for political office-bearers (n = 16)

Elections ensure accountability	Frequency	Percentage
No Response	1	5.9
Strongly Agree	6	35.3
Agree	8	47.1
Don't Know	0	0
Disagree	2	11.8
Strongly Disagree	0	0

Figure 6.6: Municipal elections are a good tool to ensure accountability and transparency for political office-bearers (n = 16)



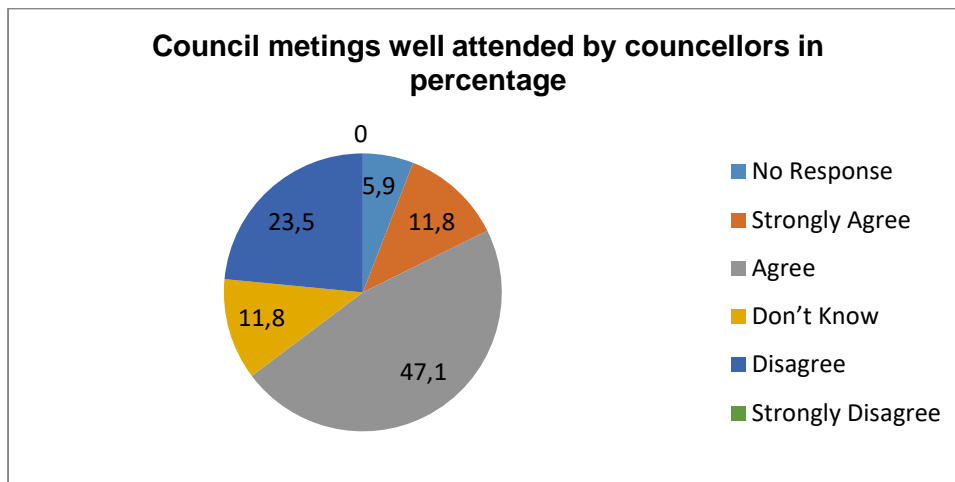
6.8.2.2 Municipal council meetings are always well attended by councillors

Table 6.7 and Figure 6.7 below describe whether municipal council meetings are always well attended by councillors. 5.9% did not respond to the question, whereas 11.8% strongly agreed, 47.1% agreed, 11.8% did not know and 23.5% disagreed with the statement. It is crucial for municipal councillors to take interest in the affairs of their constituencies and it is also noted that they attend their council meetings regularly. However, what is key is the quality of their inputs in such meetings. In Chapter 3, Section 3.6, Taaibosch (2015:90) points out that a councillor who is unable to perform legislative and governing activities will be less able to master administrative executive activities. Thus, councillors who lack the necessary knowledge and insight concerning relevant municipal legislation and policies may not be able to fulfil their oversight and accountable functions effectively, nor will they be able to make sound decision.

Table 6.7: Municipal council meetings are always well attended by councillors (n = 16)

Council meetings well attended by councillors	Frequency	Percentage
No Response	1	5.9
Strongly Agree	2	11.8
Agree	8	47.1
Don't Know	2	11.8
Disagree	4	23.5
Strongly Disagree	0	0

Figure 6.7: Municipal council meetings are always well attended by councillors (n = 16)



6.8.2.3 Municipal councillors interfere in the normal administrative functions of the municipality

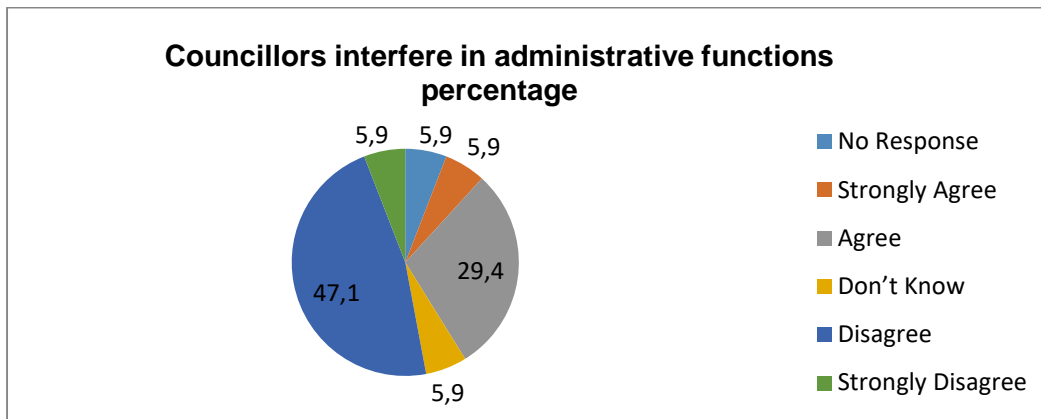
On the on whether municipal councillors interfere in the normal administrative functions of the municipality, Table 6.8 and Figure 6.8 below show that 5.9% did not respond to the question, 5.9% strongly agreed, 29.4% agreed, 5.9% indicated that they do not know and 47.1% disagreed and 5.9% strongly disagreed. The reason the majority of the respondents disagreed and strongly disagreed municipal councillors interfere in the normal administrative functions of the municipality could be that these respondents are not telling the truth. It also means that municipal councillors do not adhere to the requirement of Section 11(a) of the Code of Conduct of municipal councillors, which clearly provides that a councillor may not, except as provided in law interfere in the management or administration of any department of the municipal council unless mandated by the municipal council.

The above statement is contradicted by Thornhill in Du Plessis (2013:57) as indicated in Chapter 3, Section 3.6 of this study, who stresses that a major inhibiting phenomenon in the public sector is the increased interference of politicians in the normal administrative activities of the state. Du Plessis (2013:57) further pointed out in Chapter 3 that the practice of interference in the administrative activities of public organisations is especially widespread at the municipal sphere of government, and especially in human resources, where the appointment of senior executives such as the MM, is often done primarily on the basis of party political considerations (Du Plessis, 2013:57). It was also highlighted in Chapter 4, Section 4.13 of this study that no politician, councillor or any other person is allowed to interfere or try to influence with the municipalities SCM and procurement system or amend or tamper with any tenders, quotations, contracts or bids after their submissions. It was confirmed in Chapter 3, Section 3.10 of this study, that the Auditor-General in the report of 2016-2017 and 2017-2018 warned that political interferences in the administration weakened oversight and did not enable the effecting of consequences (AGSA, 2018:3; AGSA, 2019:12). Thus, political interference of municipal councillors of which municipalities of the Free State cannot be not only has a negative impact on the administrative functions of municipal official's it has a negative impact on their accountable role and on effective service delivery.

Table 6.8: Municipal councillors interfere in the normal administrative functions of the municipality (n = 16)

Councillors interfere in administrative functions	Frequency	Percentage
No Response	1	5.9
Strongly Agree	1	5.9
Agree	5	29.4
Don't Know	1	5.9
Disagree	8	47.1
Strongly Disagree	1	5.9

Figure 6.8: Municipal councillors interfere in the normal administrative functions of the municipality (n = 16)



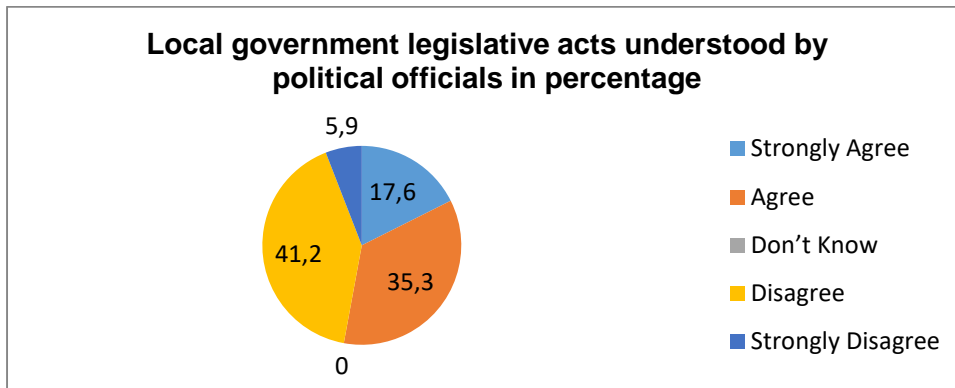
6.8.2.4 Local government legislative acts and policies are understood by all political officials

Table 6.9 and Figure 6.9 below, show whether local government legislative acts and policies are understood by all political officials. The results indicate that 17.6% strongly agreed with the statement, 35.3% agreed, 41.2% disagreed and 5.9% strongly disagreed. Respondents who agreed and strongly agreed with the statement are slightly in the majority, with a margin of 5.8%. However, in Chapter 3, Section 3.6 of this study, Taaibosch (2015:90) points out councillors who lack the necessary knowledge and insight concerning relevant municipal legislation and policies may will not be able to fulfil their oversight and accountable functions effectively, nor will they be able to make sound decision. A concern is that although the majority of the respondents agreed that local government legislative acts and policies are understood by all political officials, the Auditor-General as indicated in Chapter 4 of this study, warned that the vulnerable financial position of all (100%) of the municipalities in the Free State is the result of the increase in irregular expenditure due to non-compliance with legislated rules and regulations. Thus, one could argue that municipal councillors must have a sound knowledge of relevant municipal legislation and SCM regulations to ensure that municipal officials are held to account for the implementation of municipal related legislative frameworks.

Table 6.9: Local government legislative acts and policies are understood by all political officials (n = 17)

Local government legislative acts understood by political officials	Frequency	Percentage
Strongly Agree	3	17.6
Agree	6	35.3
Don't Know	0	0
Disagree	7	41.2
Strongly Disagree	1	5.9

Figure 6.9: Local government legislative acts and policies are understood by all political officials (n = 17)



6.5.2.5 Local government legislations, rules and policies are always implemented by all officials

On whether local government legislations, rules and policies are always implemented by all officials as depicted in Table 6.10 and Figure 6.10 below, 5.9% of the respondents strongly agreed, 35.3% agreed, whereas 52.9% disagreed and 5.9% strongly disagreed. It was confirmed in Chapter 3, Section 3.12 of this study, that most municipalities bluntly ignore key legislation and SCM regulations. It was also emphasised in Chapter 4, Section 4.16 that the continued disregard of internal controls including proper record keeping and financial reporting and non-compliance with key financial management legislation remains a challenge in most municipalities. The continued inaction of municipal councils, mayors, MMs and other relevant executives to implement the recommendations of the Auditor-General weakened oversight and accountability of the financial affairs of most municipalities. The above led to

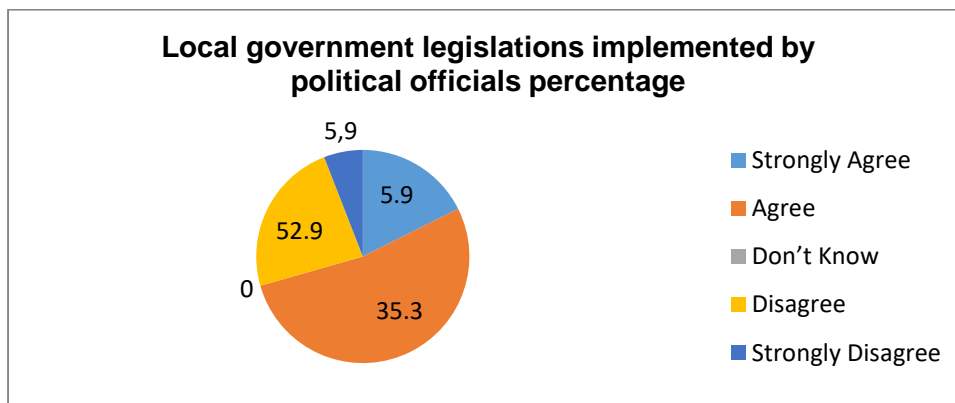
the creation of a culture of no consequences that weakens effective oversight and accountability.

In Chapter 3, Section 3.6 of this study, Du Plessis (2013:57) pointed out that considering the role of elected representatives, the argument is for them to have detailed knowledge of the organisational functioning of public institutions, including relevant municipal legislative frameworks and policies to ensure that municipal officials implement municipal legislation and policies in an effective manner. In this regard one could argue that the poor audit reports of municipalities in the Free State province as emphasised in Chapter 4, Section 4.8.3 of this study, by the Auditor-General is a clear indication that the prescripts of the *MFMA*, 2003 are not effectively implemented by any of the municipalities in the province. Thus, one could argue that relevant municipal legislation is not effectively implemented by municipalities of the Free State province.

Table 6.10: Local government legislations, rules and policies are always implemented by all officials (n = 17)

Local government legislations implemented by political officials	Frequency	Percentage
Strongly Agree	1	5.9
Agree	6	35.3
Don't Know	0	0
Disagree	9	52.9
Strongly Disagree	1	5.9

Figure 6.10: Local government legislations, rules and policies are always implemented by all officials (n = 17)



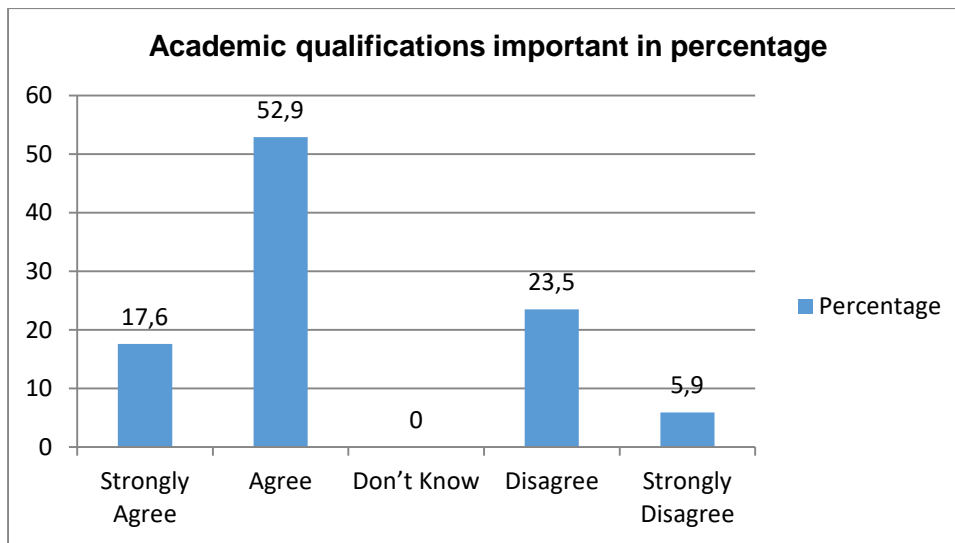
6.8.2.6 Academic qualifications are important for municipal councillors

Table 6.11 and Figure 6.11 below show as to whether academic qualifications are important for municipal councillors. 17.6% of respondents strongly agreed, 52.9% agreed, 23.5% disagreed and 5.9% strongly disagreed that academic qualifications are important for municipal councillors. It was argued in Chapter 3, Section 3.6 of this study, that Section 21 of the *Municipal Structures Act*, 1998 does not make provision for any specific educational or academic qualifications for a municipal councillor. Section 21 provides that every citizen who is qualified to vote for a specific municipal council has the right to stand as a candidate in an election for that council. Thus, one could argue there are no specific educational or academic requirements for a member to serve as a councillor on a municipal council. However, it was argued in Chapter 3, Section 3.6 of this study, that although the Municipal Structures Act of 1998 does not make provision for any educational or academic qualifications for municipal councillors they must have a clear knowledge of the relevant municipal legislative frameworks and policies including the functions a municipality to ensure that municipal officials are held to account for their administrative functions and effective implementation of applicable municipal legislation and policies. It further implies that political considerations and the popularity of individuals play a larger part in the election of candidates than a detailed knowledge of local government and its structures. This raises the question of whether the aforementioned places municipalities at a disadvantage.

Table 6.11: Academic qualifications are important for municipal councillors (n = 17)

Academic qualifications important	Frequency	Percentage
Strongly Agree	3	17.6
Agree	9	52.9
Don't Know	0	0
Disagree	4	23.5
Strongly Disagree	1	5.9

Figure 6.11: Academic qualifications are important for municipal councillors (n = 17)



6.8.2.7 Reports of corruption at local government sphere are grossly exaggerated

On the question whether reports of corruption at local government sphere were grossly exaggerated, Table 6.12 and Figure 6.12 below show that, 11.8% of respondents strongly agreed, 47.1% agreed, 5.9% didn't know, 29.4% disagreed and 5.9% strongly disagreed with the statement. This differs from the literature as discussed in Chapter 2, Section 2.9.2 of this study. Venter (in Van der Waldt *et al.* (2018:105) emphasised in Chapter 2, Section 2.9.4 of this study, that as far back as in 2009 the State of Local Government Report (2009:71-75) showed that poor financial management, a lack of control and accountability systems in the majority of the municipalities give rise to an increase in fraud, corruption and the misuse of municipal assets and funds. In Chapter 2, Section 2.10 of this study, it was further mentioned by Van der Waldt (2015:52) that the lack of effective oversight leads to instability and dysfunctionality of municipalities which creates an environment open to fraud and corruption. Thus, the findings from the majority of the participants who agreed that reports of corruption at local sphere are grossly exaggerated is a concern. Corruption is often a result of continued disregard of legislative and regulations. In Chapter 4, section 4.16 of this study it was emphasised by Munzhedzi (2016:2) that tender irregularities, bribery, corruption, non-compliance with SCM acts and regulations and the municipalities own SCM policy, incompetence and negligence of public officials are some of the concerns related to SCM and procurement practices throughout most municipalities. In Chapter 4, Section 4.23 of this study, Mantzaris (2017:124) pointed out that corruption in SCM and procurement practices,

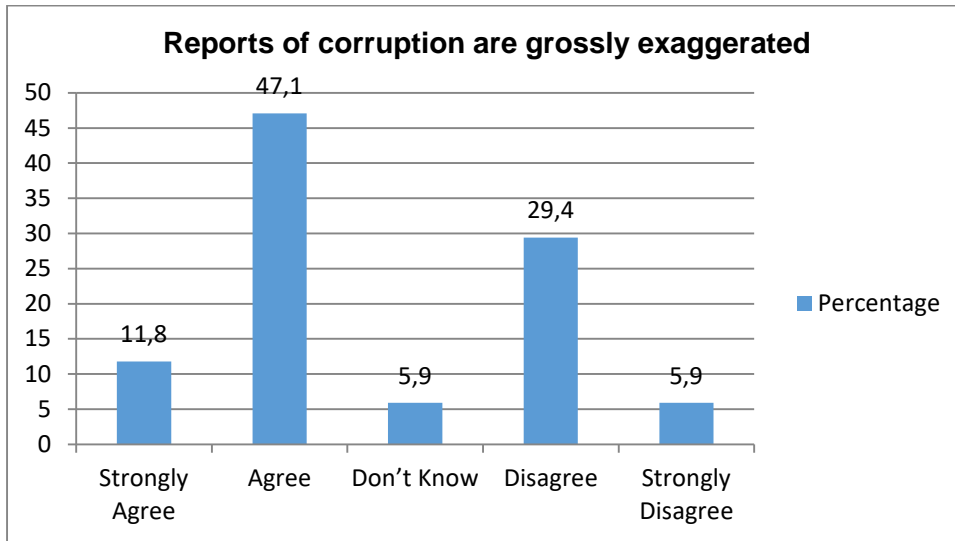
especially, has occurred throughout the public sector of which local government cannot be excluded. Despite the existence of numerous laws and National Treasury SCM and procurement regulations and Code of Conduct about SCM, corruption related to SCM in all three spheres of government is a concern. Furthermore, Mantzaris (2017:125) mentioned that that one of the root causes of corruption in SCM and procurement is the fight for dominance amongst administrative and political leaders, which is the result of a party monopoly in power in most municipalities. This leads to political interferences into the administration of the municipality and it further widens the gap among the political oversight and the municipalities administrators (Mantzaris, 2017:125).

In Chapter 4, Section 4.8.5 of this study, it was confirmed by the Auditor-General in the report for 2017-2018 (AGSA, 2019:2) that a total of 74% of the municipalities did not adequately follow up on allegations of financial and SCM misconduct and fraud. In the Free State province, especially, there is a total breakdown in controls and poor leadership responses towards improving accountability, capacity and stability. The Auditor-General in the report for 2016-2017 (AGSA, 2018:56) further confirms that that the continued disregards for procurement and SCM processes by the administrative and political leadership resulted in irregular expenditure, coupled with limited consequences for these transgressions is creating an environment open to misappropriation, wastage and the abuse of state funds.

Table 6.12: Reports of corruption at local government sphere are grossly exaggerated (n = 17)

Reports of corruption exaggerated	Frequency	Percentage
Strongly Agree	2	11.8
Agree	8	47.1
Don't Know	1	5.9
Disagree	5	29.4
Strongly Disagree	1	5.9

Figure 6.12: Reports of corruption at local government sphere are grossly exaggerated (n = 17)



6.8.2.8 State capture reports at local government sphere are a creation of the agents of the white monopoly capital

On the statement as to whether state capture reports at local government sphere are a creation of the agents of the white monopoly capital, Table 6.13 Figure 6.13 below show that the majority 11.8% of respondents strongly agreed, 41.2% agreed and 5.9% did not know. On the other hand, 35.3% of respondents disagreed with the statement that claim that state capture reports at local government sphere are a creation of the agents of the white monopoly capital and 5.8% strongly disagreed with the statement.

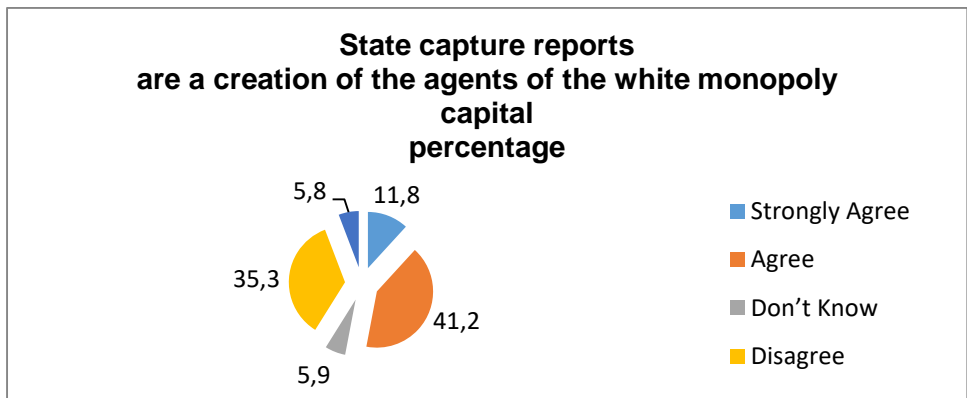
In Chapter 2, Section 2.9.2 of this study, Martin and Solomon (2017:2) point out that the shocking allegations of state capture not only undermine the efficiency of the state, especially where there is a direct relationship between state capture and corruption but it also undermines the rule of law. Furthermore, state capture also undermines the efficiency of the state and the constitutional mandated government bodies instated to maintain oversight and accountability. It was further mentioned by Martin and Solomon (2017:2) in Chapter 2, Section 2.9.2 of this study, it was mentioned state capture happens when governance structures, systems, laws and policies were disobeyed. Furthermore, there are no consequences for any wrong doings as a result of a lack and weakening of oversight, transparent and accountability structures and mechanisms. There is no doubt that the various corrupt activities and the shocking allegations

of state capture damaged the integrity of the constitutional mandated oversight organs of state and constitutional bodies to hold executives to account for their actions or inactions. Therefore, it is a concern that the majority of the participants agreed with the statement that state capture reports at local government sphere are a creation of the agents of the white monopoly capital. One could argue that the participants are either not well informed about the allegations of state capture and related corrupt activities of which municipalities cannot be excluded or it is an indication of the development of a culture of no consequences for alleged corrupt activities and state capture.

Table 6.13 State capture reports at local government sphere are a creation of the agents of the white monopoly capital (n = 17)

State capture reports are a creation of the agents of the white monopoly capital	Frequency	Percentage
Strongly Agree	2	11.8
Agree	7	41.2
Don't Know	1	5.9
Disagree	6	35.3
Strongly Disagree	1	5.8

Figure 6.13: State capture reports at local government sphere are a creation of the agents of the white monopoly capital (n = 17)



6.8.2.9 Municipal councillors clearly do not understand the role of Portfolio Committees, Audit Committees and Municipal Performance Audit Committee

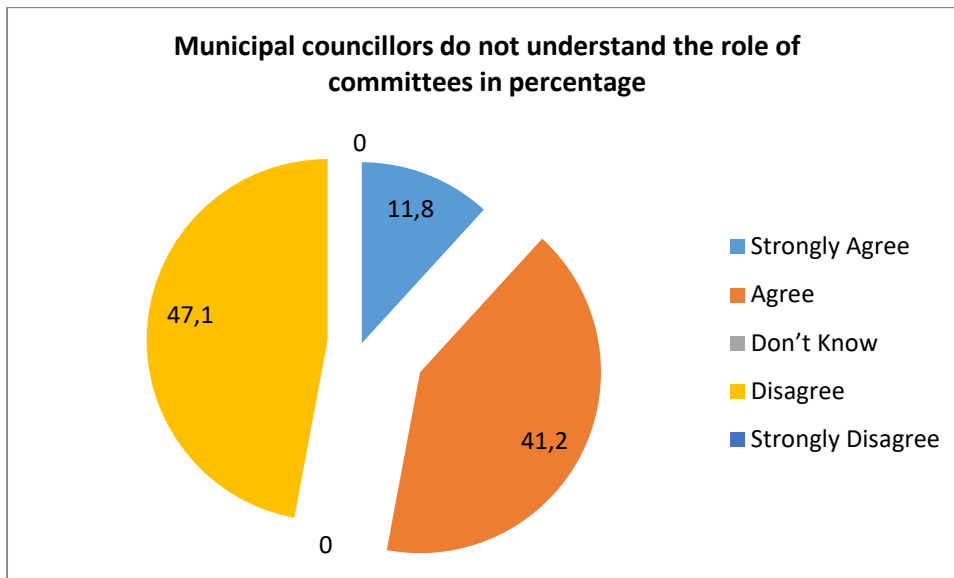
According to Table 6.14 and Figure 6.14 below, on whether municipal councillors clearly do not understand the role of portfolio committees, audit committees and Municipal Performance Audit Committee, 11.8% of respondents strongly agreed, 41.2% agreed, 47.1% disagreed. It is a concern that the majority of the respondents strongly agreed or agreed with the above statement. In Chapter 4, Section 4.11 of this study, Khalo (2013:58) points out that the committee system is used to support and enhance the municipal council oversight function and MPACs especially perform the municipal council's oversight role over municipal finances. In Chapter 3, Section 3.9.1 of this study, it was mentioned that the portfolio committees are classified as Section 80 committees and are permanent structures in the municipal council. Portfolio committees advise the executive committees on policy matters and make recommendations to the municipal council. Section 80 committees or portfolio committees report to the mayoral committee and are therefore accountable to it. Section 4.11 of this study stressed that MPACs, key oversight and accountable mechanisms in the municipality, were established in terms of Section 79 of the *Municipal Structures Act, 1998*. In Chapter 4 of this study, it was further highlighted that the Auditor-General warned in the 2017-2018 audit report that municipal councils do not implement the recommendations of the internal audit, audit committees or that of MPACs (AGSA, 2019:28). It was further mentioned in Chapter 4 of this study that these committees, including MPACs, lack the legal mandate to enforce their recommendations on municipalities, other concerns were that not all municipalities implement the recommendations of MPACs because of the inadequate legal mandate of the committees to enforce recommendations (Auditor-General, 2019:28). In Section 4.9, in Chapter 4 of this study, it was mentioned that internal audit committees must review the annual financial statements to provide the municipal council with an authoritative and credible view of the financial position of the municipality, its efficiency and effectiveness. It must also respond to the council on any matters raised by the Auditor-General in the audit report (Fourie and Opperman, 2007:66). However, it was further mentioned in Section 4.9 of this study that the internal audit committee lacks the mandate to take any action against municipal management for non-compliance with the *MFMA, 2003*. It was also argued that it is difficult for members of the internal audit committee to function without accurate, reliable information from management and internal audit units (Van Niekerk and Dalton-Brits, 2016:125). One can argue

that committee can function effectively if the political leaders (mayor or municipal council members) do not understand the function of Section 80 portfolio committees or the function of a key oversight committee such as MPACs.

Table 6.14: Municipal councillors clearly do not understand the role of portfolio committees, audit committees and municipal performance audit committee (n =17)

Municipal councillors do not understand the role of committees	Frequency	Percentage
Strongly Agree	2	11.8
Agree	7	41.2
Don't Know	0	0
Disagree	8	47.1
Strongly Disagree	0	0

Figure 6.14: Municipal councillors clearly do not understand the role of portfolio committees, audit committees and municipal performance audit committee (n = 17)



6.8.2.10 There is no consequence management for breaking the code of conduct for municipal councillors

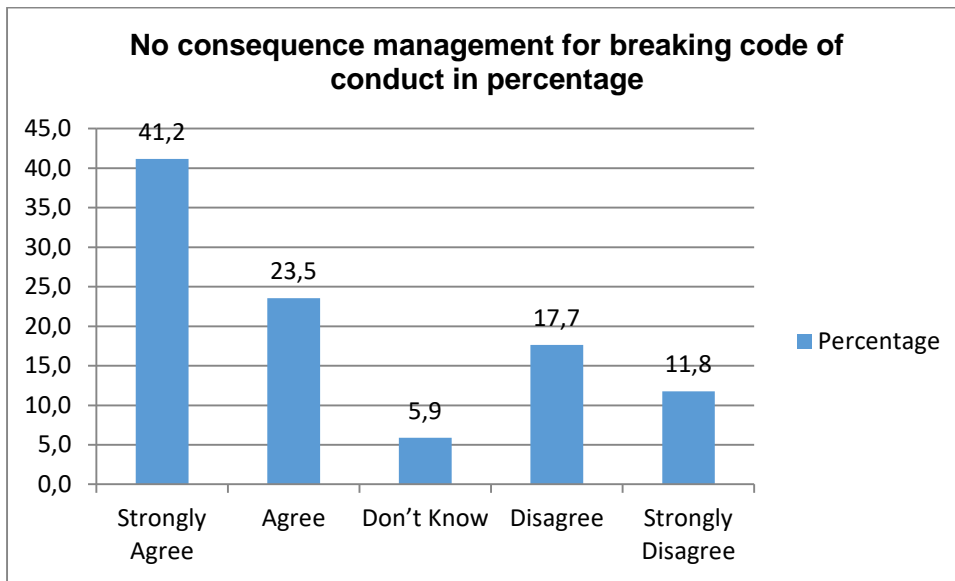
On the statement as to whether there is no consequence management for breaking the code of conduct for municipal councillors, Table 6.15 Figure 6.15 below show that 41.2% of respondents strongly agreed, 23.5% agreed and 5.9% did not know. On the other hand, 17.7% of respondents disagreed with the statement that indicate that there is no consequence

management for breaking the code of conduct for municipal councillors and 11.8% strongly disagreed with the statement. The majority of respondents specify that there is no consequence management for breaking the code of conduct for municipal councillors and this is also stressed in Chapter 2, Section 2.10 of this study, where Pauw *et al.* (2015:3016-307) state that corruption thrives when laws and policies are flawed and in particular when there are no consequences for corrupt conduct and any acts of unethical conduct and acts of dishonesty. In Chapter 4, Section 4.8.5 of this study it was confirmed by the Auditor-General in the report for 2016-2017 (AGSA, 2018:56) that the continued disregards for procurement and SCM processes by the administrative and political leadership resulted in irregular expenditure, coupled with limited consequences for these transgressions is creating an environment open to misappropriation, wastage and the abuse of state funds. The Auditor-General report for 2017-2018 (AGSA, 2019:2) indicated that a total of 74% of the municipalities did not adequately follow up on allegations of financial and SCM misconduct and fraud. It was further mentioned that in the Free State province there is a total breakdown in controls and poor leadership responses towards improving accountability, capacity and stability, that further contributes to a lack of accountability and no consequences for non-compliance with key legislated rules including the code of conduct for municipal councillors in local government.

Table 6.15: There is no consequence management for breaking the code of conduct for municipal councillors

No consequence management for breaking code of conduct	Frequency	Percentage
Strongly Agree	7	41.2
Agree	4	23.5
Don't Know	1	5.9
Disagree	3	17.7
Strongly Disagree	2	11.8

Figure 6.15: There is no consequence management for breaking the code of conduct for municipal councillors



6.8.2.11 I have not heard or read about cases of corruption being experienced in my municipality in the past year

On the question of whether respondents have not heard or read about cases of corruption being experienced in their municipality in the past year, 5.9% strongly agreed, 23.5% agreed, with 5.9 stating that they do not know and 47.1% of respondents disagreed and 17.6% strongly disagreed with the statement. Table 6.16 and Figure 6.16 below indicate whether whether respondents have not heard or read about cases of corruption being experienced in their municipality in the past year. A concern is that a total of 29.14% of the respondents replied that they have not heard or read about cases of corruption experienced in their municipality in the past year. It could mean, that these respondents did not tell the truth. In Chapter 4, Section 4.8.5, of the study, it was mentioned that the Auditor-General warned in the report for 2016-2017 (AGSA, 2018:56) the Free State municipalities continued disregards for procurement processes by the administrative and political leadership resulted in irregular expenditure, coupled with limited consequences for these transgressions, is creating an environment open to misappropriation, fraud, wastage and the abuse of state fund. The Auditor-General further warned in Chapter 4 of this study that the deterioration of the local government environment of municipalities in the Free State province was evident in the vulnerable financial position of all (100%) of the municipalities due to the increase in irregular expenditure and non-compliance with legislated rules. It was further confirmed in Chapter 4 that the Auditor-

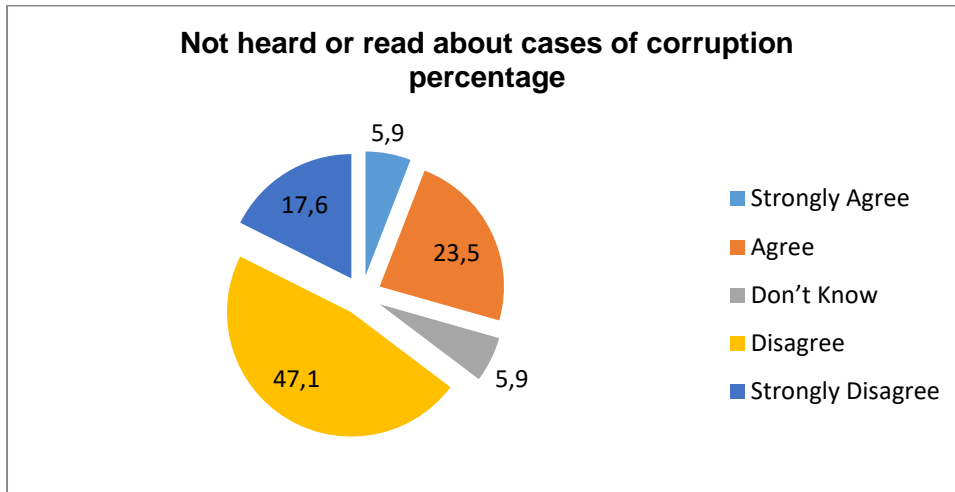
General reported that the majority of the municipalities of which the municipalities of the Free State cannot be excluded did not investigate any of the findings reported on by the Auditor-General (AGSA, 2019:9) concerning possible fraud or improper conduct related to SCM findings, which is a concern.

It was further confirmed in Chapter 4, Section 4.8.5 of the study, that the Auditor-General stated in the report for 2017-2018 (AGSA, 2019:2) that a total of 74% of the municipalities did not adequately follow up on allegations of financial and SCM misconduct and fraud. One could argue that the current vulnerable financial position of all municipalities in the Free State province, and the fact that municipalities not investigate any of the findings reported on by the Auditor-General (AGSA, 2019:9) concerning possible fraud or improper conduct related to SCM findings as required is a concern. The latter contributes to the culture of no consequences in municipalities in the Free State to promote accountability and to investigate findings of Auditor-General related to indicators of possible fraud and improper conduct related to SCM and the indicators of possible fraud and improper conduct.

Table 6.16: I have not heard or read about cases of corruption being experienced in my municipality in the past year

Not heard or read about cases of corruption	Frequency	Percentage
Strongly Agree	1	5.9
Agree	4	23.5
Don't Know	1	5.9
Disagree	8	47.1
Strongly Disagree	3	17.6

Figure 6.16: I have not heard or read about cases of corruption being experienced in my municipality in the past year



6.8.2.12 Summary on the interpretations of questions 6.8.2.1 – 6.8.2.11

On the question of whether municipal elections are a good tool to ensure accountability and transparency for political office-bearers, the majority (82.4%) of the respondents strongly agreed or agreed with the statement. In Chapter 3, of this study, Ola and Effiong in Adeyemi, *et al.* (2012:84) concurs that elections (national and municipal) can be used to revoke the electoral mandate of an elected official. However, voters do not have any direct way of holding elected representatives to account during the term for which they have been elected. The Community Law Centre (2008: 1) cautions that this deficit in local accountability begs the question whether a recall procedure would be an appropriate vehicle to enhance local accountability. Neither the *Constitution*, 1996 nor any of the legislation provides for a recall procedure. Therefore, one could argue that municipal elections are not a good tool to ensure accountability of political office-bearers.

On the question as to whether municipal council meetings are always well attended by councillors, the majority (58.9%) of the respondents strongly agreed or agreed, with this statement. Attending council meetings is important for good municipal governance. According to the South African Local Government Association (SALGA, 2011:182), municipal councillors must make decisions on behalf of their constituents they serve; represent the needs and interests of their constituents; fulfil leadership roles in municipal councils; act as custodians or guardians of public finance; provide effective oversight of municipal executive and council

officials and accounting officers; and be responsive to the communities they serve. Thus, municipal councillors must attend council meetings to fulfil their oversight role effectively.

On the question whether municipal councillors interfere in the normal administrative functions of the municipality, the majority of the respondents (53%) disagreed or strongly disagreed with this statement. It was argued that the reason the majority of the respondents disagreed and strongly disagreed that municipal councillors interfere in the normal administrative functions of the municipality could be that these respondents were not telling the truth. It also means that municipal councillors do not adhere to the requirement of Section 11(a) of the Code of Conduct of municipal councillors, which clearly provides that a councillor may not, except as provided in law interfere in the management or administration of any department of the municipal council, unless mandated by the municipal council.

On the question of whether local government legislative acts and policies are understood by all political officials, the majority of the respondents (52.9%) strongly agreed, or agreed with the statement, while a total of 47% of the respondents either disagreed or strongly disagreed with the statement. The respondents who agreed and strongly agreed with the statement are slightly in the majority, with a margin of 5.8%. A concern is that although the majority of the respondents agreed that local government legislative acts and policies are understood by all political officials, the Auditor-General as indicated in Chapter 4 of this study warned that the vulnerable financial position of all (100%) of the municipalities in the Free State is the result of the increase in irregular expenditure due to non-compliance with legislated rules and regulations. It was argued that municipal councillors must have a sound knowledge of relevant municipal legislation and SCM regulations to ensure that municipal officials are held to account for the implementation of municipal related legislative frameworks.

On the question whether, local government legislations, rules and policies are always implemented by all officials, the majority (58.8) of the respondents disagreed, or strongly disagreed with this statement. In Chapter 4 of this study, it was mentioned that the mayor is expected to oversee and manage the MM to ensure delivery on the agreed outputs, and the municipal council must exercise oversight of the executive mayor or committee to ensure they fulfil their responsibility of oversight (National Treasury, 2004:6). Therefore, it was argued that if political leaders do not have a sound knowledge of applicable local government legislation how will they be able to hold the executives to account for non-compliance with

legislative rules. The Auditor-General, in Chapter 4 of this study, confirmed that the deterioration of the local government environment of municipalities in the Free State province was evident in the vulnerable financial position of all (100%) of the municipalities due to the increase in irregular expenditure and non-compliance with legislated rules. The above is a clear indication that local government legislation are not effectively implemented by municipalities in the Free State province.

On the question as to whether academic qualifications are important for municipal councillors, the majority of the respondents strongly agreed or agreed, with the statement. In Chapter 3 of this study, it was emphasised that the Municipal Structures Act of 1998 does not make provision for any educational or academic qualifications for municipal councillors. It was also mentioned in Chapter 3, Section 3.6 of this study, that political considerations, as well as the popularity of individuals, play an overriding part in the election of candidates, rather than a detailed knowledge of local government and its structures. It was argued that the latter practice places municipalities at a disadvantage (Du Plessis, 2013:56).

On the question of whether reports of corruption at local government sphere are grossly exaggerated, the majority of the respondents strongly agreed or agreed with the statement, while only 35.3% of the respondents disagreed or strongly disagreed with the statement. In Chapter 4, Section 4.3 of this study, an argument is made on how rife corruption is in state institutions in South Africa, of which municipalities in the Free State province cannot be excluded. It was further confirmed in Chapter 4 of this study that the Auditor-General reported that the majority of the municipalities of which the municipalities of the Free State cannot be excluded did not investigate any of the findings reported on by the Auditor- General (AGSA, 2019:9) concerning possible fraud or improper conduct related to SCM findings, which is a concern.

On the statement as to whether state capture reports at local government sphere are a creation of the agents of the white monopoly capital, the majority (53%) of the respondents strongly agreed or agreed with the statement. On the other hand, (41.1%) of the respondents either disagreed or strongly disagreed with the statement. The findings contradicted the discussion stated in Chapter 2, Section 2.9.2, of this study. In Chapter 2, Section, 2.9.2 of this study, it was argued that there is no doubt that the various corrupt activities and the shocking allegations of state capture damaged the integrity of the constitutional mandated oversight organs of state

and constitutional bodies to hold executives to account for their actions or inactions. Therefore, it is a concern that the majority of the participants agreed with the statement that state capture reports at local government sphere are a creation of the agents of the white monopoly capital. One could argue that the participants are either not well informed about the allegations of state capture and related corrupt activities or it is an indication of the development of a culture of no consequences for alleged corrupt activities and state capture.

On whether municipal councillors clearly do not understand the role of portfolio committees, audit committees and Municipal Performance Audit Committee, a slight majority (53%) of the respondents strongly agreed, or agreed, while 47.1% disagreed with this statement. It is a concern that the majority of the respondents strongly agreed and agreed that municipal councillors clearly do not understand the role of portfolio committees, audit committees and Municipal Performance Audit Committee. It was argued that no committee can function effectively if the political leaders (mayor or municipal council members) do not understand the function of Section 80 committees or the function of a key oversight bodies such as MPACs. In Chapter 4 of this study, it was highlighted that Section 80, portfolio committees are mandated to provide advice to the executive mayor, while MPACs, established in terms of section 79 of the *Municipal Structures Act*, 1998, are key oversight committees.

On the statement as to whether there is no consequence management for breaking the code of conduct for municipal councillors, the majority (64.7%) of the respondents strongly agreed or agreed with this statement. On the other hand, 29.5% of the respondents disagreed, or strongly disagreed with the statement. The majority (64.7%) of respondents stated that there is no consequence management for breaking the code of conduct for municipal councillors. This finding is in agreement with the literature provided in Chapter 3, Section 3.10 of this study, where it was mentioned that the development of a culture of no consequences is a result of inadequate oversight and performance systems and process; and disobeying and continued non-compliances with key municipal legislations creates an environment that makes it easy to commit fraud and corruption within municipalities (AGSA, 2019:9).

On the question of whether respondents have not heard or read about cases of corruption being experienced in their municipality in the past year, only 29.4% of the respondents either strongly agreed, or agreed, while the majority (64.7%) of the respondents either disagreed, or strongly

disagreed with the statement. The above findings are in contradiction with the findings of the Auditor-General. In Chapter 4 of this study, it was highlighted that the Auditor-General warned that the deterioration of the local government environment of municipalities in the Free State province was evident in the vulnerable financial position of all (100%) of the municipalities due to the increase in irregular expenditure and non-compliance with legislated rules (AGSA, 2019:10). It was further confirmed in Chapter 4, that the Auditor-General reported that the majority of the municipalities of which the municipalities of the Free State cannot be excluded did not investigate any of the findings reported on by the Auditor-General (AGSA, 2019:9) concerning the indications of possible fraud and improper conduct on the findings on SCM, which is a concern. Therefore, one could argue that there is a possibility that the respondents who agreed and strongly agreed that they have not heard or read about cases of corruption being experienced in their municipality in the past year are not telling the truth.

6.8.3 Section C: Municipal financial oversight and accountability

Section C of the semi-structured questionnaire was designed to investigate the perceptions of municipal officials, mayors or Executive mayors regarding municipal financial oversight and accountability. A five-point Likert scale ranging from strongly agree, agree, strongly disagree, disagree and don't know were used.

6.8.3.1 Municipal political and administrative officials have a proper understanding of the *Municipal Finance Management Act, 2003*

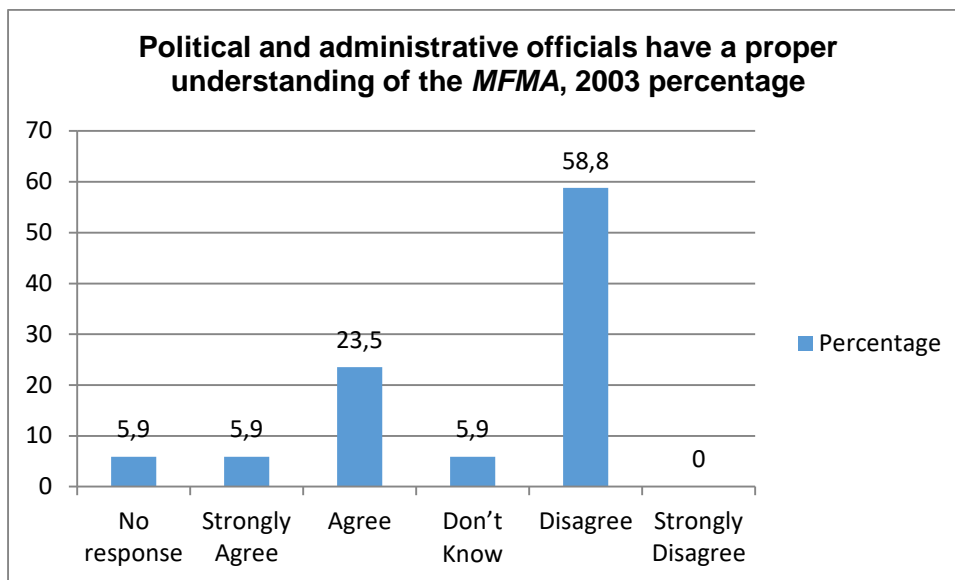
On the statement as to whether municipal political and administrative officials have a proper understanding of the MFMA of 2003, Table 6.17 Figure 6.17 below show that 5.9% of respondents strongly agreed, 23.5% agreed and 5.9% did not know. On the other hand, 58.8% of respondents disagreed with the statement that claim municipal political and administrative officials have a proper understanding of the MFMA of 2003 and 5.8% strongly disagreed with the statement. About 5.9% the respondents indicated that they did not know. From this question, the majority (64.6%) of the respondents disagreed and strongly disagreed that political and administrative officials properly understand the *MFMA*, 2003. In Chapter 4 of this study, it was mentioned that the Auditor-General reported in the 2017-2018 audit outcomes of municipalities in the Free-State, that the deterioration of the local government environment

of municipalities in the Free State province was evident in the vulnerable financial position of all (100%) of the municipalities, due to the increase in irregular expenditure and non-compliance with legislated rules of which the *MFMA*, 2003 cannot be excluded.

Table 6.17: Municipal political and administrative officials have a proper understanding of the *MFMA* of 2003 (n=17)

	Frequency	Percentage
Political and administrative officials have a proper understanding of the <i>MFMA</i> of 2003		
No response	1	5.9
Strongly Agree	1	5.9
Agree	4	23.5
Don't Know	1	5.9
Disagree	10	58.8
Strongly Disagree	0	0

Figure 6.17: Municipal political and administrative officials have a proper understanding of the *MFMA*, 2003 (n=16)



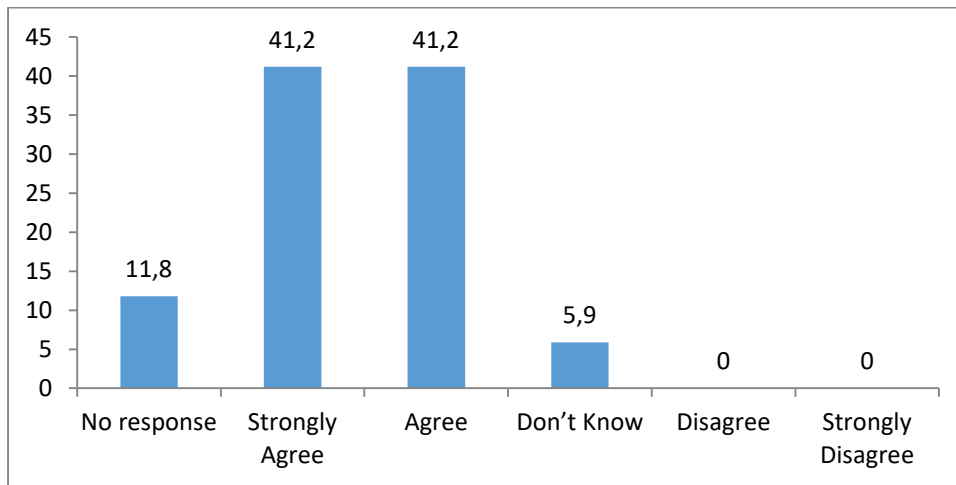
6.8.3.2 The Free State Provincial Treasury is assisting local municipality councils with compliance with the *MFMA*, 2003

On the question as to whether the FS Provincial Treasury is assisting local municipality councils with compliance with the *MFMA*, 2003, 11.8% did not respond, 41.2% strongly agreed with the statement, again 41.2% agreed. 5.9% of the respondents indicated that they do not know, and none disagreed or strongly disagreed with the statement. In Chapter 4, Section 4.4 of this study, Fourie and Opperman (2007:393) indicate that the Provincial Treasury must monitor compliance with *MFMA*, 2003, by municipalities in the province. The provincial treasuries must further, monitor the preparation by municipalities in the province of their budgets, monitor monthly outcome of those budgets and monitor the submission of reports by municipalities. The Provincial Treasury may assist municipalities in the province in the preparation of their budgets and may also take appropriate steps if a municipality commits a breach of the *MFMA*, 2003. In Chapter 4, Section 4.4 of this study, the National Treasury (2004:6) also agrees that the Minister of Finance has encouraged National and Provincial Treasury and finance officials to form a new professional body to support and develop such municipal officials. Despite the National Treasury (2004:6), urging Provincial Treasury to support local governments with their financial management, on the contrary in Chapter 4, Section 4.4 of this study, the Auditor-General (2017:55) reported that the Free State local government political and administrative leadership lacks accountability to address and to improve, the audit outcomes. Table 6.18 and Figure 6.18 below show that as to whether the Free State Provincial Treasury is assisting local municipal councils with compliance with the *MFMA* of 2003.

Table 6.18: The Free State Provincial Treasury is assisting local municipality councils with compliance with the *MFMA*, 2003 (n = 15)

Responses	Frequency	Percent
No response	2	11.8
Strongly Agree	7	41.2
Agree	7	41.2
Don't Know	1	5.9
Disagree	0	0
Strongly Disagree	0	0

Figure 6.18: The Free State Provincial Treasury is assisting local municipality councils with compliance with the MFMA, 2003 (n = 15)



6.8.3.3 Municipal mayors clearly understand their respective oversight roles in municipal financial management and administration

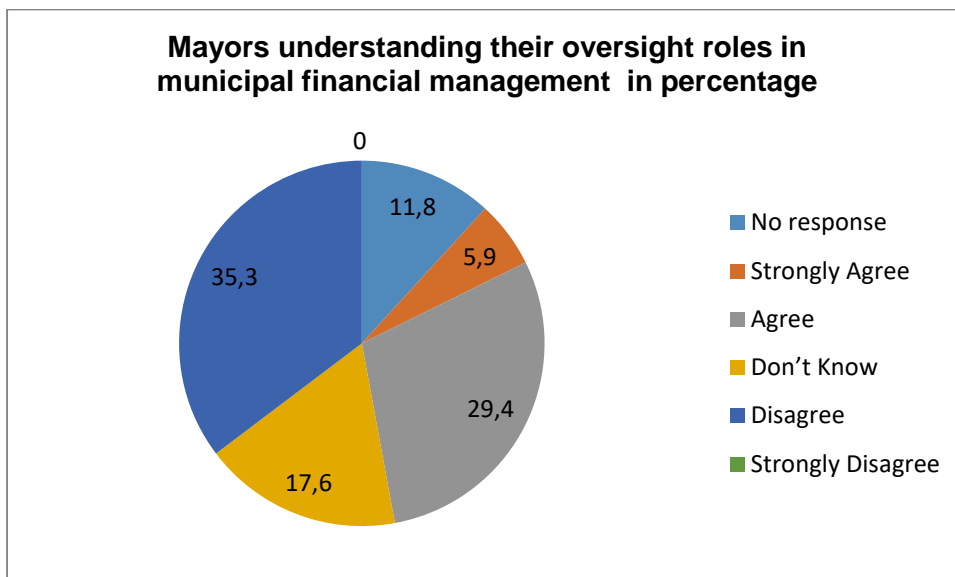
Table 6.19 and Figure 6.19 below explain whether municipal mayors clearly understand their respective oversight roles in municipal financial management and administration. A total of 11.8% did not respond to the statement, 5.9% strongly agreed, 29.4% agreed, while 17.6% pointed out that they did not know. 35.3% of the respondents disagreed with the statement that say municipal mayors clearly understand their respective oversight roles in municipal financial management and administration. In this question respondents are at 50%/50% divided. In Chapter 4, Section 4.8.2 of this study, Thornhill and Cloete (2013:112) maintain that the mayor or executive mayor has an important oversight role regarding municipal financial matters by providing general political guidance over fiscal and financial affairs of the municipality; taking reasonable steps to ensure that a municipality performs its constitutional obligations within the limits of the municipality's approved budget, and reporting to the provincial executive if the budget has not been approved as required or if financial problems necessitates provincial intervention. The mayor must also perform oversight concerning municipal entities. In Chapter 4, Section 4.8.5 of this study, the Auditor-General reported in the report for 2016-2017 (AGSA, 2018:55) that the slow response by the political leadership and the administrative leadership to address weak control environment, a lack of consequences and the continued disregard for legislative prescripts resulted in findings on compliance with legislation at all 18 municipalities of the Free State province. In addition, in Chapter 2, Section 2.10 of this study, it was

emphasised that the Auditor-General warned in the report for 2016-2017 that inadequate skills led to a lack of oversight by municipal councils and mayor and insufficient implementation and maintenance of financial and performance management systems by the administration (AGSA, 2018:3). Considering the above, one could argue that mayors as one of the key political leaders (including mayors) within the municipality clearly do not understand their respective oversight roles in municipal financial management and administration.

Table 6.19: Municipal mayors clearly understand their respective oversight roles in municipal financial management and administration (n=15)

	Frequency	Percentage
Mayors understanding their oversight roles in municipal financial management		
No response	2	11.8
Strongly Agree	1	5.9
Agree	5	29.4
Don't Know	3	17.6
Disagree	6	35.3
Strongly Disagree	0	0

Figure 6.19: Municipal mayors clearly understand their respective oversight roles in municipal financial management and administration (n=15)



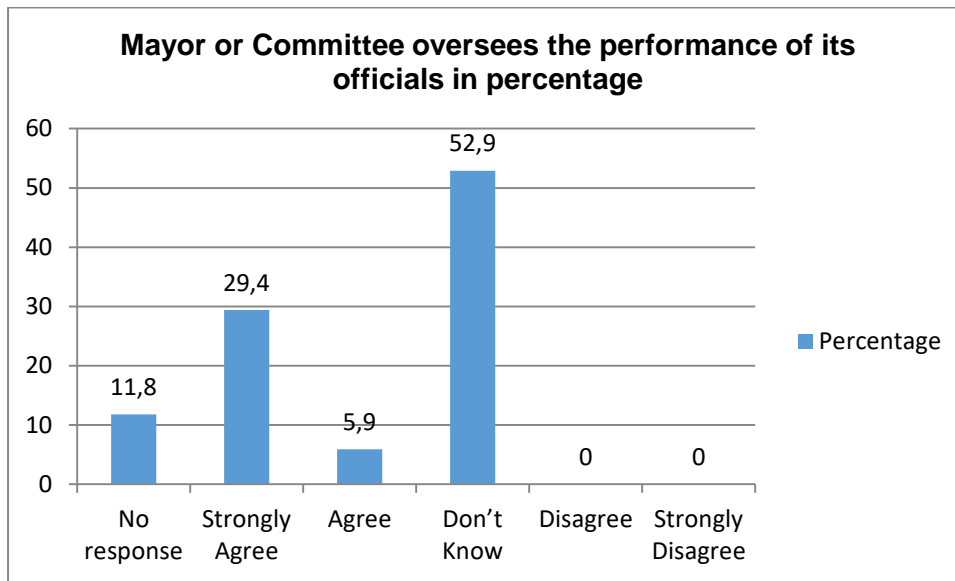
6.8.3.4 The executive mayor or executive committee oversees the performance of its officials by taking budgetary monthly reports seriously

Table 6.20 and Figure 6.20 show whether the executive mayor or executive committee oversees the performance of its officials by taking budgetary monthly reports seriously. Of the sampled population, 11.8% did not respond to the statement, 29.4% strongly agreed and 5.9% agreed with the statement. On the other hand, 52.9% of the respondents indicated that they do not know. None of the respondents disagreed or strongly disagreed. It is a concern that the majority of the respondents indicated that they do not know whether, the executive mayor or executive committee oversaw the performance of officials by taking monthly budgetary reports seriously. It could mean that monthly reports are not submitted on a monthly basis or it could mean that the respondents are not aware whether the monthly reports are submitted. In Chapter 4, Section 4.8.2 of this study, it was mentioned that The MM is responsible and accountable to the executive mayor for the management of the administration as well as the performance of the functions and responsibilities assigned to him/her by the municipal council and the executive mayor. In Section 4.8.2 of this study, it was mentioned that the executive mayor or executive committee of the municipality fulfil a key oversight role by overseeing the performance of the municipal officials. The executive mayor has to use the SDBIP to monitor the performance through monthly progress reports and by submitting the annual report to the municipal council. It is expected from non-executive councillors to hold both the executive mayor or committee and the officials accountable for performance, based on monthly, quarterly and annual reports (National Treasury, 2004:5).

Table 6.20: The executive mayor or executive committee oversees the performance of its officials by taking budgetary monthly reports seriously (n=15)

	Frequency	Percentage
Mayor or Committee oversees the performance of its officials		
No response	2	11.8
Strongly Agree	5	29.4
Agree	1	5.9
Don't Know	9	52.9
Disagree	0	0
Strongly Disagree	0	0

Figure 6.20: The executive mayor or committee oversees the performance of its officials by taking budgetary monthly reports seriously (n=15)



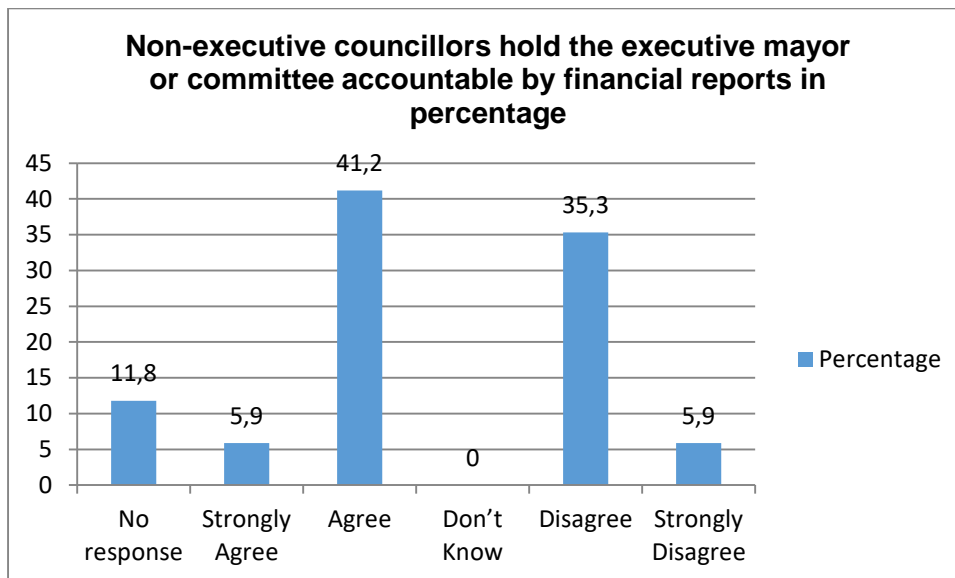
6.8.3.5 The non-executive councillors always hold the executive mayor or committee accountable by monthly, quarterly and annual financial reports

On the question of whether the non-executive councillors always hold the executive mayor or committee accountable by monthly, quarterly and annual financial reports, Table 6.21 and Figure 6.21 below outlines that 11.8% officials did not respond to the question, 5.9% of respondents strongly agreed and 41.2% agreed with the statement. At the same time, 35.3% of respondents disagreed and 5.9% strongly disagreed with the statement. The majority (47.1%) of the respondents strongly agreed or agreed with the statement. A concern is that 41.2% of the respondents disagreed or strongly disagreed with the statement. It was emphasised in Chapter 4, Section 4.8.1 of this study, that non-executive councillors are expected to hold both the executive mayor or committee and the officials accountable for performance, based on monthly, quarterly and annual reports (National Treasury, 2004:5). In Chapter 1, Section 1.4.1 of this study, clarity is further given on the role of municipal councillors. In terms of Section 2, the objective of *MFMA*, 2003, is that of developing sound financial governance within every municipality. This means all municipalities must develop a comprehensive system clarifying and separating the responsibilities of mayors, councillors and officials. According to the National Treasury (2004:5), the responsibilities of accountability and oversight, are only possible if there is a culture of transparency and regular reporting within the municipal council.

Table 6.21: The non-executive councillors always hold the executive mayor or committee accountable by monthly, quarterly and annual financial reports (n = 15)

Non-executive councillors hold the executive mayor or committee accountable by financial reports	Frequency	Percentage
No response	2	11.8
Strongly Agree	1	5.9
Agree	7	41.2
Don't Know	0	0
Disagree	6	35.3
Strongly Disagree	1	5.9

Figure 6.21: The non-executive councillors always hold the executive mayor or committee accountable by monthly, quarterly and annual financial reports (n = 15)



6.8.3.6 The municipal executive mayor or executive committee implements the recommendations of the Auditor-General

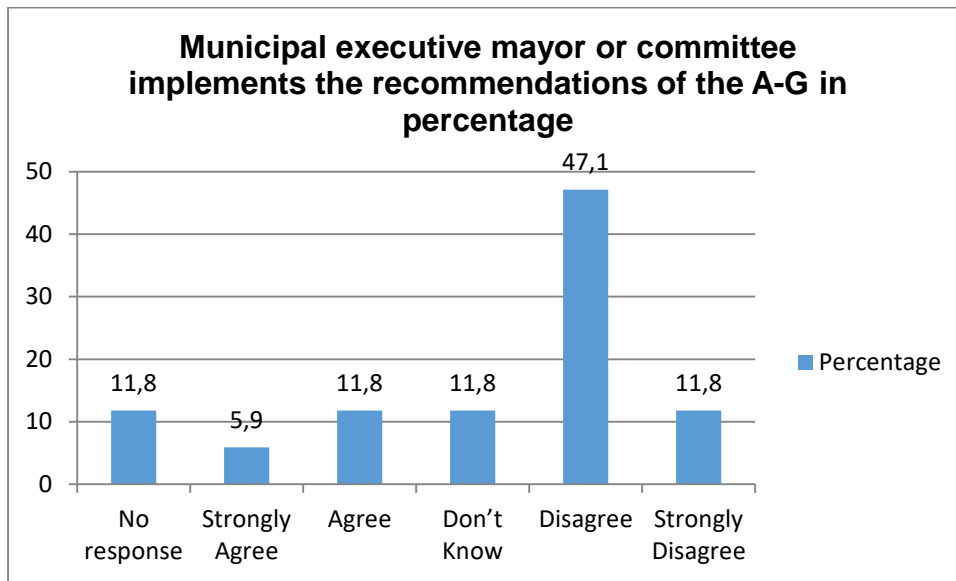
On the statement as to whether the municipal executive mayor or executive committee implements the recommendations of the Auditor-General, Table 6.22 and Figure 6.22 below show that 11.8% of officials did not respond to this question, 5.9% of respondents strongly agreed, 11.8% agreed, while 11.8% did not know. A total of 47.1% of the respondents disagreed and 11.8% strongly disagreed with the statement, which is a concern. In Section 4.8.3 of Chapter 4 of this study it was mentioned that Section 131(1) of the *MFMA*, 2003 provides

that the municipality (MM) must address all aspects raised by the Auditor-General in an audit report. The mayor of the municipality must ensure compliance of this provision. In Chapter 4, section 14.15, of this study it was mentioned that the continued inaction of municipal councils, mayors, MMs and other relevant executives to implement the recommendations of the Auditor-General weakened oversight and accountability of the financial affairs of most municipalities. In Chapter 4, Section 4.7 of this study, it was mentioned that the Auditor-General findings warned that the that the lack of commitment by municipalities towards responding to recommendations made by the Auditor-General further contributes to a lack of consequences for transgressions and irregularities (AGSA, 2019:9). In addition, it was mentioned in Chapter 3, Section 3.5.3 of this study that the Public Audit Amendment Act, 2018 is encouraging as it will tighten the accountability and oversight role of the Auditor-General. The Public Audit Amendment Act, 2018 Section 3(1B) further indicated that the Auditor-General has the power to take any appropriate remedial action; and issue a certificate of debt, as prescribed, where an accounting officer or accounting authority has failed to comply with remedial action.

Table 6.22: The municipal executive mayor or executive committee implements the recommendations of the Auditor-General

	Frequency	Percentage
Municipal executive mayor or committee implements the recommendations of the A-G		
No response	2	11.8
Strongly Agree	1	5.9
Agree	2	11.8
Don't Know	2	11.8
Disagree	8	47.1
Strongly Disagree	2	11.8

Figure 6.22: The municipal executive mayor or executive committee implements the recommendations of the Auditor-General



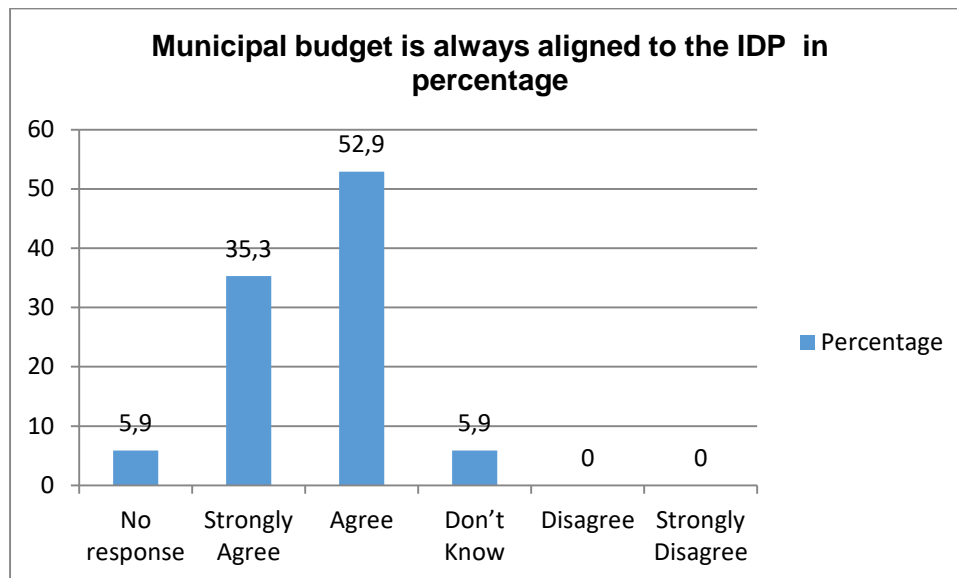
6.8.3.7 Municipal budget is always aligned to the Integrated Development Plan (IDP) of the municipality

Table 6.23 and Figure 6.23 below indicate that 35.3% of respondents strongly agree that municipal budget is always aligned to the IDP of the municipality, 52.9% agreed, 5.9% did not know and none of the respondents disagreed or strongly disagreed with the statement. The majority of the respondents strongly agreed or agreed with the statement. Chapter 2, Section 2.5.12 of this study affirmed the above findings, which stated that in terms of Section 53 (6) of the *MFMA*, 2003, the mayor of a municipality must ensure that the annual budget of a municipality should indicate how it will implement the objectives set out in its IDP over the next three years. In addition, the municipality should also indicate how its IDP will be revised by taking into consideration the budget and spending commitments. In Chapter 4, of this study it was further confirms that in terms of Chapter 5 of the *Municipal Structures Act*, 1998, the municipal council must to ensure that the allocated budget inputs relate to the priorities as set out in the municipal IDP.

Table 6.23: Municipal budget is always aligned to the IDP of the municipality (n = 16)

Municipal budget is always aligned to the IDP	Frequency	Percentage
No response	1	5.9
Strongly Agree	6	35.3
Agree	9	52.9
Don't Know	1	5.9
Disagree	0	0
Strongly Disagree	0	0

Figure 6.23: Municipal budget is always aligned to the IDP of the municipality (n = 16)



6.8.3.8 Municipal council does not do proper oversight function concerning municipal Supply Chain Management (SCM)

Table 6.24 Figure 6.24 show that 11.8% of respondents strongly agreed and 52.9% agreed that municipal council does not do proper oversight function concerning municipal SCM, on the other hand, 17.6% disagreed with the statement. 5.9% of the respondents did not answer this question and 11.8% indicated that they did not know. The majority of the respondents strongly agreed and agreed with this statement. In Chapter 4, Section 4.4.1 of this study, it was emphasised that Thornhill and Cloete (2013:112) maintain that the mayor or executive mayor has an important oversight role regarding municipal financial matters of which SCM cannot be excluded by providing general political guidance over fiscal and financial affairs of the municipality. In Section 4.4 of this study, Selebano (2018:2) cautions that public institutions, including municipalities, deviated from National Treasury, 2011 and SCM frameworks to

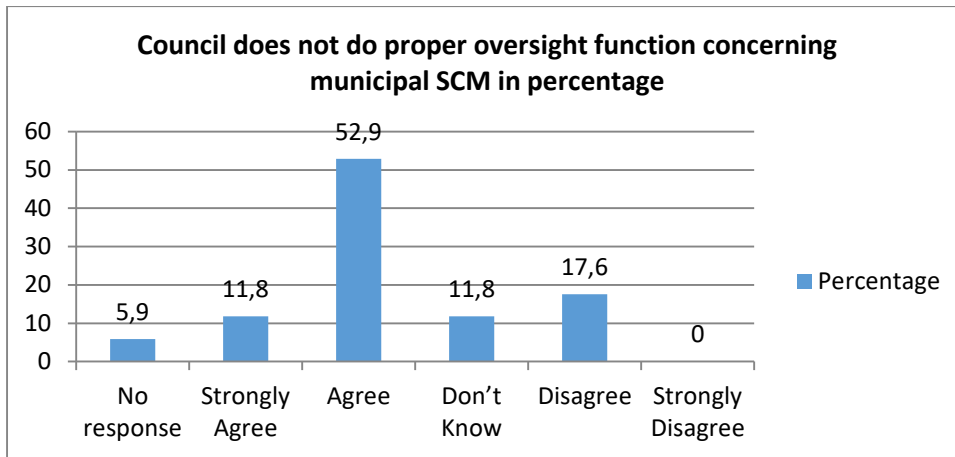
obtain tender contract. Selebano (2018:2) further warns that although National Treasury, RSA, 2011 and amended National Treasury, 2017 allow deviations from these regulations in extreme exceptional circumstances, public institutions, including municipalities, misused this clause to justify fruitless and wasteful expenditure including corruption with the allocation of tenders. A concern is that most SCM policies of municipalities do not specify procurement spent targets, which leaves the municipality to award contracts to establish suppliers who often take advantage of the weak procurement management practices and charge double prices. This confirms that municipal council does not do proper oversight function concerning municipal SCM. It was further mentioned in Chapter 4 of this study that deviations from National Treasury regulations and SCM procedures contributes to irregularities in the municipalities bidding and other SCM processes.

In Chapter 4, Section 4.8.5, of the study, Mantzaris (2017:124) mentioned that corruption has occurred particularly in SCM and procurement practices throughout the public sector of which local government cannot be excluded. Despite the existence of numerous laws and National Treasury SCM and procurement regulations and Code of Conduct about SCM, corruption related to SCM in all three spheres of government is a concern. In this regard the Auditor-General warns in the report for 2016-2017 (AGSA, 2018:56) confirms that in the Free State municipalities the continued disregards for procurement processes of which SCM cannot be excluded by the administrative and political leadership resulted in irregular expenditure, coupled with limited consequences for these transgressions, is creating an environment open to misappropriation, wastage and the abuse of state funds.

Table 6.24: Municipal council does not do proper oversight function concerning SCM

	Frequency	Percentage
Council does not do proper oversight function concerning municipal SCM		
No response	1	5.9
Strongly Agree	2	11.8
Agree	9	52.9
Don't Know	2	11.8
Disagree	3	17.6
Strongly Disagree	0	0

Figure 6.24: Municipal council does not do proper oversight function concerning SCM



6.8.3.9 Municipal manager (MM) as accounting officer is responsible for all funds managed by the municipality

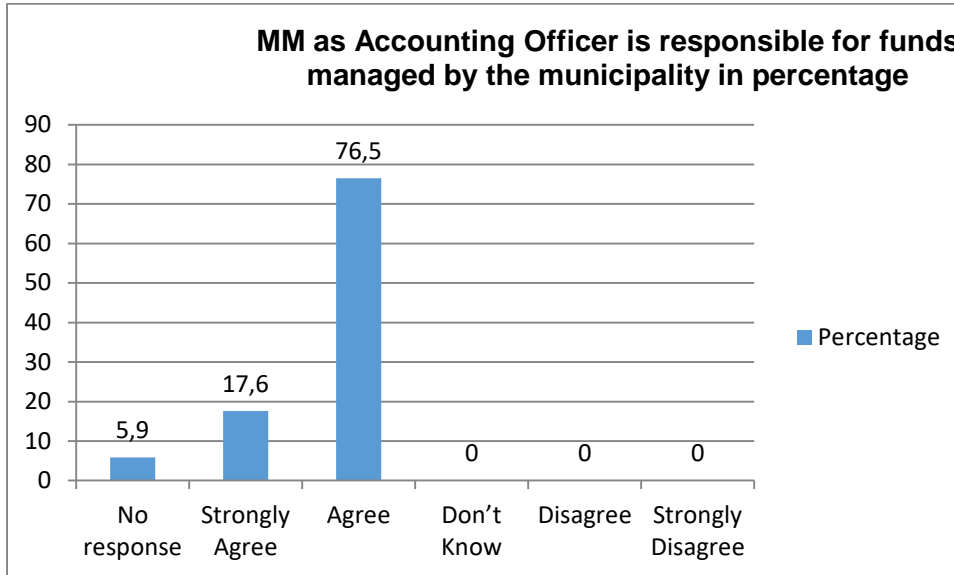
On the statement as to whether MM as accounting officer is responsible for all funds managed by the municipality, Table 6.25 and Figure 6.25 below show that 5.9% of officials did not respond to this question, 17.6% strongly agreed and 76.5% agreed with the statement, and none of the respondents disagreed or strongly disagreed. Chapter 4, Section 4.8.3, in this study, is also in agreement with the statement. The *MFMA*, 2003, emphasises the responsibilities, accountability and oversight and reporting in each municipality. National Treasury (2004:20) stressed that the MM must be the accounting officer responsible for all funds managed by the municipality. In Chapter 4, Section 4.8.3 of this study, it was further mentioned by Ndaba (2019:2) that the oversight structures must be improved to ensure that municipalities and municipal councils, MMs and relevant executives are accountable for the performance of their finances.

Table 6.25: Municipal manager as accounting officer is responsible for all funds managed by the municipality (n = 16)

	Frequency	Percentage
MM as Accounting Officer is responsible for funds managed by the municipality		
No response	1	5.9
Strongly Agree	3	17.6
Agree	13	76.5

Don't Know	0	0
Disagree	0	0
Strongly Disagree	0	0

Figure 6.25: Municipal manager as accounting officer is responsible for all funds managed by the municipality (n = 16)



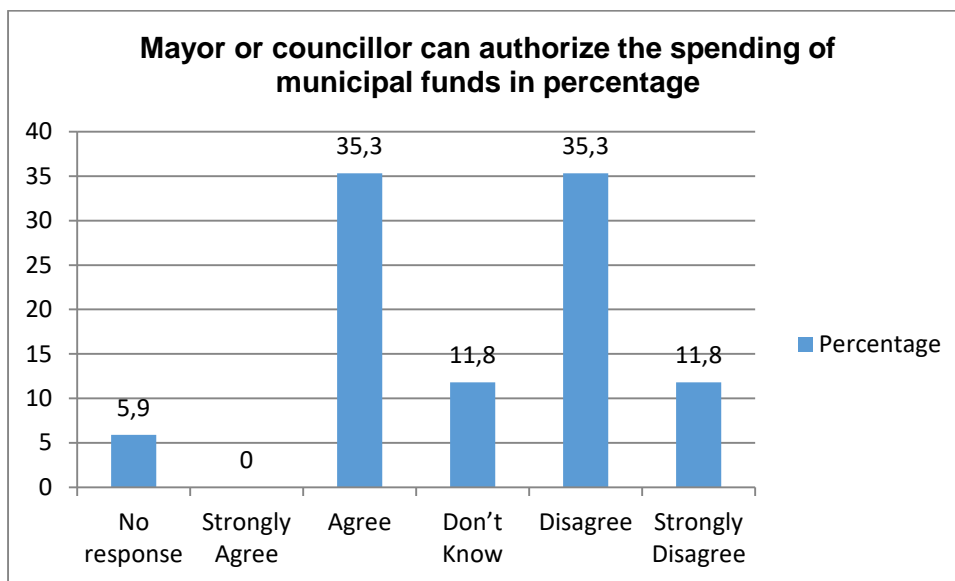
6.8.3.10 Mayor or councillor can authorise the spending of municipal funds

On the question of whether mayor or councillor can authorise the spending of municipal funds, Table 6.26 and Figure 6.26 below indicate that 35.3% of the respondents agreed with the statement, 11.8% of respondents said they did not know, whereas 35.3% disagreed and 11.8% strongly disagreed that mayor or councillor can authorise the spending of municipal funds. The majority of the respondents who disagreed and strongly disagreed with the above statement are also substantiated in Chapter 4, Section 4.8.3 of this study, where the National Treasury (2004:20) outlined that MM must be the accounting officer responsible for all funds managed by the municipality. It indicated that no Mayor or councillor or official can be responsible for any funds or authorise the spending of funds. In Section 4.8.1 of this study, Khalo, (2013:584) stated that the mayor or any other councillor is prohibited by the *MFMA*, 2003 to interfere in the financial management responsibilities assigned to the accounting officer or CFO. It is a concern that the majority of the respondents were of the opinion that the mayor or a councillor can authorise the spending of municipal funds, while the National Treasury provided that no mayor or councillor or official can authorise the spending of funds.

Table 6.26: Mayor or councillor can authorise the spending of municipal funds (n = 16)

Mayor or councillor can authorise the spending of municipal funds	Frequency	Percentage
No response	1	5.9
Strongly Agree	0	0
Agree	6	35.3
Don't Know	2	11.8
Disagree	6	35.3
Strongly Disagree	2	11.8

Figure 6.26: Mayor or councillor can authorize the spending of municipal funds (n = 16)



6.8.3.11 The report of the Auditor-General is accessible to all stakeholders in the municipality

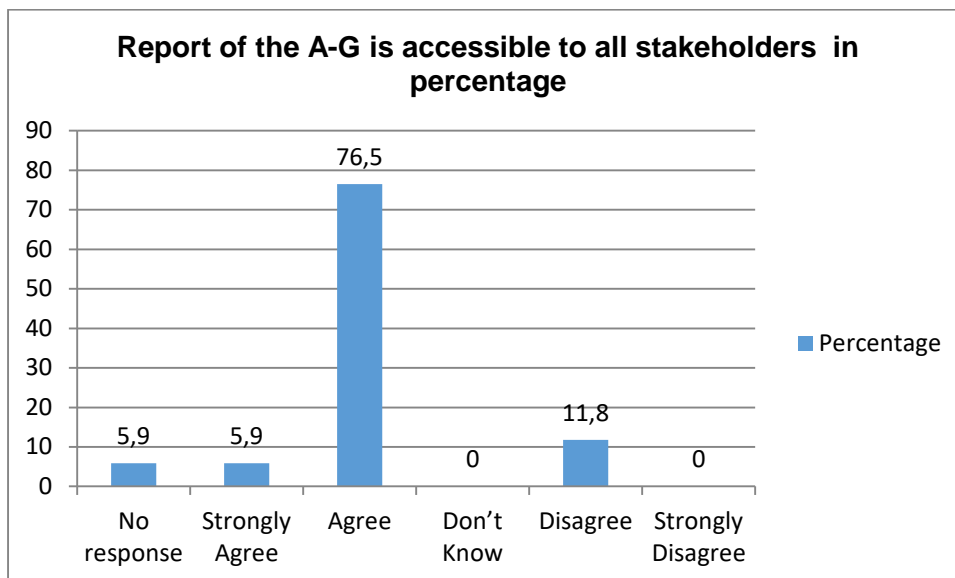
In Table 6.27 and Figure 6.27 below, it is pointed out that 5.9% of respondents strongly agreed that the report of the Auditor-General is accessible to all stakeholders in the municipality and 76.5% agreed to the statement. 5.9% did not respond to this question. Fourie and Opperman (2015:109) asserted in Chapter 4, Section 4.8.3 of this study, that the MM must table a copy of the audit report and financial statements in the municipal council within one month of receiving the audit report from the Auditor-General and submit copies of the municipality's annual report, the financial statements and the audit report to the National Treasury and the Provincial Treasury. In addition, in Chapter 4, Section 4.7 of this study, it was mentioned that Section 121(2) of the *MFMA*, 2003, provides that the Auditor-General's audit report and financial

statements and any corrective action taken or to be taken in response to the issues raised in the audit reports must be included in the annual report of the municipal council.

Table 6.27: The report of the Auditor-General is accessible to all stakeholders in the municipality (n = 16)

Report of the A-G is accessible to all stakeholders	Frequency	Percentage
No response	1	5.9
Strongly Agree	1	5.9
Agree	13	76.5
Don't Know	0	0
Disagree	2	11.8
Strongly Disagree	0	0

Figure 6.27: The report of the Auditor-General is accessible to all stakeholders in the municipality (n = 16)



6.8.3.12 The municipality holds public meetings on the Auditor-General’s report on the municipality every financial year-end

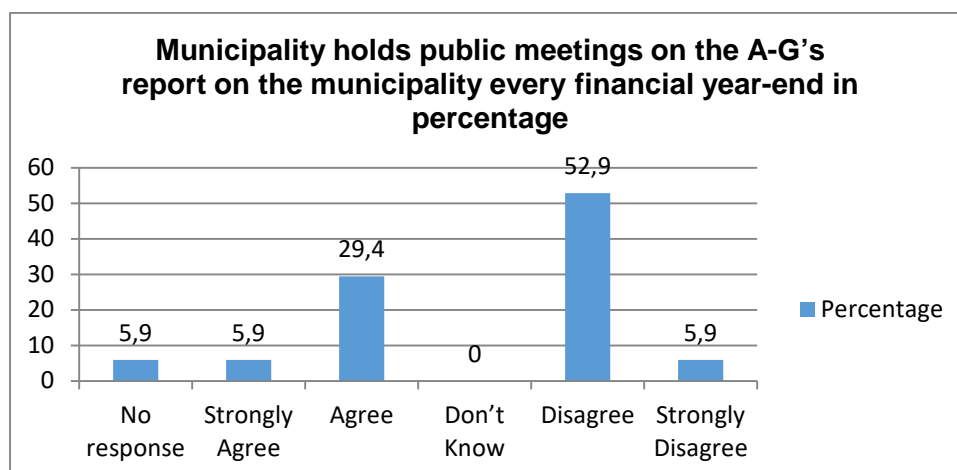
On whether municipality holds public meetings on the Auditor-General’s report on the municipality every financial year-end, Table 6.28 and Figure 6.28 below show that 5.9% officials did not respond, 5.9% strongly agreed, 29.4% agreed with the statement. The majority 52.9% of respondents disagreed and 5.9% strongly disagreed that municipality holds public

meetings on the Auditor-General’s report on the municipality every financial year-end which is a concern. The findings are in contradiction with the provisions of the *MFMA*, 2003 and *MSA*, 2000. In Chapter 4, Section 4.7 of this study, it was indicated that that in terms of Section 121(2) of the *MFMA*, 2003, the Auditor-General’s audit report and financial statements and any corrective action taken or to be taken in response to the issues raised in the audit reports must be included in the annual report of the municipal council. In Chapter 5 Section 5.10.4 of this study, it was mentioned that, in terms of Section 19 of the *MSA*, 2000, meetings of the municipal council and its committees must be open to the public.

Table 6.28: The municipality holds public meetings on the Auditor-General’s report on the municipality every financial year-end (n = 16)

Municipality holds public meetings on the A-G’s report on the municipality every financial year-end	Frequency	Percentage
No response	1	5.9
Strongly Agree	1	5.9
Agree	5	29.4
Don’t Know	0	0
Disagree	9	52.9
Strongly Disagree	1	5.9

Figure 6.28: The municipality holds public meetings on the Auditor-General’s report on the municipality every financial year-end (n = 16)



6.8.3.13 Summary on the interpretations of questions 6.8.3.1-6.8.3.12

On the statement as to whether municipal political and administrative officials have a proper understanding of the *MFMA*, 2003, the majority (64.6.8%) of respondents disagreed with the statement. The findings correspond with the findings of the Auditor-General, 2017-2018 audit outcomes of municipalities in the Free-State, which confirmed that that the deterioration of the local government environment of municipalities in the Free State province was evident in the vulnerable financial position of all (100%) of the municipalities due to the increase in irregular expenditure and non-compliance with legislated rules of which the *MFMA*, 2003 cannot be excluded.

On the question as to whether the FS Provincial Treasury assists local municipality councils with compliance with the *MFMA* of 2003, the majority of the respondents strongly agreed and agreed with the statement. In Chapter 4, Section 4.4 of this study, Fourie and Opperman (2007:393) maintain that National Treasury and Provincial Treasury may monitor and assess compliance by municipalities and municipal entities with *MFMA*, 2003. It was argued that Provincial Treasury has to strictly monitor the municipalities of the Free State province compliance with *MFMA*, 2003. Despite the support from National Treasury and Provincial Treasury, The Auditor-General reported in the 2017-2018 audit report that all municipalities of the Free State municipalities financial position deteriorated, and it resulted in the increase in irregular expenditure and non-compliance with *MFMA*, 2003 and SCM regulations.

On the question as to whether municipal mayors clearly understand their respective oversight roles in municipal financial management and administration, the findings of the respondents were equally divided. A total of 35.3% of the respondents strongly agreed or agreed, while 35.3% of the respondents disagreed with the statement. The latter is a concern it was mentioned in Section 4.4.1 of this study, it was emphasised that Thornhill and Cloete (2013:112) maintain that the mayor or executive mayor has an important oversight role regarding municipal financial matters by providing general political guidance over fiscal and financial affairs of the municipality. The above findings that 50% of the respondents strongly disagree or disagreed that municipal mayors clearly understand their respective oversight roles in municipal financial management and administration corresponds with the findings of the Auditor-General, as mentioned in Chapter 4 of this study, that municipal councils including municipal mayors

clearly do not understand their respective oversight roles in municipal financial management and administration.

On the question as to whether the executive mayor or executive committee oversees the performance of its officials by taking budgetary monthly reports seriously, the majority of the respondents (52.9%) indicated that they do not know, which is a concern. In Chapter 4, Section 4.8.2 of this study it was emphasised that the executive mayor or the executive committee is expected to oversee the performance of its officials, using the SDBIP and monitoring performance through monthly progress reports.

On the question of whether the non-executive councillors always hold the executive mayor or committee accountable by monthly, quarterly and annual financial reports, the majority of the respondents strongly agreed or agreed with the statement. A concern is that 35.3% of respondents disagreed and 5.9% strongly disagreed with the statement. It was emphasised in Section 4.8.2 of this study that non-executive councillors are expected to hold both the executive mayor or committee and the officials accountable for performance, based on monthly, quarterly and annual reports (National Treasury, 2004:5).

On the statement as to whether the municipal executive mayor or committee implements the recommendations of the Auditor-General, the majority of the respondents strongly disagreed or disagreed with the statement. The above findings support the findings of the Auditor-General, that in 62% of municipalities of which municipalities in the Free State province cannot be excluded, that municipal councils failed to conduct the required investigations into all instances of unauthorised, irregular and fruitless and wasteful expenditure reported in the previous year (AGSA, 2019:9).

On the statement as to whether budget is always aligned to the IDP of the municipality, the majority of the respondents strongly agree or agreed with the statement. Chapter 3 of this study affirmed that in terms of Section 53 (6) of the *MFMA*, 2003, the Mayor of a municipality must ensure that the annual budget of a municipality should indicate how it will implement the objectives set out in its IDP over the next three years. On the question of whether the municipal council does not do a proper oversight function concerning municipal SCM, the majority of the respondents, strongly agreed and agreed with the statement. In Chapter 4, Section 4.4.1 of this study, it was emphasised that mayors and councillors must critically assess information

and SCM deviations before making any decisions. It was further emphasised, in Chapter 4 of this study, that the mayor or executive mayor has an important oversight role regarding municipal financial matters of which SCM matters cannot be excluded, by providing general political guidance over fiscal and financial affairs of the municipality.

On the statement as to whether MM as accounting officer is responsible for all funds managed by the municipality, the majority of the respondents strongly agreed and agreed with the statement, and none of the respondents disagreed or strongly disagreed. In Chapter 4 of this study, it was mentioned that the National Treasury (2004:20) emphasised that the MM as the accounting officer of the municipality is responsible for all funds managed by the municipality.

On the question of whether mayor or councillor can authorise the spending of municipal funds, the majority of the respondents disagreed and strongly disagreed with the statement. This disagreement is also substantiated, in Chapter 3 of this study, where the National Treasury (2004:20) maintained that the MM must be the accounting officer responsible for all funds managed by the municipality. It follows that no Mayor or councillor or official can be responsible for any funds or authorise the spending of funds.

On the question on whether the report of the Auditor-General is accessible to all stakeholders in the municipality, a majority 76.5% agreed to the statement. In Chapter 4, Section 4.8.3 of this research study, Kumar *et al.* (2003:13) also agreed that the accounting officer for a municipality must keep full and proper records of the financial affairs of the municipality. Fourie and Opperman, (2015:109) assert that the MM must table a copy of the financial statements and the audit report in the municipal council within one month of receiving Auditor-General's audit reports, and submit to the National Treasury and the Provincial Treasury copies of the municipality's annual report, the financial statements and the audit report.

On whether municipality holds public meetings on the Auditor-General's report on the municipality every financial year-end, the majority 52.9% of respondents disagreed and 5.9% strongly disagreed that municipality holds public meetings on the Auditor-General's report on the municipality every financial year-end. In Chapter 5, Section 5.10.4 of this study, it was mentioned that in terms of Section 19 of the *MSA*, 2000 meetings of municipal council and its committees must be open to the public.

6.8.4 Section D: Municipal administrative oversight and accountability

Section D of the semi-structured questionnaire was designed to investigate the perceptions of municipal officials, mayors or Executive mayors regarding municipal administrative oversight and accountability. A five-point Likert scale ranging from strongly agree, agree, strongly disagree, disagree and don't know were used.

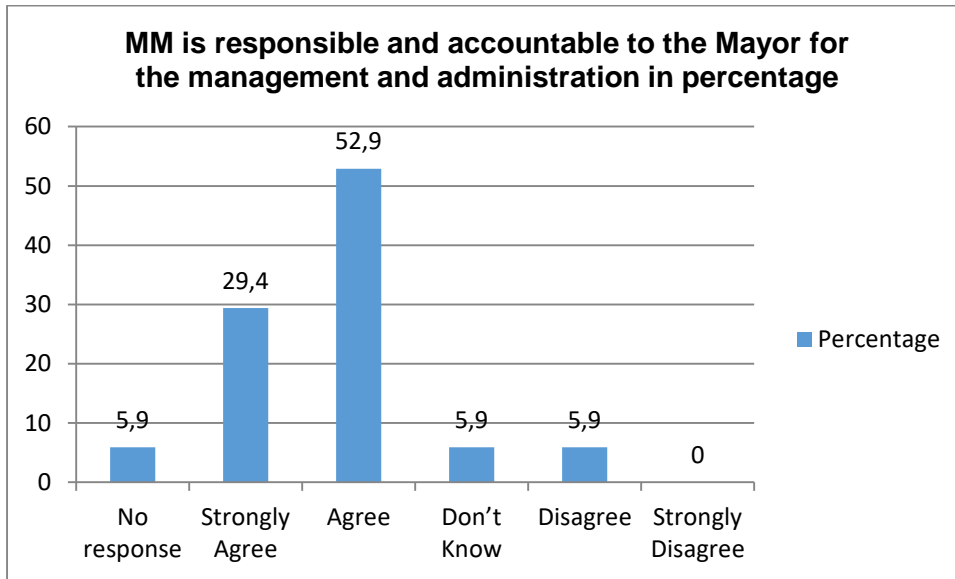
6.8.4.1 The municipal manager (MM) is responsible and accountable to the executive mayor for the management and administration of the municipal council

Table 6.29 and Figure 6.29 below tabulate that 29.4% and 52.9% of respondents respectively strongly agreed and agreed that the MM is responsible and accountable to the executive mayor for the management and administration of the municipal council. Of the remaining population sample, 5.9% did not respond and 5.9 of the respondents disagreed. In Chapter 4, Section 4.8.3 of this study, Van der Waldt (2011:74) also submits that as head of administration the MM of a municipality is responsible and accountable for the formation and development of an economical, effective, efficient, cost-effective and accountable administration. The MM is responsible and accountable to the executive mayor for the management of the administration as well as the performance of the functions and responsibilities assigned to him/her by the Municipal council and the Executive mayor.

Table 6.29: The municipal manager is responsible and accountable to the executive mayor for the management and administration of the municipal council (n = 16)

MM is responsible and accountable to the Mayor for the management and administration	Frequency	Percentage
No response	1	5.9
Strongly Agree	5	29.4
Agree	9	52.9
Don't Know	1	5.9
Disagree	1	5.9
Strongly Disagree	0	0

Figure 6.29: The municipal manager is responsible and accountable to the executive mayor for the management and administration of the municipal council (n = 16)



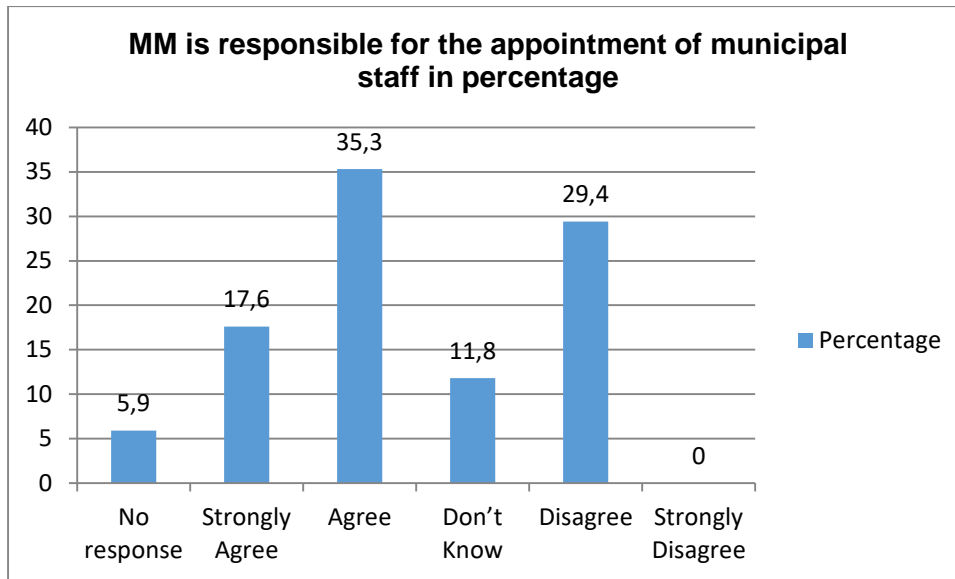
6.8.4.2 The municipal manager (MM) is responsible for the appointment of municipal staff

Table 6.30 and Figure 6.30 below show that 17.6% of the respondents strongly agreed and 35.3% agreed to the statement that the MM is responsible for the appointment of municipal staff, whereas 29.4% disagreed. 5.9% of the officials did not respond to this question and 11.8% indicated that they did not know if the MM is responsible for the appointment of municipal staff. This statement was supported in Chapter 4, Section 4.8.3 of this study, Van der Waldt (2011:74) stressed that the MM of a municipality is responsible for the appointment of staff subject to the *Employment Equity Act*, 1998 and the maintenance of discipline of staff.

Table 6.30: The municipal manager is responsible for the appointment of municipal staff

	Frequency	Percentage
MM is responsible for the appointment of municipal staff		
No response	1	5.9
Strongly Agree	3	17.6
Agree	6	35.3
Don't Know	2	11.8
Disagree	5	29.4
Strongly Disagree	0	0

Figure 6.30: The municipal manager is responsible for the appointment of municipal staff



6.8.4.3 The municipal manager (MM) is tasked with advising of the political structures and political office-bearers

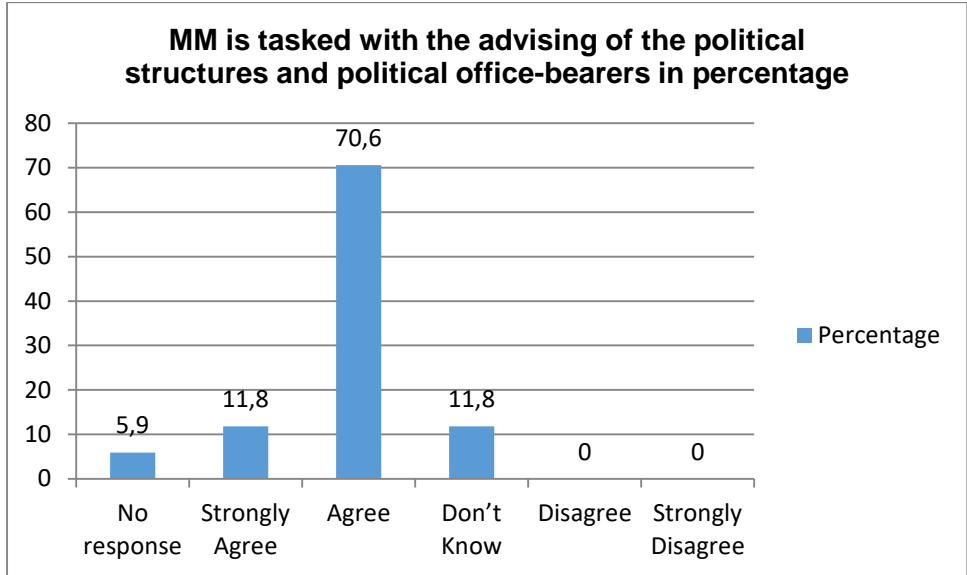
Table 6.31 and Figure 6.31 below show that 11.8% of the respondents strongly agreed, and 70.6% agreed, that the MM is tasked with advising of the political structures and political office-bearers, whereas 11.8% of respondents indicated that they did not know and 5.9% did not respond to the question. Chapter 4, Section 4.8.3 of this study, Van der Waldt (2011:74) affirms that the MM is tasked with the advising of the political structures and political office-bearers of the municipality, managing communications between municipal’s administration and its political office-bearers and carrying out the decisions of the political structures and political office-bearers of the municipality.

Table 6.31: The municipal manager is tasked with advising of the political structures and political office-bearers (n = 16)

MM is tasked with the advising of the political structures and political office-bearers	Frequency	Percentage
No response	1	5.9
Strongly Agree	2	11.8
Agree	12	70.6
Don't Know	2	11.8
Disagree	0	0

Strongly Disagree	0	0
-------------------	---	---

Figure 6.31: The municipal manager is tasked with advising of the political structures and political office-bearers (n = 16)



6.8.4.4 The chief financial officer (CFO) must advise the municipal manager (MM) on his/her accounting duties

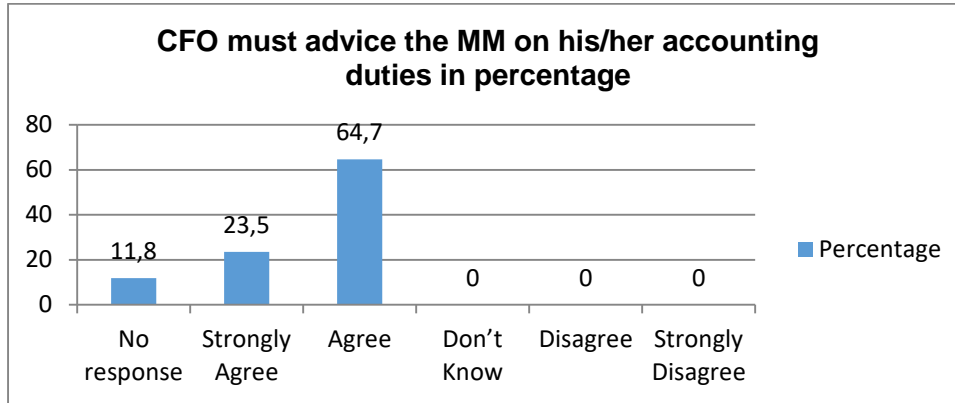
On the question of whether the CFO must advise the MM on his/her accounting duties, Table 6.32 and Figure 6.32 below indicate that 23.5% of the respondents strongly agreed, and 64.7% agreed, with the statement, and 11.9% did not respond to the question. Chapter 4, Section 4.8.3 of this study, supports the majority of respondents who agreed with the above statement. Van der Waldt (2011:77) confirms that as head of the budget and treasury officer, the CFO must advise the MM on his/her accounting responsibilities, as well as other senior managers on their financial accountabilities.

Table 6.32: The chief financial officer must advise the municipal manager on his/her accounting duties (n = 15)

	Frequency	Percentage
CFO must advise the MM on his/her accounting duties		
No response	2	11.8
Strongly Agree	4	23.5
Agree	11	64.7

Don't Know	0	0
Disagree	0	0
Strongly Disagree	0	0

Figure 6.32: The chief financial officer must advise the municipal manager on his/her accounting duties (n = 15)



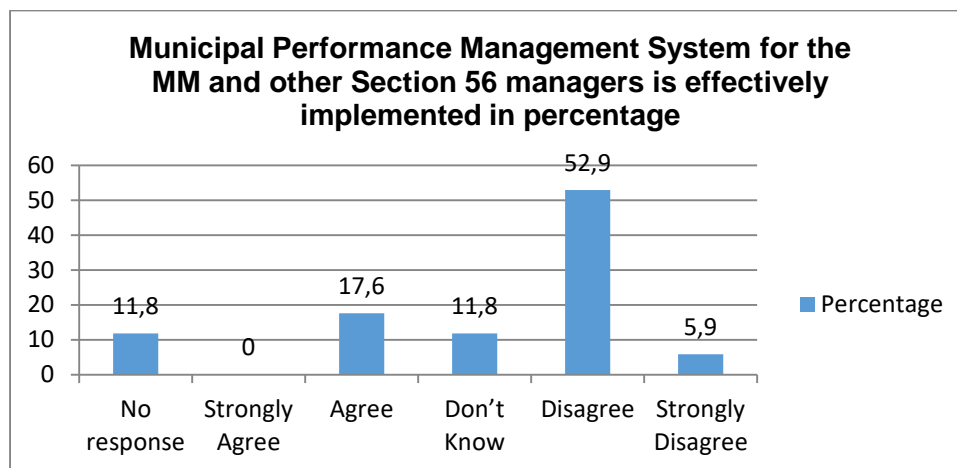
6.8.4.5 Municipal Performance Management System for the municipal manager (MM) and other Section 56 managers is effectively implemented

On the question of whether Municipal Performance Management System for the MM and other Section 56 Managers is effectively implemented, Table 6.33 and Figure 6.33 outline that 17.6% of the respondents agreed, with the statement, 11.8% indicated that they did not know, and 52.9% disagreed, and 5.9% strongly disagreed, with the statement. In Chapter 5, Section 5.5.3 of this study, it was mentioned that Section 56 of the *MSA, 2000* states that the municipal council of a municipality, after consultation with the MM must appoint managers directly accountable to the MM. It was further mentioned, in Chapter 5 of this study, that in terms of Section 44(3) and 56(3) of the *Municipal Structures Act, 1998* the executive committee or the executive mayor is responsibility for the development of the performance management system including the development of evaluation criteria and key performance indicators, whereas the MM must implement and managed the performance management reporting system and provides advise to the municipal council regarding the reporting system that must be adopted.

Table 6.33: The Municipal Performance Management System for the municipal manager (MM) and other Section 56 managers is effectively implemented (n = 15)

Municipal Performance Management System for the MM and other Section 56 managers is effectively implemented	Frequency	Percentage
No response	2	11.8
Strongly Agree	0	0
Agree	3	17.6
Don't Know	2	11.8
Disagree	9	52.9
Strongly Disagree	1	5.9

Figure 6.33: The Municipal Performance Management System for the municipal manager (MM) and other Section 56 managers is effectively implemented (n = 15)



6.8.4.6 Summary on the interpretations of questions 6.8.4.1 to 6.8.4.5.

On the question as to whether the MM is responsible and accountable to the executive mayor for the management and administration of the municipal council the majority (82.3%) of respondents agreed with the statement. In Chapter 4, Section 4.8.3 of this study, Van der Waldt (2011:74) also agreed that as head of administration, the MM is responsible and accountable to the executive mayor for the management of the administration as well as the performance of the functions and responsibilities assigned to him/her by the Municipal council and the Executive mayor. On the question as to whether, the MM is responsible for the appointment of municipal staff a majority (52.9%) of the respondents strongly agreed, and agreed to the statement, whereas 29.4% disagreed. This statement is also supported in Chapter 4, Section 4.8.3 of this study, in that Van der Waldt (2011:74) concurred that the MM of a municipality

is responsible for the appointment of staff subject to the *Employment Equity Act*, 1998 and the maintenance of discipline of staff.

On the question as to whether the MM is tasked with advising of the political structures and political office-bearers the majority (82.4%) strongly agreed and agreed with the statement. In Chapter 4, Section 4.8.3 of this study, Van der Waldt (2011:74) affirmed that the MM is tasked with the advising of the political structures and political office-bearers of the municipality, managing communications between municipal's administration and its political office-bearers and carrying out the decisions of the political structures and political office-bearers of the municipality. On the question of whether the CFO must advice the MM on his/her accounting duties, the majority (88.2%) of the respondents strongly agreed and agreed with the statement. Chapter 4, Section 4.8.3 of this study, supported the above-mentioned statement. Van der Waldt (2011:77) submitted that as head of the budget and treasury officer, the CFO must advice the MM on his/her accounting responsibilities, as well as other senior managers on their financial accountabilities. On the question of whether Municipal Performance Management System for the MM and other Section 56 Managers is effectively implemented, the majority of the respondents (58.8%) disagreed, and strongly disagreed with the statement which is a concern. In Chapter 5 of this study, it was mentioned that in terms of Section 44(3) and 56(3) of the *Municipal Structures Act*, 1998 the executive committee or the executive mayor is responsibility for the development of the performance management system, including the development of evaluation criteria and key performance indicators. The MM must implement and managed the performance management reporting system and provides advise to the municipal council regarding the reporting system that must be adopted.

6.8.5 Section E: Municipal social oversight and accountability

Section E of the semi-structured questionnaire was designed to investigate the perceptions of municipal officials, mayors or Executive mayors regarding municipal social oversight and accountability. A five-point Likert scale ranging from strongly agree, agree, strongly disagree, disagree and don't know were used.

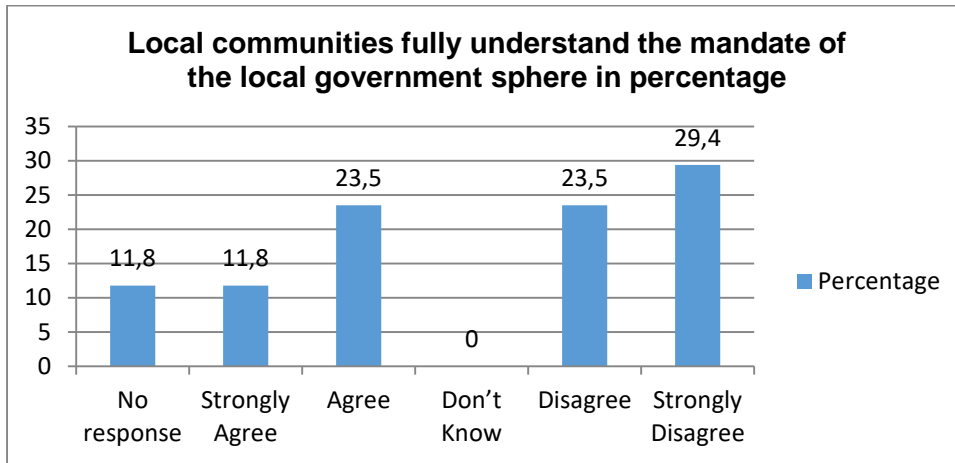
6.8.5.1 Local communities fully understand the mandate of the local government sphere

Table 6.34 and Figure 6.34 below indicate whether local communities fully understand the mandate of the local government sphere, wherein 11.8% of the respondents strongly agreed, with the statement, 23.5% agreed, whilst 23.5% disagreed, and 29.4% strongly disagreed, with the statement. 11.8% did not respond to the question. The majority (52%) of the respondents disagreed, with the statement. The latter was confirmed in Chapter 5, Section 5.13 of this study, in which Mashamaite and Madzivhandila (2014:227) aver that most community members are not sufficiently informed to participate meaningfully in municipal government. This makes municipal councillors and officials less willing to consider the views of community. Also, most members of the community are not clear about the role of a municipality. According to Mashamaite and Madzivhandila (2014:227), the question may be asked whether the community is really competent to participate in municipal issues that would influence them directly, especially planning issues. One could argue that members of ward committees and community participation forums as the representatives of a particular community, should be capacitated to make meaningful contributions about the affairs of their municipalities.

Table 6.34: Local communities fully understand the mandate of the local government sphere (n = 15)

Local communities fully understand the mandate of the local government sphere	Frequency	Percentage
No response	2	11.8
Strongly Agree	2	11.8
Agree	4	23.5
Don't Know	0	0
Disagree	4	23.5
Strongly Disagree	5	29.4

Figure 6.34: Local communities fully understand the mandate of the local government sphere (n = 15)



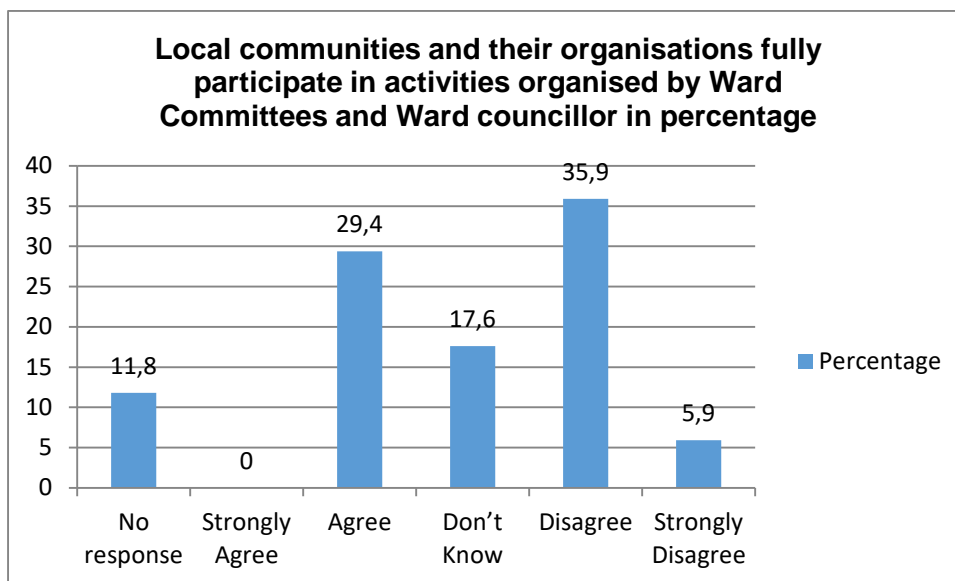
6.8.5.2 Local communities and their organisations fully participate in activities organised by ward committees and ward councillor

Table 6.35 and Figure 6.35 below, show that 29.4% of the respondents agreed that local communities and their organisations fully participate in activities organised by ward committees and ward councillor, whereas 17.6% of the respondents indicated that they do not know, 35.9% disagreed with the statement and 5.9% strongly disagreed. It could be noted that the majority (41.8%) of the respondents disagreed, and strongly disagreed that local communities and their organisations fully participate in activities organised by ward committees and ward councillor. In Chapter 2, Section 2.5.20 of this study, the NDP 2030, Executive Summary (2012:44-45) concurs that municipalities should avoid undermining democratic accountability for service delivery. Thus, more needs to be done to make it easier for citizens to raise their concerns concerning service delivery. The rising number of service delivery protests indicates that the state also needs to promote effective public participation to promote active citizenry as well as to strengthen participatory governance and accountability.

Table 6.35: Local communities and their organisations fully participate in activities organised by ward committees and ward councillor (n = 15)

Local communities and their organisations fully participate in activities organised by Ward Committees and Ward councillor	Frequency	Percentage
No response	2	11.8
Strongly Agree	0	0
Agree	5	29.4
Don't Know	3	17.6
Disagree	6	35.9
Strongly Disagree	1	5.9

Figure 6.35: Local communities and their organisations fully participate in activities organised by ward committees and ward councillor (n = 15)



6.8.5.3 The Integrated Development Plan (IDP) is an effective tool for local community participation

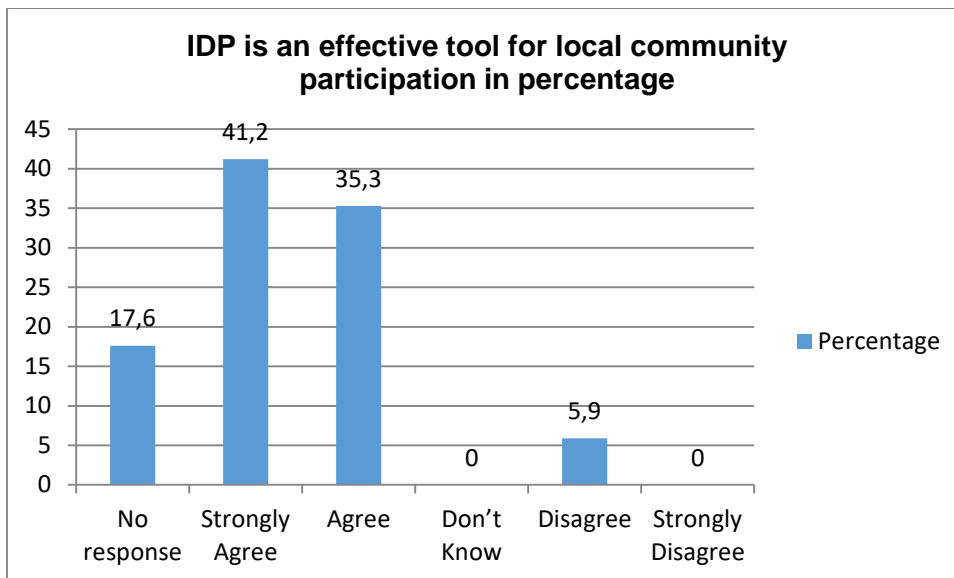
On the question of whether, IDP is an effective a tool for local community participation, Table 6.36 and Figure 6.36 below indicate that 41.2% of the respondents strongly agreed, with the statement, 35.3% agreed, whilst 5.9% disagreed, and 17.6% did not respond to this question. The majority (76.5%) of the respondents strongly agreed or agreed with the statement. In Chapter 5 of this study, it was mentioned that the local community should be involved in the

different phases of the IDP. However, Theron and Mchunu (2007:6-7) argued in Chapter 5, Section 5.12 of this study, that most of the municipal officials and the ward community members do not have the capacity to manage and implement effective public participation concerning the municipalities IDP. One could argue that municipalities together with CoGTA needs to do more to ensure that all ward committee members are capacitated to make recommendations concerning the IDP during municipal council meetings.

Table 6.36: The IDP is an effective tool for local community participation (n = 14)

IDP is an effective tool for local community participation	Frequency	Percentage
No response	3	17.6
Strongly Agree	7	41.2
Agree	6	35.3
Don't Know	0	0
Disagree	1	5.9
Strongly Disagree	0	0

Figure 6.36: The IDP is an effective tool for local community participation (n = 14)



6.8.5.4 Municipal councillors regularly report back at least quarterly to their constituencies on the performance of the municipality

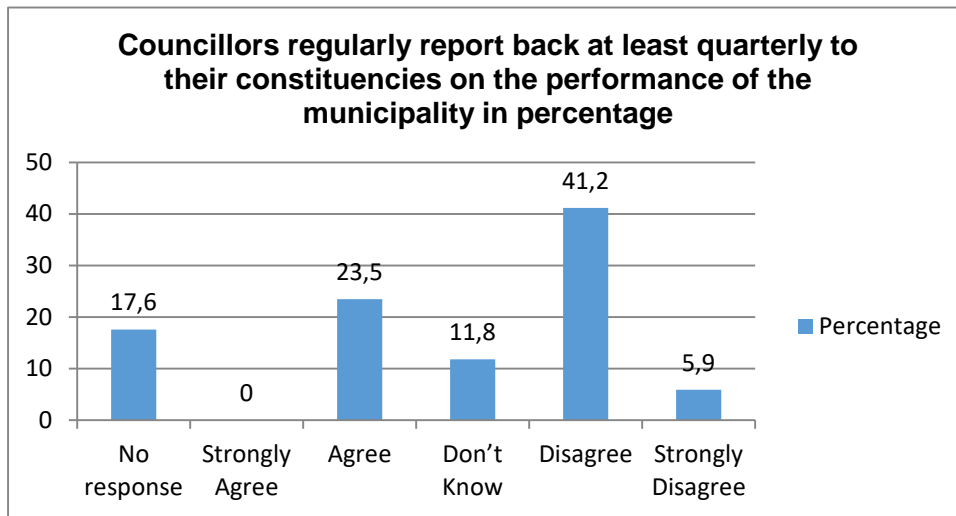
Table 6.37 and Figure 6.37 below outline that 23.5% agreed that municipal councillors regularly report back at least quarterly to their constituencies on the performance of the

municipality, whereas 41.2% disagreed with the statement, 5.9% strongly disagreed and 11.8% indicated that they do not know. The majority (47.1%) of the respondents disagreed, or strongly disagreed with the statement. The findings contradicted the requirements provided the Code of Conduct for Councillors as provided in Schedule 1 of *MSA, 2000* that councillors must be accountable to local communities and report back at least on a quarterly basis to constituencies concerning council matters, such as the performance of the municipality in terms of established performance indicators. In Chapter 5, Section 5.13 of this study, Mashamaite and Madzivhandila (2014:227) argued that, the concept of public accountability in current municipal administration is weak to the point of being non-existent. One could argue that municipalities must give effect to the constitutional obligation to promote accountable local government to local communities by involving communities in the affairs of local government.

Table 6.37: Municipal councillors regularly report back at least quarterly to their constituencies on the performance of the municipality (n = 14)

	Frequency	Percentage
Councillors regularly report back at least quarterly to their constituencies on the performance of the municipality		
No response	3	17.6
Strongly Agree	0	0
Agree	4	23.5
Don't Know	2	11.8
Disagree	7	41.2
Strongly Disagree	1	5.9

Figure 6.37: Municipal councillors regularly report back at least quarterly to their constituencies on the performance of the municipality (n = 14)



6.8.5.5 Local government is characterised by patronage politics, weak leadership and capacity, financial mismanagement and corruption

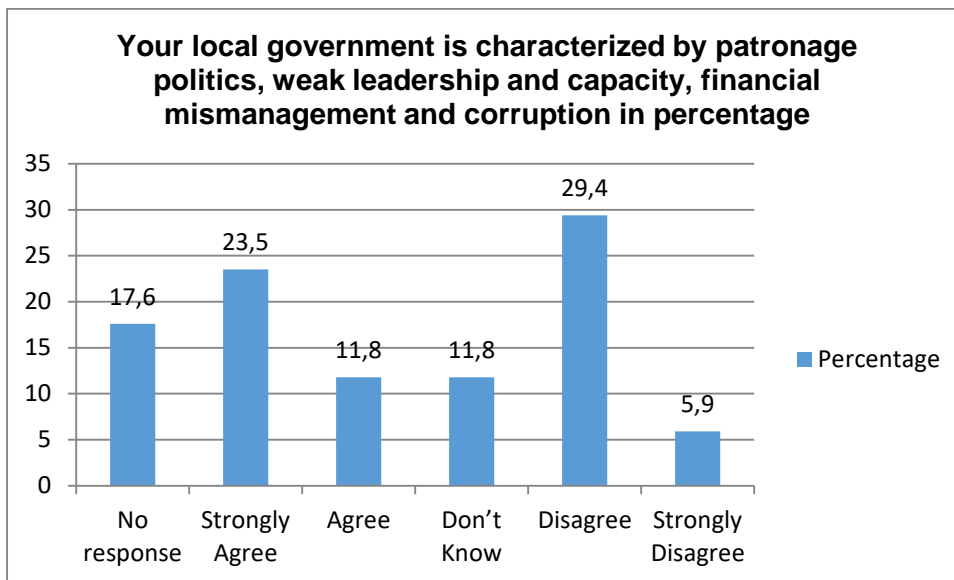
Of the population of municipal officials sampled, Table 6.38 and Figure 6.38, show that 23.5% strongly agreed, that their local government is characterised by patronage politics, weak leadership and capacity, financial mismanagement and corruption, 11.8% agreed, with the statement, and 29.4% disagreed, and 5.9% strongly disagreed. 11.8% indicated that they do not know, with 17.6% not responding to the statement. In this statement respondents are equally matched in their responses, 35,3% of the respondents either strongly agreed, or agreed, while 35% of the respondents disagreed, or strongly disagreed. The discussion in Chapter 5, Section 5.13 of this study, confirmed that local governments are characterised by patronage politics, weak leadership and capacity, financial mismanagement and corruption. According to CoGTA (2009:11), the culture of patronage and nepotism is now so widespread in many municipalities that the formal municipal accountability system is ineffective and inaccessible to many citizens. In addition, Ndaba (in The Star, 27 June 2019:1) avers in Chapter 4, Section 4.8.1, that there is a rapid deterioration of accountability as showed in the Auditor-Generals audit outcomes of municipalities of the 2017-2018 financial year. It was further mentioned that the latter is a clear indication that MMs as the accounting officers, mayors, CFOs and relevant officials in most municipalities including metropolitan municipalities should be accountable for any financial losses incurred by municipalities during their term in office. It was further argued that most municipalities in the Free State province showed a total collapse in internal controls

in that the political leadership of the provincial government and those in all municipalities in the province exhibited no responses to improve political oversight and accountability for financial and performance management.

Table 6.38: Your local government is characterised by patronage politics, weak leadership and capacity, financial mismanagement and corruption (n = 14)

Your local government is characterised by patronage politics, weak leadership and capacity, financial mismanagement and corruption	Frequency	Percentage
No response	3	17.6
Strongly Agree	4	23.5
Agree	2	11.8
Don't Know	2	11.8
Disagree	5	29.4
Strongly Disagree	1	5.9

Figure 6.38: Your local government is characterized by patronage politics, weak leadership and capacity, financial mismanagement and corruption (n = 14)



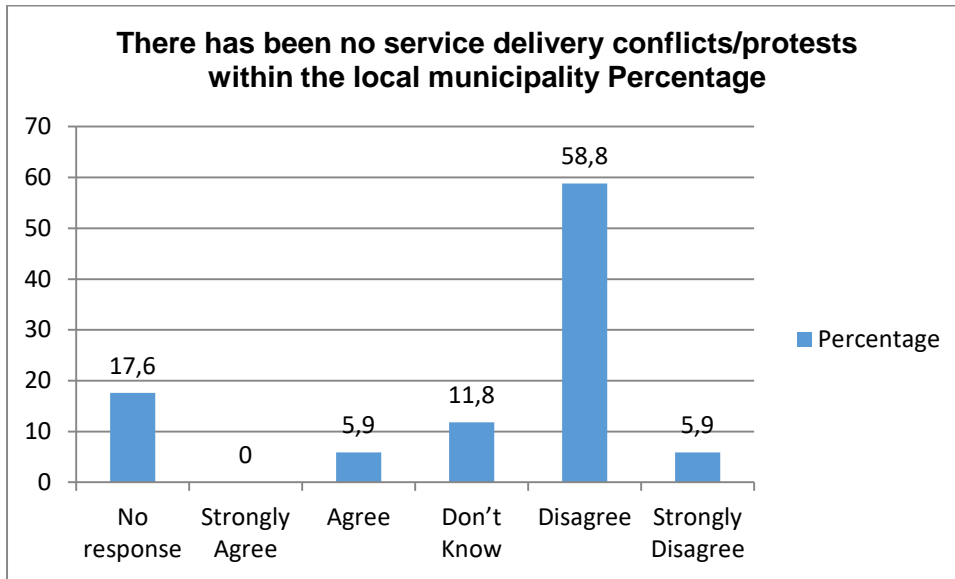
6.8.5.6 There had being no service delivery conflicts/protests within the local municipality

Table 6.39 Figure 6.39 below show that 5.9% of respondents agreed, that there had being no service delivery conflicts/protests within the local municipality, 58.8% disagreed, with the statement and 5.9% strongly disagreed. The majority (64.7%) of the respondents disagreed that there had being no service delivery conflict/protects within their local municipality. In Chapter 5, Section 5.13 of this study, the matter on service delivery protests is outlined. Asha (2014:400) points out that violent service delivery protests are an indication of the failure of local governments to achieve their development mandates. The findings correspond with the Auditor-General audit report of 2017-2018 (AGSA, 2019:27), as indicated in Chapter 5, Section 5.13 of this study, that service delivery protests have become a regular occurrence in municipalities in South Africa, with KwaZulu-Natal, leading in the number of municipalities affected, followed by the Free State and the Eastern Cape. Kroukamp (2016:110-116) further argues in Chapter 5 that a lack of engagement with local communities and community organisations leads to a lack of accountability and responsibility of functionaries, undermines participatory democracy and community participation. One could argue that municipalities of the Free State province have to do more to give effect to the constitutional requirement to promote accountable local government to local communities.

Table 6.39: There has been no service delivery conflicts/protests within the local municipality (n = 14)

	Frequency	Percentage
There have being no service delivery conflicts/protests within the local municipality		
No response	3	17.6
Strongly Agree	0	0
Agree	1	5.9
Don't Know	2	11.8
Disagree	10	58.8
Strongly Disagree	1	5.9

Figure 6.39: There has been no service delivery conflicts/protests within the local municipality (n = 14)



6.8.5.7 Summary on the interpretations of questions 6.8.5.1-6.8.5.6

On the statement whether, local communities fully understand the mandate of the local government sphere, the majority (52.9%) of the respondents, disagreed, and strongly disagreed, with the statement. This statement supports the literature discussed in Chapter 5, Section 5.13, of the study, that most community members are not sufficiently informed to participate meaningfully in municipal government. On the statement whether, local communities and their organisations fully participate in activities organised by ward committees and ward councillor, a slight majority of 41.8% of the respondents disagreed, or strongly disagreed, with the statement. It is clear that more needs to be done to involve local communities in the activities of ward committees. On the statement of whether, the IDP is an effective a tool for local community participation, a majority (76.5%) of the respondents strongly agreed, or agreed, with the statement. The importance of the involvement of local communities in the different phases of the IDP was emphasised in Chapter 5, Section 5.13, of this study. It was argued that more needs to be done to capacity ward committee members to ensure that they can make meaningful contributions during council meetings, related to the IDP processes of the municipality.

On the statement on whether, municipal councillors regularly report back at least quarterly to their constituencies on the performance of the municipality the majority (47.1%) of the

respondents disagreed, or strongly disagreed, with the statement. This is in contradiction with the requirements provided in the Schedule 1 of the Code of Conduct for Councillors, MSA of 2000 that councillors must be accountable to local communities and report back at least on a quarterly basis to constituencies concerning council matters, such as the performance of the municipality in terms of established performance indicators.

The results of the responses of the respondents are equally divided on the statement as to whether, local government is characterised by patronage politics, weak leadership and capacity, financial mismanagement and corruption. The findings correspond with the discussion mentioned in Chapter 3, Section 3.5.1.2 of this study, that local governments are characterised by patronage politics, weak leadership and capacity, financial mismanagement and corruption. CoGTA (2009:11) warned that a culture of patronage and nepotism is now so widespread in many municipalities that the formal municipal accountability system is ineffective and inaccessible to many citizens. It was further argued that MMs as the accounting officers, mayors, CFOs and relevant officials in most municipalities including metropolitan municipalities should be accountable for any financial losses incurred by municipalities during their term in office. It was further argued that most municipalities in the Free State province showed a total collapse in internal controls in that the political leadership of the provincial government and those in all municipalities in the province exhibited no responses to improve political oversight and accountability for financial and performance management (Ndaba, in *The Star*, 27 June 2019:1).

On the question on whether, there had being no service delivery conflicts/protests within the local municipality a majority (64.7%) of respondents of either disagreed, or strongly disagreed, with the statement. In Chapter 5 of this study, it was emphasised that the that service delivery protest has become a regular occurrence in municipalities in South Africa, with KwaZulu-Natal, leading in the number of municipalities affected, followed by the Free State and the Eastern Cape. The latter is an indication of local communities' dissatisfaction with the overall performance of municipalities. One could argue that political leaders and municipal officials should do more to promote accountable local government to local communities.

6.9 RESULTS AND FINDINGS OF THE SEMI-STRUCTURED INTERVIEW SCHEDULE WITH SELECTED WARD COMMITTEE MEMBERS

In this study one semi-structures interview schedule was used consisting of structured (closed-ended) and unstructured (open-ended) questions to conducted semi-structured interviews with representatives from the ward committees of two of the local municipalities, Tokologo and Tswelopele, of the Lejweleputswa District Municipality to identify the current challenges pertaining to public participation and social accountability.

The semi-structured interview schedule consisted of the following themes:

- Section 1: Biographical Information.
- Section 2: Theme 1: Public Participation (10 sub-themes)
- Section 3: Administrative Accountability. Theme 2: Quality of Service Delivery (8 sub-themes).
- Section 4: Administrative Accountability. Theme 3: Current Service Delivery Performance of municipal council (15 sub-themes).

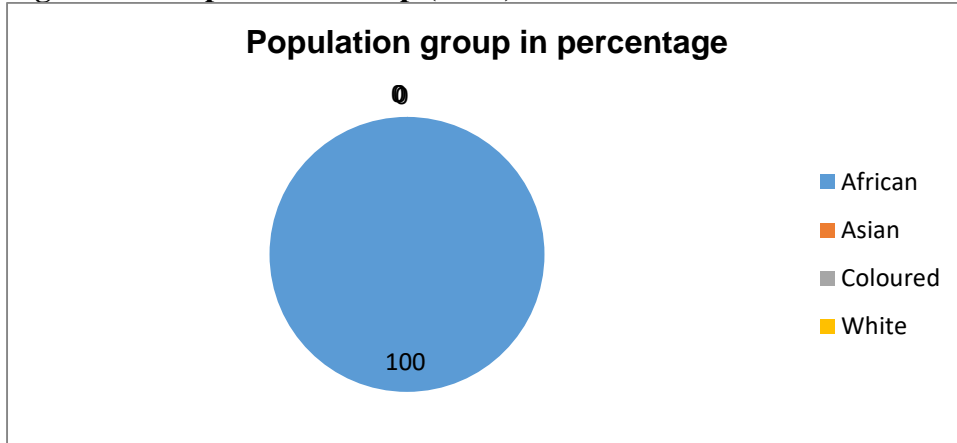
6.9.1 Section 1: Biographical Information

This section contained the results of the respondent's biographical information. Simple bar charts were used to illustrate the findings of the respondent's biographical information. As mentioned in Section 6 of this chapter descriptive statistics may be used in qualitative findings. This was confirmed by Bless *et al.* (2014:348) that that descriptive statistics may be used on qualitative data such as in the case of a semi-structured questionnaire or semi-structured interview schedule as long as no inferential statistic are not used.

6.9.1.1 Population group (n = 5)

As illustrated in Figure 6.40 below all respondents sampled were of African origin, which is 100%. This is precisely because respondents were mainly from township ward committees.

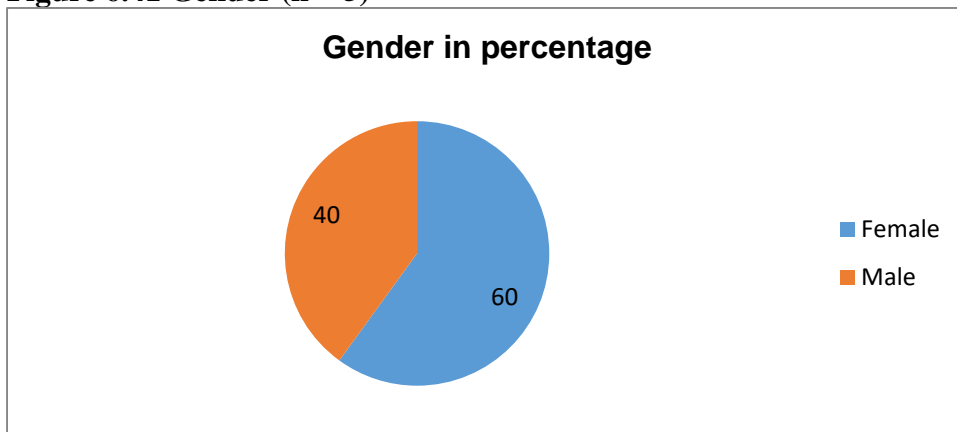
Figure 6.40 Population Group (n = 5)



6.9.1.2 Gender

Figure 6.41 below indicated that 60% of sampled respondents were female and 40% were male. Thus, the majority of the respondents were females.

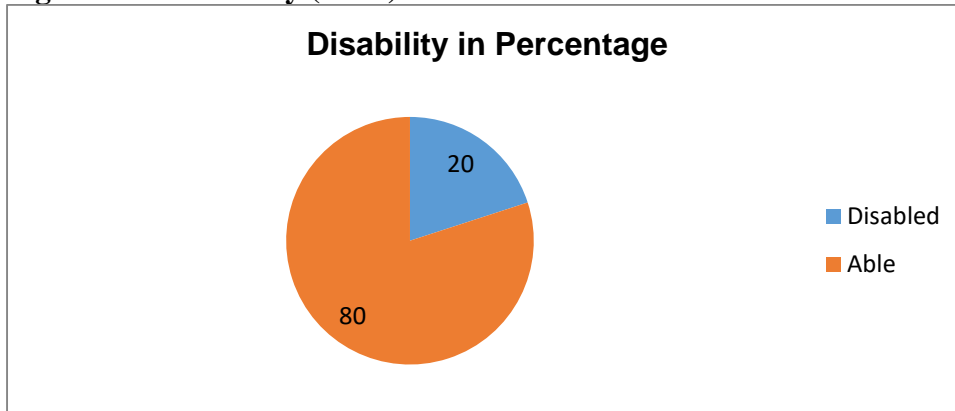
Figure 6.41 Gender (n = 5)



6.9.1.3 Disability

Figure 6.42 showed that 20% of the respondents were disabled and 80% were able-bodied persons.

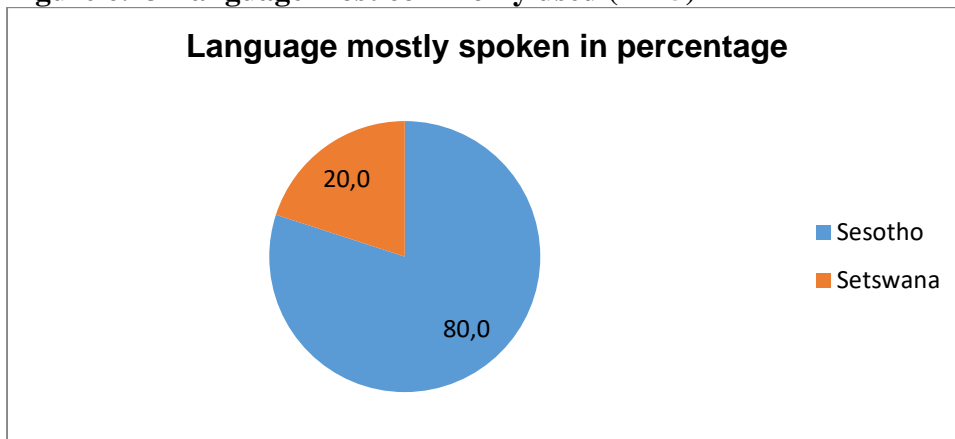
Figure 6.42 Disability (n = 5)



6.9.1.4 Language most commonly used (n = 5)

On the language commonly used by participants, 80% were Sesotho speakers and 20% were Setswana speakers.

Figure 6.43 Language most commonly used (n = 5)

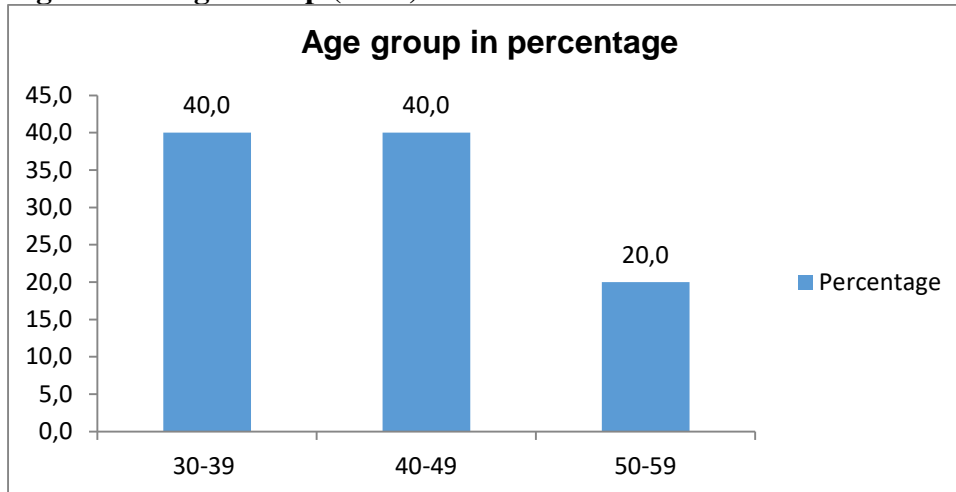


The majority of the respondents (ward committee members) were Sesotho speaking, followed by the Setswana speaking ward committee members (respondents).

6.9.1.5 Age Group

Figure 6.44 below showed that 40% of respondents fall within the 30-39 and 40-49 age groups and 20% fall within the 50-59 age group. The majority of the ward councillors (respondents) fall within the age group 30-49.

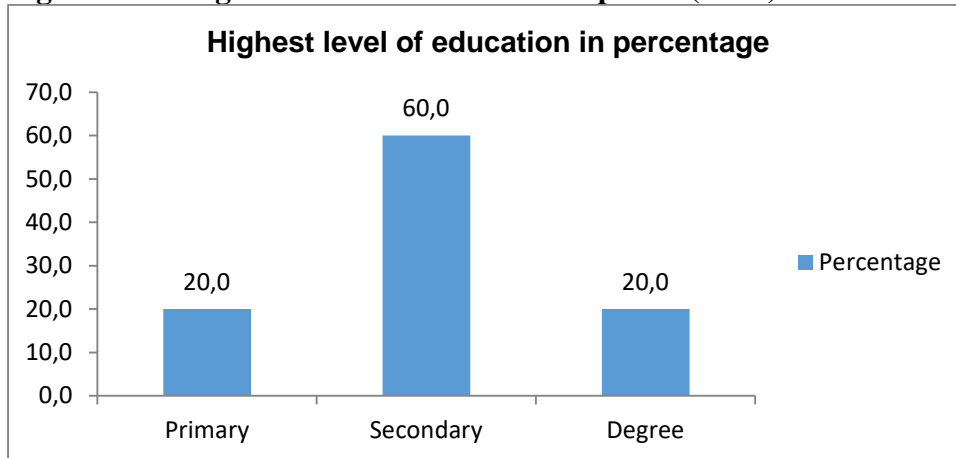
Figure 6.44 Age Group (n = 5)



6.9.1.6 Highest level of education completed (indicate only one of the following)

Figures 6.45 below explained the highest level of education completed by respondents. According to the information presented, 20% of respondents had primary education as the highest level of education completed, 60% had secondary education and another 20% had a degree. On the same question in the previous self-administered semi-structured questionnaire, municipal officials responded poorly in this question on academic qualifications. Table 6.5 and Figure 6.5 showed that the majority of municipal official's respondents of 41.2%; did not indicate their highest level of education completed. 29.4% of respondents have a degree, 11.8% have a certificate or honours degree and 5.9% have a master's degree. None of the respondents had a doctorate degree. In Chapter 5, Section 5.11.3 of this study, it was mentioned that the Municipal Structures Act of 1998 or any other legislation do not make provision, for any qualifications of ward committee members.

Figure 6.45: Highest level of education completed (n = 5)



6.9.1.7 Summary on the interpretations of questions from 6.9.1 – 6.9.1.6

All respondents sampled were of African origin, which is 100% and this is because respondents were mainly from township ward committees. Findings indicated that 60% of the respondents were female and 40% were male, and 20% were disabled and 80% were able-bodied persons. In Chapter 5 of this study it was emphasised that in terms of Section 17 of the *MSA, 2000* municipalities must create conditions to allow members of the community, such as disabled people, other disadvantaged groups and people who are illiterate, to participate in the affairs of the municipality. The language most commonly used by the respondents is Sesotho which is 80% and Setswana which is 20% and 40% of respondents fall within the 30-39 and 40-49 age groups and 20% fall within the 50-59 age group. The information regarding respondents' highest level of education completed showed that 20% of respondents had primary education as the highest level of education completed, 60% had secondary education and another 20% had a degree. It was confirmed that the *Municipal Structures Act, 1998* or any other legislation required that ward committees must have any qualifications.

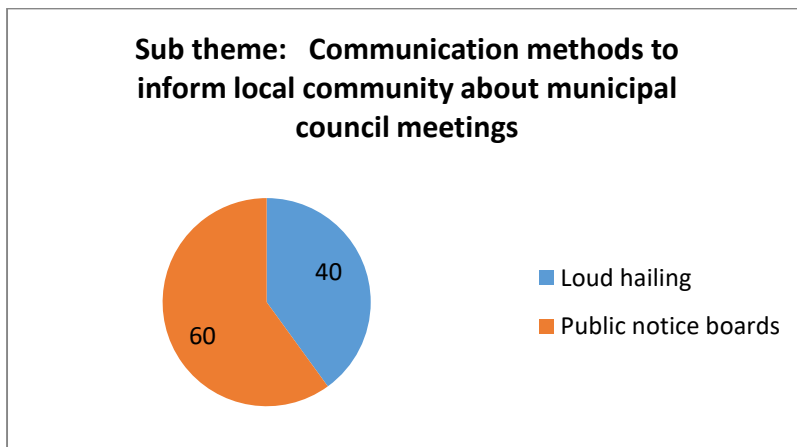
6.9.2 Section 2: Theme 1: Public Participation (10 Sub-themes)

6.9.2.1 Findings on the question on how your local community is informed about municipal council meetings

This question sought to determine what communication methods (sub-theme 1) are used to inform the local community about municipal council meetings

- **Responses:** The question was answered by all respondents. Three respondents indicated that the municipality are using public notice boards to inform the local community about municipal council meetings while two of the respondents mentioned that the municipality informed the local community by using a loud hailing system. None of the respondents mentioned that the municipalities make use of radio announcement, local newspapers, municipal accounts, ward committee meetings to inform the local community about municipal council meetings. The responses were illustrated in Figure 6.46 below.
- **Interpretation:** The majority of the respondents indicated that the municipality make use of public notice boards, to inform the local community about municipal council meetings, while only two respondents indicated that their municipality make use of other communication methods such as a loud hailing system to inform the local community about municipal council meetings. In Chapter 5, Section 5.11.3 of this study, it was mentioned that in terms of Section 21 of the *MSA*, 2000 municipalities should provide information to local communities through the media, such as local newspapers, and radio broadcasts. It was argued that community participation is a constitutional requirement, therefore, the MM of the affiliated local municipalities of the Lejweleputswa District Municipality should use more than one method to inform the community about open council meetings.

Figure 6.46: How local community is informed about municipal council meetings

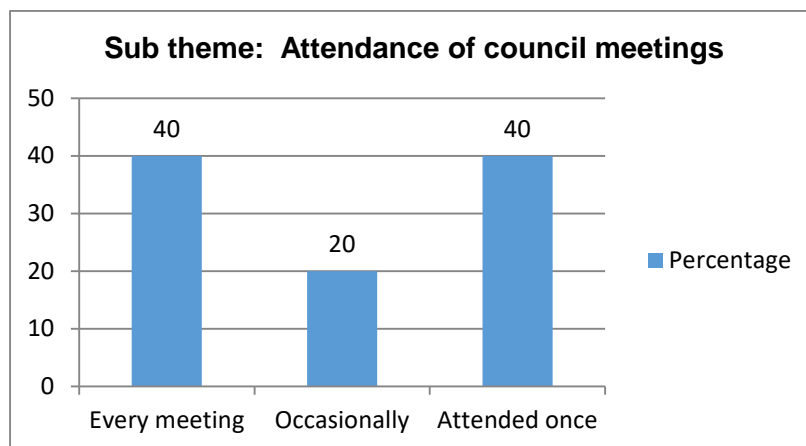


6.9.2.2 Findings on the question how often do you attend local council meetings

The aim of the question was to determine how often the ward councillors attend the municipal council meetings (sub-theme 2).

- Responses:** Two of the respondents mentioned that they attended all municipal council meetings, while one respondent indicated occasionally, and two respondents responded that they attend the municipal council meetings only once. The responses are illustrated in Figure 6.47 below.
- Interpretation:** The majority of the respondents mentioned that they either attended every meeting or only once. A concern is that one ward councillor mentioned that he/she only attend the municipal council meetings occasionally. In Chapter 5, Section 5.10.3, Section 5.10.4, and Section 5.10.5 of the study it was mentioned that ward councillors must attend all municipal council meetings.

Figure 6.47: Attendance of local municipal council meetings



6.9.2.3 Findings on the questions about local community participation forums

The following three questions were asked:

- Question 1. In your local municipal council what forums exist for community participation (Sub-theme 3)?
- Question 2. How often did you attend any of these forums for community participation in the past year (Sub-theme 4)?

- Question 3. In your opinion how effective are the forums for community participation in your local municipal council 1 (Sub-theme 5)?

The aim of the questions was to determine what forums exist, how often have the ward councillors attend these forum meetings and how effective are the IDP forum, and the ward committee to promote community participation within the municipality.

- **Responses:** On question 1 two of the respondents responded that the Community Work Participation (CWP) forum exists in their municipality concerning community participation. Two of the respondents (ward committee members) indicated that they don't know what community participation forums exist for community participation, while one ward councillor indicated that there are no forums for community participation in their municipality. It appears that only one of the two local municipalities established a community participation forum. Concerning question 2, a total of 3 of the respondents indicated that they never attended any community participation forum meetings, while two respondents mentioned that they attended the community participation forum meeting only once. It was argued above that it seems that only one of the local municipalities establish a community participation forum and therefore, only two respondents indicated that they attended the community participation forum. On question 3 two of the respondents mentioned that the forums for community participation is non-existent in their municipality, while two respondents mentioned it is effective and only one respondent mentioned very effective. The responses were illustrated in Figure 6.48, Figure 6.49 and Figure 6.50 below.
- **Interpretation:** The responses to question 1 reveal that there is only one municipal council forum for community participation, namely the CWP forum in the two affiliated local municipalities, namely, Tokologo and Tswelopele, of the Lejweleputswa District Municipality. In Chapter 5 of this study it was mentioned that community participation is a constitutional requirement. It was further accentuated in Chapter 5, Section 5.11 of this study, that municipalities should established many forums and other participatory means to involve citizens in decision-making process such as dialog forums such as the IDP or Local Economic Development (LED) forums, sectoral forums and other applicable ward-based forums. From the above findings one could

argue that although at least one forum exists, namely the Community Development Work (CDW) forum, the local municipalities should prioritise community participation and ensure that more community forums are established to give effect to the constitutional requirement of community participation. One could further argue from the responses on question 2 and question 3 above that the ward committee members who are the custodians of community participation should be involved in community participation forums to promote effective participation of local communities and therefore the ward committee members should ensure that they attend the community forum meetings.

Figure 6.48 Local municipal council forums for community participation

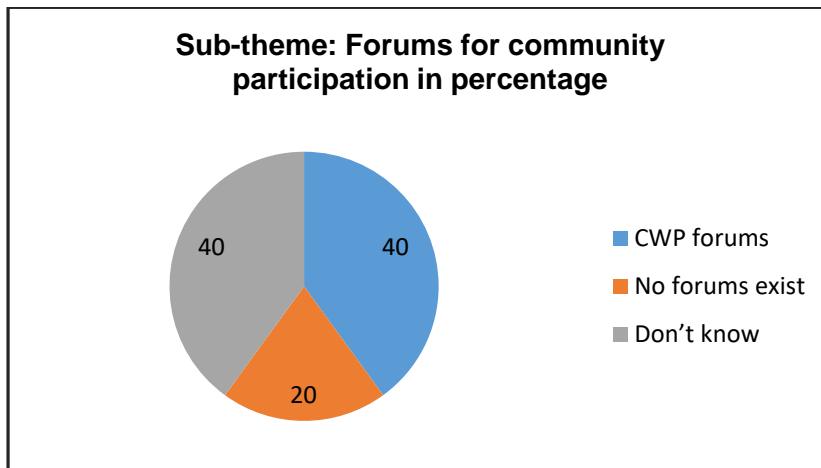


Figure 6.49 Attendance in the forums for community participation in the past year

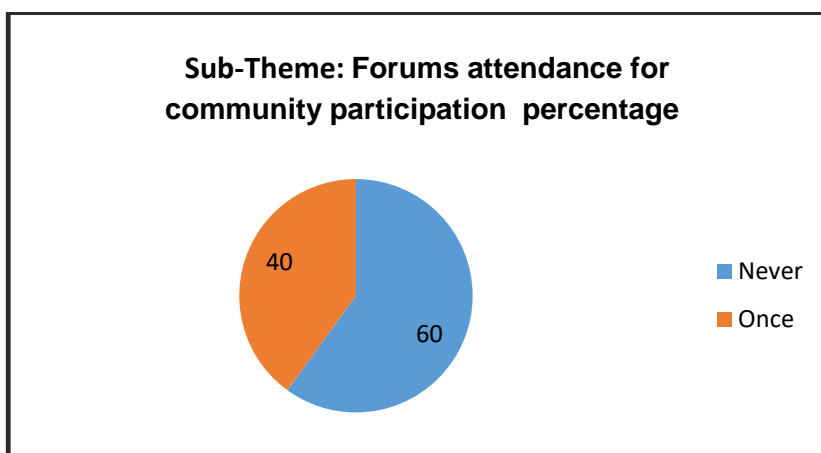
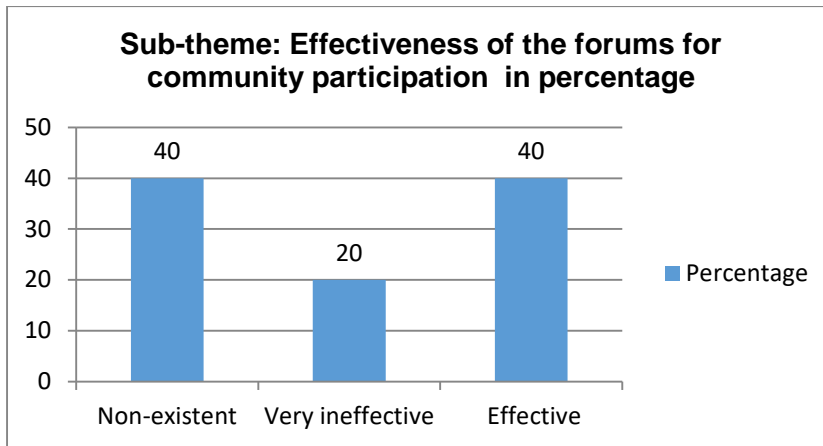


Figure 6.50: Effectiveness of the forums for community participation



6.9.2.4 Findings on the questions about recommendations made by ward committee members to the municipal council and about the representativeness of ward committees

Question 1. Do you, through the ward committees or through the IDP meetings make recommendations to the municipal council regarding developmental priorities (Sub-theme 6)?

Question 2. Is the ward committee representative in terms of gender, disability, variety of stakeholders, race, geographical location and age (Sub-theme 7)?

The aim of the question was to determine whether the ward committees make any recommendations to the municipal council concerning developmental priorities of the local community either through the ward committee or the IDP meetings. The aim of question 2 was to determine the representativeness of ward committees.

- Responses:** On question 1 above two of the respondents responded that they don't know, one said never, while two respondents mentioned that the ward committees/IDP committee made recommendations to the municipal council concerning the developmental priorities of the local community. On question 2 two of the respondents answered that there is representativeness in the ward committee related to gender and to disability, while only one respondent that race is represented in the ward committee. None of the respondents refer to any of the other categories of representativeness such as geographical location, age and variety of stakeholder. The responses were illustrated below in Figure 6.51 and Figure 6.52.

- **Interpretation:** From the above responses one could interpret that the half of the respondents mentioned that the ward committee never made or they don't know whether the ward committee made any recommendations to the municipal council, while the other half of the respondents agree that the ward committee made any recommendations regarding the developmental priorities of the local community. In Chapter 5 of this study it was mentioned that in terms of Section 5 of the *MSA, 2000* that members of the local community have the right to contribute to the decision-making processes of the municipality by submitting written or oral recommendations, representations and complaints to the municipal council. In Chapter 5, Section 5.11.3 of this study, it was accentuated that the ward committee is the mechanisms through which the developmental needs of the local community should be communicated. Therefore, one could argue that the ward committee must make recommendations to the municipal council regarding the developmental priorities of the local community. It is a concern if ward committee members are not sure or indicated that the ward committee never made any recommendations to the municipal council regarding the developmental priorities of the local community. Either the ward committee members are not well informed about their role to make recommendations to the municipal council concerning the developmental priorities or one could argue that the ward committees itself has a functionality challenge. From the responses concerning the representativeness of the ward committee one could interpret that it is positive that the committee makes provision for people with special needs (disabled people) to serve on the ward committee however, it is a concern that none of the respondents made any mentioned about the representativeness of a variety of stakeholder, geographical location and age. In particular, the various stakeholder should be involved such as community-based organisations (CBOs) to promote effective community participation.

Figure 6.51: Ward committee give recommendations to municipal council regarding development priorities

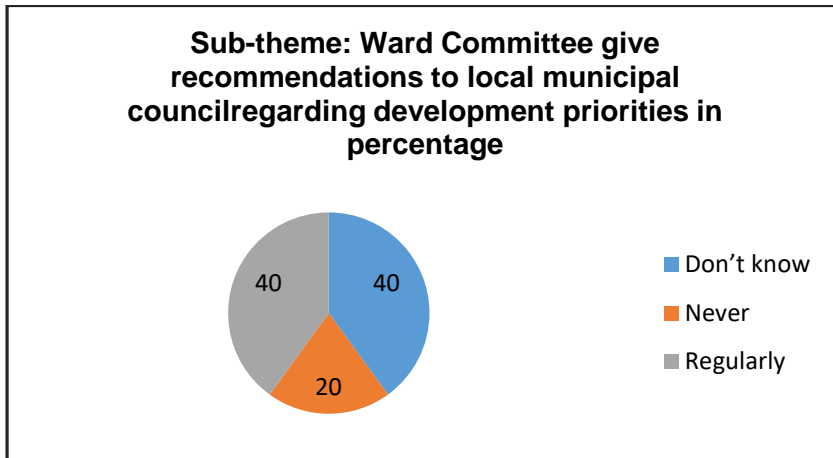
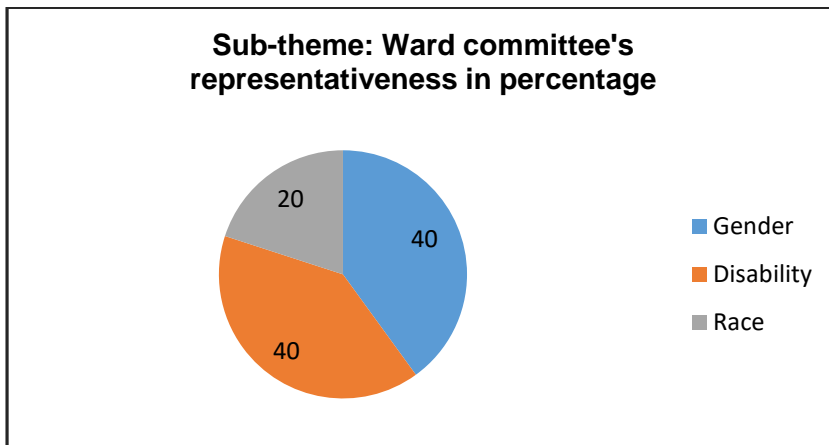


Figure 6.52: Ward committees' representativeness



6.9.2.5 Findings on the questions about co-ordination of community participation and consultative meetings regarding the municipal budget and conflicting matters

Question 1. Is there someone within the local municipal council who is responsible for /co-ordinating community participation (Sub-theme 8)?

Question 2. How many consultative meetings were held to discuss the most recent municipal budget (Sub-theme 9)?

Question 3. Has there any conflict within the municipal council in the past year, and if any what was the conflict about (Sub-theme 10)?

The aim of the question 1 above was to determine whether the local municipality makes provision for an internal staff member to co-ordinate community participation. Question 2

sought to determine whether the local municipality consult with the local community regarding the annual budget. Question 3 sought to determine if any conflict existed within the municipal council, what the conflict was, whether it was water and or electricity supply, road conditions, corruption, and or poor performance of councillors or officials, unemployment, crime or any other type of matters.

- **Responses:** On question 1 above two of the respondents mentioned that there is someone in the local municipality responsible to co-ordinate community participation, while two of the respondents mentioned that there is no one within the local municipality who co-ordinate community participation while one respondent mentioned that he/she did not know. On question 2 about the number of consultative meetings held to discuss the municipal budget two respondents responded that no consultative meetings took place to discuss the budget, while one respondent mentioned four consultative meetings took place and two respondents mentioned that two consultative meetings took place to consult on the recent municipal budget. On question 3 above about the occurrence of conflict within the municipal council, two respondents mentioned yes, one respondent said no, and two respondents said they don't know. None of the respondents provided any insight about whether the conflict was about water and or electricity supply, road conditions, corruption, and or poor performance of councillors or officials, unemployment, crime or any other type of conflicting matters. The responses were illustrated below in Figure 6.53, Figure 6.54 and Figure 6.55.
- **Interpretation:** From the above responses about question 1 above one could interpret that only one respondent (ward committee member) are aware that someone within the local municipality are responsible for community participation, while the other respondents don't know or said there is no one within the local municipality to co-ordinate community participation. In Chapter 3, Section 3.5.1.2 it was mentioned that in terms of Section 37 of the *Municipal Structures Act, 1998* the speaker is responsible to co-ordinate the functions of the ward committee. A concern is that most of the respondents were not sure who must co-ordinate the functions of the ward committee. One could argue that the functions of the ward committee is not a priority in both Tokologo Local Municipality and Tswelopele Local Municipality of the

Lejweleputswa District Municipality. It is a concern that two of the respondents mentioned that there were no consultative meetings about the recent municipal budget to consult with the local community. One could argue that the reason why the respondents responds in this manner on question 2, could be that in Section 6.9.2.2 only two of the respondents mentioned that they attended all municipal council meetings, while one respondents responded occasionally, and two respondents responded that they attend the municipal council meetings only once. It was mentioned in Chapter 5, Section 5.10.3, Section 5.10.4, and Section 5.10.5 of the study, that ward councillors must attend all municipal council meetings. It was further mentioned, in Chapter 5 of this study, that in terms of Section 19(2) of the *MSA*, 2000 provides that the municipal council may not exclude the public, including the media, when considering voting on any of the following matters; a draft by-law tabled in the council; a budget tabled in the council; the draft IDP, or any amendment of the IDP; the draft performance management plan, or any amendment of the plan tabled in council; the decision to enter into a service delivery agreement; or any other matter prescribed by regulation. In Chapter 5, Section 5.11.3 of this study, it was mentioned that the municipal council must inform the community, including the ward councillors who represent the local committee on the date, time and venue of consultative municipal council meetings. One could further argue that this could also be an indication that the ward committee members are not well informed about consultative meetings of the municipal council.

Figure 6.53: Knowledge of co-ordinator of community participation

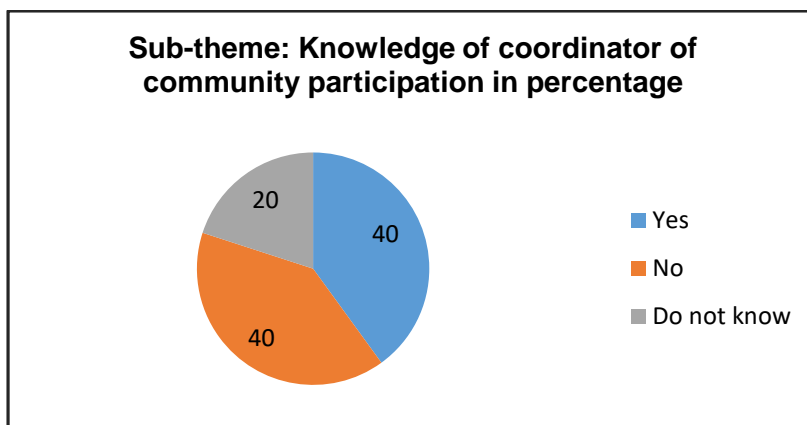


Figure 6.54 Number of budget consultative meeting with local communities

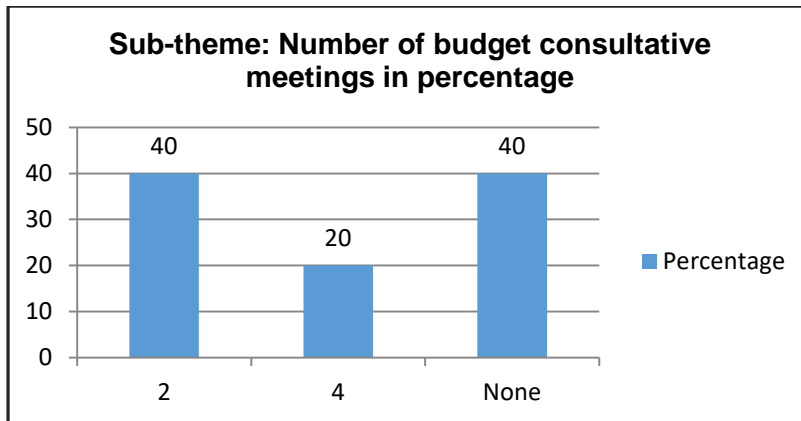
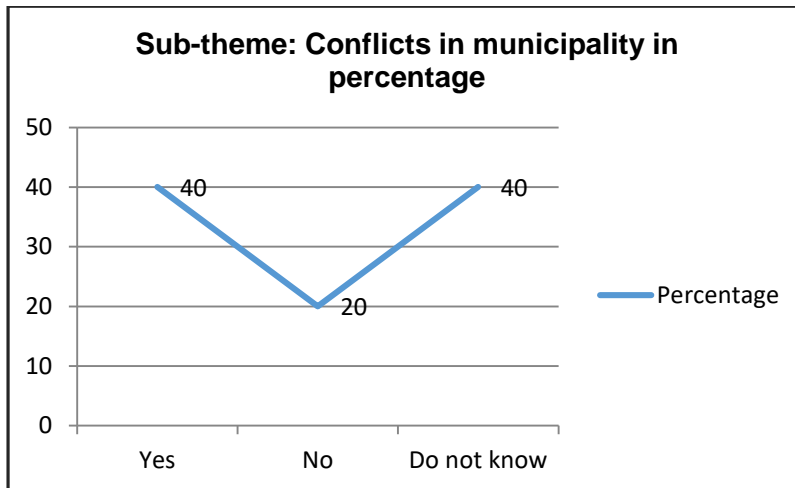


Figure 6.55 Conflict within local municipal council in the past year



6.9.2.6 Summary on the interpretations of questions 6.9.2.1 to 6.9.2.5

On the question on how their local community is informed about Municipal council meetings, 40% of respondents stated that they are informed through loud hailing and 60% indicated that they get informed by public notice boards. On the question on how often respondents attended local municipal council meetings, findings showed that 40% of respondents attend every meeting, 20% of respondents occasionally attend municipal council meetings and another 40% attended municipal council meeting once a year. It was argued that except for public notice boards and load hailing systems, more communication methods such as radio and community newspapers should be used to inform the community about municipal council meetings.

On whether they had knowledge of forums for public participation in their municipality, 40% of respondents know of CWP as a forum, 20% said there are no forums and 40% claimed that

they do not know. It was argued that the speaker is responsible to co-ordinate the functions of the ward committee. On the attendance of these forums for community participation in the past year, 60% of respondents never attended any of these forums for community participation in the past year and 40% indicated that they only attended once in the past year. On how effective forums were for community participation in their local municipal council, 40% of respondents indicated that the effectiveness of community forums is non-existent, 20% claimed that community forums are very ineffective and 40% said they are effective. It was argued that the establishment of community participation forums such as CDW, IDP, LED and other sectoral forums in all affiliated local municipalities of the Lejweleputswa District Municipality should be prioritise, to promote effective community participation in the affairs of the municipality.

On the question of whether respondents give recommendations to local municipal council through their ward committees regarding their development priorities, 40% of respondents indicated that they had never given recommendations, 20% said they regularly give recommendations and 40% claimed that they do not know. In Chapter 5 of this study it was mentioned that in terms of Section 5 of the *MSA*, 2000 that members of the local community have the right to contribute to the decision-making processes of the municipality by submitting written or oral recommendations, representations and complaints to the municipal council. It was further argued that one of the roles of a ward committee is to make recommendations to the municipal council regarding any matter affecting the ward. One could argue, that more needs to be done to capacitate the ward committees in all affiliated local municipalities of the Lejweleputswa District Municipality, to actively participate in the affairs of the municipality including to make recommendations to the municipal council regarding the matters that affect the ward.

On whether Ward Committees are representatives of the general community stakeholders, 40% of respondents indicated that gender is well represented, another 40% illustrated that various stakeholders are represented and 20% believe that geographical location is represented. It was emphasised that in terms of Section 17 of the *MSA*, 2000 municipalities must create conditions to allow members of the community, such as disabled people, other disadvantaged groups and people who are illiterate, to participate in the affairs of the municipality. On the question of whether there is someone within the local municipal council who is responsible for co-ordinating community participation, 40% of respondents believed that there is someone responsible for co-ordinating community participation and the other 40% said they do not

know. 20% pointed out that there is no one. In terms of section 37 of the Municipal Structures Act of 1998 the speaker must co-ordinate the functions of the ward committee. On the question on how many consultative meetings were held to discuss the most recent municipal budget, 40% of respondents specified that there were two consultative meetings held to discuss the most recent municipal budget, 20% held that there were four such meetings in a year, and 40% said at least five times. It was argued that in terms of Section 19(2) of the MSA, 2000 that the municipal council may not exclude the public, including the media, when considering voting on any of the following matters; a draft by-law tabled in the council; a budget tabled in the council; the draft IDP, or any amendment of the IDP; the draft performance management plan, or any amendment of the plan tabled in council; the decision to enter into a service delivery agreement; or any other matter prescribed by regulation. On the question of whether has there been any conflict within their local municipal council in the past year, 40% of respondents said there were conflicts within their local municipality, another 40% claimed that there were no conflicts and 20% said they do not know.

6.9.3 Section 3: Administrative Accountability Theme 2: Quality of Service Delivery (8 Sub-themes)

Findings of the closed-ended statements based on the five-point Likert scale (1-very poor, 2 - poor, 3 -fair, 4 -good and 5- excellent) of each of the sub-themes statements attached to the administrative accountability theme 2, quality of service delivery were discussed below.

6.9.3.1 Statement 1. Sub-theme 1: Employees of the municipality have the knowledge to answer the questions of the local community.

- **Responses:** On this question the more than 50% majority of respondents ranked municipal employees from poor to fair.
- **Interpretation:** It is disconcerting to note that respondents actually do not think highly of municipal employees. If people tasked with informing local communities about services provided by the municipalities seem to be ignorant, then communities at local government will remain misinformed and uninformed. Uninformed communities easily resort to unbecoming actions such as violent protests.

6.9.3.2 Statement 2. Sub-theme 2: The local municipal council has employees who give members of the local community personal attention

- **Responses:** Respondents rated municipal workers fair; again, none ranked them good to excellent.
- **Interpretation:** A seemingly forgotten Batho-Pele principles is lacking in these municipalities. It is the duty of administrative personnel to attend to the needs of community members without bias or favour.

6.9.3.3 Statement 3. Sub-theme 3: When the local municipal council promises to do something by a certain time it does so

- **Responses:** In this question almost all five respondents ranked their municipal council as very poor, with only one respondent indicating fair.
- **Interpretation:** One could observe that the level of trust is low and maybe this could be related to a few promises normally made during election time but never fulfilled. However, it was argued, in Chapter 5, Section 5.13 of this study, that most community members are not sufficiently informed on how to participate meaningfully in the affairs of the municipality that makes municipal functionaries less willing to consider the views of local communities.

6.9.3.4 Statement 4. Sub-theme 4. The local municipal council make repairs the first time and quickly when reported

- **Responses:** Again, on this statement the majority of the respondents indicated that repairs take long to be done and at times they are not done at all. Respondents ranked their local municipality at very poor to poor.
- **Interpretation:** The infrastructure of the two municipalities is in a state of disrepair and because of neglect repairing them will be costly.

6.9.3.5 Statement 5. Sub-theme 5: The local municipal council has adequate resources (vehicles, personnel etc.) to perform its functions

- **Responses:** Respondents ranked their local council as poor to fair, but none ranked them as good or excellent.
- **Interpretation:** This showed that municipalities are under-resourced to perform their service delivery mandate. Another concern is that the lack of skilled and ethical personnel at times lead to misuse of budgeted local government financial resources. In Chapter 3 of this chapter it was mentioned that the executive mayor is responsible to review the performance of the municipality to improve the economy, efficiency and effectiveness of the municipality. Thus, more needs to be done to ensure that both local municipalities improve their overall performance to ensure that they fulfil their statutory obligations to provide services to the local community.

6.9.3.6 Statement 6. Sub-Theme 6: Employees of the municipality are always willing to help members of the local community

- **Responses:** On this statement, respondents ranked municipal employees from poor to fair with none responding as good or excellent.
- **Interpretation:** As primary providers of basic services, municipal employees are expected to understand the needs of their communities and attend to them in the most effective and efficient manner.

6.9.3.7 Statement 7. Sub-theme 7: Employees of the municipality are always punctual and willing to work extra hours to help members of the local community

- **Responses:** Again, respondents ranked municipal employees from poor to fair.
- **Interpretation:** The above responses showed that the two local municipalities are underperforming. It was argued that late coming is a sign of unmotivated or indolent municipal personnel. This poor ranking also pointed to municipalities that have inadequate accountability and oversight mechanisms in their structures to hold functionaries to account for their actions or inactions. As mentioned, in Chapter 5 of this study, the MM is responsible and accountable to the municipal council for the

performance of the municipality's administration. Thus, the MM needs to do ensure that administrative staff are always punctual and fulfilling their administrative tasks.

6.9.3.8 Statement 8. Sub-theme 8: The municipality area/environment is clean, and refuse is collected regularly

- **Responses:** In this question respondents ranked their local municipality as very poor to poor. Piles of uncollected rubbish could be seen in many open spaces and street corners.
- **Interpretation:** Regular refuse removal is one of the services required from the municipality in terms of Schedule 5 (Part B) of the *Constitution*, 1996.

6.9.3.9 Summary on the interpretations of administrative accountability theme 2, quality of service delivery

The provision of service is a constitutional obligation provided in Schedule 4 (Part B) and Schedule 5 (Part B). In Chapter 3 of this study it was provided that in terms of Section 56 of the Municipal Structures Act, the executive mayor must oversee the provision of services to communities in the municipality in a sustainable manner. From the above feedback of the responses and interpretations of theme 2 quality of service delivery and the 8 sub-themes, one could argue that both Tokologo Local Municipality and Tswelopele Local Municipality of the Lejweleputswa District Municipality have serious challenges in the provision of quality service delivery. Responses from the interviews of the ward committee members showed that quality of service delivery is at the lowest, from very poor to poor. Noticeable interventions and visible consequence management should be implemented to address this apparent lack of accountability and oversight functions to give effect to the constitutional requirement to promote accountable local government to local communities.

6.9.4 Section 4: Administrative Accountability. Theme 3: Current Service Delivery Performance of the municipality (15 Sub-themes)

Findings of the closed-ended statements based on the five- point liker scale (1-very poor, 2 - poor, 3 -fair, 4 -good and 5- excellent) of each of the sub-themes (statements attached to the administrative accountability theme 3, current service delivery performance were discussed

below. The delivery of services is a constitutional obligation provided in Schedule 4 (Part B) and Schedule 5 (Part B) of the *Constitution*, 1996. In Chapter 3 and Chapter 5 of this study, it was indicated that the executive mayor of the municipality is responsible to oversee the provision of services to communities in a sustainable manner. The executive mayor reports to the municipal council concerning the provision of services.

6.9.4.1. Statement 1. Sub-theme 1: Overall cleanliness of town/street (refuse removal)

- **Responses:** On the overall cleanliness of town/street (refuse removal), this statement solicited responses ranking from very poor to poor with none indicating good or excellent service delivery.
- **Interpretation:** From the above responses one could interpret that both selected local municipalities under performed in the provision of refuse removal and the overall cleanliness of town/streets. This poses a health risk for the particular community. As mentioned above, refuse removal is a constitutional obligation as provided in Schedule 5 (Part B) of the *Constitution*, 1996.

6.9.4.2 Statement 2. Sub-theme 2: Quality of roads and streets

- **Responses:** Respondents ranked the quality of roads and streets as very poor. Tarred roads are now full of potholes and are in a state of disrepair. In some areas such as Dealesville, an apartheid era tar road is now a gravel road. Houses get flooded because of the absence of proper drainage system.
- **Interpretation:** From the responses one could argue that both selected municipalities performance related underperformed in the provision of quality of roads and streets. Tarred roads are now full of potholes and are in a state of disrepair. In some areas such as Dealesville, a tar road from the era before 1994 democratic elections, is now a gravel road. Houses get flooded because of the absence of proper drainage system. The maintenance of municipal roads is a constitutional obligation as provided in Schedule 5 (Part B) of the *Constitution*, 1996. In terms of Schedule 4 (Part B) of the *Constitution*, 1996 the municipality is responsible for storm water management systems in build-up areas. Thus, the executive mayor has to oversee the provision of services, of which

municipal roads and storm water management systems cannot be excluded, to communities in the municipality in a sustainable manner.

6.9.4.3 Statement 3. Sub-theme 3: Provision of housing

- **Responses:** On the statement provision of housing the respondents ranked the performance as poor to fair. A noticeable number of informal settlements with no basic services could be observed on the outskirts of formal housing settlements.
- **Interpretation:** From the above responses one could interpreted that both local municipalities underperform in the provision of housing.

6.9.4.4 Statement 4. Sub-theme 4: Overall provision and control of water

- **Responses:** On the statement overall provision and control of water, respondents ranked their local municipality as fair, with one respondent indicating that it is good. The problem that respondents indicated is frequent water cuts.
- **Interpretation:** From the above responses one could argue that both municipalities provide water services to local residents in a fair to good manner, but frequent water cuts remain a challenge. In terms of Schedule 4 (Part B) the provision of water and sanitation services limited to potable water supply systems and domestic wastewater and sewage disposal systems is

6.9.4.5 Statement 5. Sub-theme 5: Quality of water

- **Responses:** On the statement about the quality of water supplied, the respondents were divided, with one respondent indicating that it is excellent while others claimed that it is poor to fair.
- **Interpretation:** From the above responses one could interpret that the majority of the respondents indicated that the two selected municipalities underperforms in the provision of quality of water services.

6.9.4.6 Statement 6. A Sub-theme 6: Assistance to small-scale communal farmers

- **Responses:** On the statement about the assistance to small-scale communal farmers, all the respondents indicated very poor to poor.
- **Interpretation:** From the above responses one could argue that both of the selected local municipalities underperforms in the area of assistance to small-scale communal farmers. The quality of livestock grazing on barren overgrazed fields around townships is a testimony to these responses.

6.9.4.7 Statement 7. Sub-theme 7: Provision of electricity

- **Responses:** On the statement about the provision of electricity, respondents ranked their municipality from fair to excellent. Some complained of frequent load-shedding.
- **Interpretation:** From the above responses one could interpret that the performance of both selected local municipalities is fair to excellent irrespective of frequent load-shedding that could be directly attributed to late or non- payment by municipalities for services rendered by ESKOM.

6.9.4.8 Statement 8. Sub-theme 8: Recreational facilities (parks, playing grounds etc.)

- **Responses:** Respondents ranked their municipality from very poor and to poor concerning access to recreational facilities such as parks and playing grounds.
- **Interpretation:** From the responses it is clear that in both of the selected local municipalities underperform with the provision of recreation facilities. From the responses one could further argue that children do not have safe places to play after school hours and this may be the result of social ills prevalent in these communities.

6.9.4.9 Statement 9. Sub-theme 9: Provision of sanitation

- **Responses:** On the statement about the provision of sanitation, respondents ranked provision of sanitation as poor to fair. In one town the whole community does not have a sewage system, with residents using either buckets system or pit toilets or septic tanks buried in their properties.

- **Interpretation:** From the above responses one could interpret that on one of the selected local municipalities, underperforms in the provision of sanitation services to the local community due to the fact that the residents of one local community still make use of either buckets systems of pit toilets or septic tanks. The responses from the other selected local municipality rated the performance of the provision of sanitation services as fair. The municipal council should ensure that the developmental needs including the provision of proper sanitation services is listed as a priority in its IDP.

6.9.4.10 Statement 10. Sub-theme 10: Public facilities (toilets, taxi/bus ranks)

- **Responses:** On the statement about public facilities (toilets, taxi/bus ranks) the respondents ranked public facilities such as toilets, taxi or bus ranks as very poor to poor. From the observation, taxi ranks are informal or not properly maintained and there are no public toilets.
- **Interpretation:** From the above responses one could interpreted that the two local municipalities underperform in the area of the provision of public facilities such as public toilets, taxi/bus ranks.

6.9.4.11 Statement 11. Sub-theme 11: Provision of primary health services

- **Responses:** On the statement about provision of primary health services respondents ranked their municipalities as fair to good. The provision of primary health service is however a function performed by the provincial government on behalf of these local municipalities.
- **Interpretation:** From the above one could argue that the communities of the two selected local municipalities have access to primary-health services as provided by the Free State Provincial Department of Health on behalf of the local municipalities.

6.9.4.12 Statement 12. Sub-theme 12: Wi-Fi and internet connectivity

- **Responses:** On the statement regarding Wi-Fi and internet connectivity, all respondents ranked their municipalities as very poor. It should be noted that public provision of Wi-

Fi and internet connectivity in public spaces such as public libraries are still unheard of in the two selected local municipalities.

- **Interpretation:** From the above responses one could interpret that the two selected local municipalities underperformed by providing Wi-Fi and internet connectivity in public areas such as public libraries

6.9.4.13 Statement 13. Sub-theme 13: Assistance to informal traders and small businesses e.g. trading spaces

- **Responses:** All respondents of the two local municipalities ranked their municipal council assistance to informal traders and small business by providing public trading space as very poor. Informal traders and small businesses conduct their businesses in open spaces or make-shift structures.
- **Interpretation:** The two selected local municipalities underperform in the provision of public spaces for informal traders and small business.

6.9.4.14 Statement 14. Sub-theme 14: Provision of fire services

- **Responses:** All respondents ranked their municipalities as very poor to poor on this question. Fire services are located far away at district offices and are shared by many towns.

Interpretation: From the above responses one could argue that the provision of fire services is non-existent in the two local municipalities because fire services are located far away at district offices and are shared by many towns.

6.9.4.15 Statement 15. Sub-theme 15: Provision of site-and service residential sites for middle income groups

- **Responses:** On the statement about the provision of site-and-service residential sites for middle income groups, respondents ranked their municipality as very poor. There is an overall lack of housing opportunities for middle income groups resulted in local municipalities not being able to recruit top-class talent to the area.

- **Interpretation:** The provision of site-and residential site services for middle income groups remain a challenge, therefore one could argue that the two selected local government municipalities underperform in this area.

6.9.4.16 Summary of the interpretations of theme 3 - current service delivery performance of the municipality

The provision of service is a constitutional obligation provided in Schedule 4 (Part B) and Schedule 5 (Part B). In Chapter 3 of this study it was provided that in terms of Section 56 of the Municipal Structures Act, the executive mayor must oversee the provision of services to communities in the municipality in a sustainable manner. From the responses and interpretations of findings of theme 3 one could argue that the current service delivery performance of local both Tokologo Local Municipality and Tswelopele Local Municipality of the Lejweleputswa District Municipality remains a challenge. Apart from sub-themes provision of primary health services and provision of electricity, almost all respondents indicated very poor to poor service delivery performance at municipalities. It should however be noted that primary health care is provided by the provincial government and electricity is partly distributed by ESCOM. Both municipalities must ensure that they pay ESCOM for services rendered to the municipality. That municipalities do not intervene in creating opportunities for communities to be self-sufficient and self-reliant is of concern. Assisting small-scale live-stock farmers and informal traders would go a long way in addressing unemployment and poverty reduction.

That children do not have recreational parks and facilities creates a worrisome behaviour from the youth. Anti-social behaviour such as drug abuse and crime thrive easily in an environment where much of the youth is roaming the streets aimlessly. It is also disturbing to note that a facility such as Wi-Fi provision is still a luxury enjoyed by those who can afford it. Lately, internet connectivity is viewed as one of the basic services provided by local governments. The much talked about fourth industrial revolution is based on communities that are technologically savvy. Lack of public ablution facilities naturally create a health hazard with serious consequences. Lastly, lack of housing opportunities for middle income groups resulted in local municipalities not being able to recruit top-class talent. That emphasis is on provision of low-cost housing and neglecting middle-income earners show lack of holistic planning on the part of municipal administrative personnel and their political principals.

6.10 SUMMARY

This chapter outlined the research methodology followed in the study and discussed the analysis and interpretations of the data, giving empirically derived interpretations in each case. The demographic profile of the respondents was firstly examined.

From the findings of the self-administered semi-structured questionnaire completed by MMs, chief financial manager, mayor or executive mayor of the Mangaung Metropolitan Municipality, the four district municipalities, and 10 of the 18 local municipalities in the Free State province, it was emphasised that the majority (82.4%) of the respondents strongly agreed or agreed that municipal elections are a good tool to ensure accountability and transparency for political office-bearers. However, it was argued voters do not have any direct way of holding elected representatives to account during the term for which they have been elected. It was further argued the latter deficit in local accountability begs the question whether a recall procedure would be an appropriate vehicle to enhance local accountability. Neither the *Constitution*, 1996 nor any of the legislation provides for a recall procedure.

It was accentuated that, the majority of the respondents (53%) disagreed, or strongly disagreed with the statement on whether municipal councillors interfere in the normal administrative functions of the municipality. This finding is in contradiction with the Auditor-General reports for 2016-2017 and 2017-2018, the Auditor-General warned that political interferences in the administration weakened oversight (AGSA, 2018:3; AGSA, 2019:12). It was argued that that most municipalities of the country of which municipalities in the Free State province cannot be excluded are dysfunctional due to political interference, political faction infighting that weakens political oversight that often leads to mismanagement of limited financial resources.

It was mentioned that although the majority of the respondents confirmed that local government legislative acts and policies are understood by all political officials the findings is in contradiction with the Auditor-General report on the audit outcomes of 2017-2018, that that the vulnerable financial position of all (100%) of the municipalities in the Free State, is the result of the increase in irregular expenditure and non-compliance with legislated rules and SCM regulations. It was argued that if political officials do not have a sound knowledge of applicable local government legislation, how will they be able to hold the executives to account for non-compliance with legislative rules. It was argued that the political leaders responsible

for oversight should receive training concerning the key local government legislated rules and SCM regulations to ensure that they will oversee the effective implementation thereof.

It was accentuated that 47.1% disagreed with the statement that municipal councillors do not clearly understand the role of portfolio committees, audit committees and municipal performance audit committees. It was argued that no committee can function effectively if the political leaders (mayor or municipal council members) do not understand the function of Section 80 committees or the function of a key oversight bodies such as MPACs. Another concern is that, the majority (64.7%) of the respondents strongly agreed, or agreed with the statement, that there is no consequence management for breaking the Code of Conduct for Municipal Councillors as contained in Schedule 1 of *MSA*, 2000. It implies that that there is no consequence management for breaking the Code of Conduct for Municipal Councillors in their municipalities. It was argued that this finding is in agreement with the literature provided in Chapter 3, Section 3.10 of this study, where it was mentioned that the development of a culture of no consequences is a result of inadequate oversight and performance systems and process; and disobeying and continued non-compliances with key municipal legislations creates an environment that makes it easy to commit fraud and corruption within municipalities. It was argued that municipal councillors must receive training concerning the Code of Conduct for Municipal Councillors. It was further highlighted that the majority (64.7%) of the respondents either disagreed, or strongly disagreed with the statement that they have not heard or read about cases of corruption being experienced in their municipality in the past year. The above findings are in contradiction with the findings of the Auditor-General. It was argued that most fraud and corruption in local government occurs through the SCM and procurement processes.

It was accentuated that the majority (64.6.8%) of respondents disagreed with the statement that statement that the municipal political and administrative officials have a proper understanding of the *MFMA*, 2003. The findings correspond with the findings of the Auditor- General, 2017-2018 audit outcomes of municipalities in the Free-State, which confirmed that that the deterioration of the local government environment of municipalities in the Free State province was evident in the vulnerable financial position of all (100%) of the municipalities due to the increase in irregular expenditure and non-compliance with legislated rules of which the *MFMA*, 2003 cannot be excluded. It was argued that despite the support from National Treasury and Provincial Treasury, The Auditor-General reported in the 2017-2018 audit report that all

municipalities of the Free State municipalities financial positions had deteriorated, and it resulted in the increase in irregular expenditure and non-compliance with *MFMA*, 2003 and SCM regulations.

It was that 50% of the respondents strongly disagree or disagreed that municipal mayors clearly understand their respective oversight roles in municipal financial management and administration corresponds with the findings of the Auditor-General as mentioned, in Chapter 4 of this study, that municipal councils including municipal mayors clearly do not understand their respective oversight roles in municipal financial management and administration. The discussion about the findings, on the question as to whether the executive mayor or executive committee oversees the performance of its officials by taking budgetary monthly reports seriously, the majority of the respondents (52.9%) indicated that they do not know, which is a concern. In Chapter 4, Section 4.8.2 of this study, it was emphasised that the executive mayor or the executive committee is expected to oversee the performance of its officials, using the SDBIP and monitoring performance through monthly progress reports. The findings on the question of whether the non-executive councillors always hold the executive mayor or committee accountable by monthly, quarterly and annual financial reports, it was indicated that the majority of the respondents strongly agreed or agreed with the statement. It was emphasised in Chapter 4, Section 4.8.2, of this study that non-executive councillors are expected to hold both the executive mayor or committee and the officials accountable for performance, on the basis of monthly, quarterly and annual reports (National Treasury, 2004:5).

The findings, on the statement as to whether the municipal executive mayor or committee implements the recommendations of the Auditor-General, the majority of the respondents strongly disagreed or disagreed with the statement. It was emphasised in Chapter 4 of this study there is a rapid deterioration of accountability of all municipalities of the Free State province, as showed in the Auditor-Generals audit outcomes of municipalities of the 2017-2018 financial year. It was argued that it is a clear indication that MMs as the accounting officers, mayors, CFOs and relevant officials in most municipalities including metropolitan municipalities should be accountable for any financial losses incurred by municipalities during their term in office. It was argued that in the Free State province especially, most municipalities showed a total collapse in internal controls in that the political leadership (mayors or executive mayors and municipal councils) in all municipalities in the province exhibited no responses to improve political oversight and accountability for financial and performance management.

It was found that the majority of the respondents, strongly agreed and agreed that the municipal council does not fulfil their oversight function concerning municipal SCM effectively. In Chapter 4, Section 4.4.1 of this study, it was emphasised that mayors and councillors must critically assess information and SCM deviations before making any decisions.

A concern is that the majority of the respondents disagreed and strongly disagreed with the statement on whether mayor or councillor can authorise the spending of municipal funds. This disagreement is also substantiated, in Chapter 3 of this study, where the National Treasury (2004:20) maintained that the MM must be the accounting officer responsible for all funds managed by the municipality. It follows that no mayor or councillor or official can be responsible for any funds or authorise the spending of funds.

The findings on the statement as to whether, municipal councillors regularly report back at least quarterly to their constituencies on the performance of the municipality, showed that the majority (47.1%) of the respondents disagreed, or strongly disagreed, with the statement. This is in contradiction with the requirements provided in the Schedule 1 of the Code of Conduct for Councillors, MSA of 2000 that councillors must be accountable to local communities and report back at least on a quarterly basis to constituencies concerning council matters, such as the performance of the municipality in terms of established performance indicators. The results of the responses of the respondents are equally divided on the statement as to whether, local government is characterised by patronage politics, weak leadership and capacity, financial mismanagement and corruption. The findings correspond with the discussion mentioned in Chapter 3, Section 3.5.1.2 of this study, that local governments are characterised by patronage politics, weak leadership and capacity, financial mismanagement and corruption. CoGTA (2009:11) warned that a culture of patronage and nepotism is now so widespread in many municipalities that the formal municipal accountability system is ineffective and inaccessible to many citizens. On the question on whether, there had being no service delivery conflicts/protests within the local municipality a majority (64.7%) of respondents of either disagreed, or strongly disagreed, with the statement. In Chapter 5 of this study it was emphasised that the that service delivery protest has become a regular occurrence in municipalities in South Africa, with KwaZulu-Natal, leading in the number of municipalities affected, followed by the Free State and the Eastern Cape. The latter is an indication of local communities' dissatisfaction with the overall performance of municipalities. One could argue

that political leaders and municipal officials should do more to promote accountable local government to local communities.

The findings and interpretations of the semi-structured interviews that were conducted with 5 representatives from the ward committees of two of the local municipalities, Tokologo and Tswelopele, of the Lejweleputswa District Municipality were summarised below. A total of 3 themes and 33 sub-themes (theme 1 (public participation) consisted of 10 sub-themes, theme 2 (quality of service delivery) consisted of 8 sub-themes, and theme 3 (current service delivery performance of municipal council) consisted out of 15 sub-themes) were used to identify the current challenges pertaining to public participation and social accountability.

From theme 1 it was accentuated that excepts for public notice boards and communication through load hailing systems, more communication methods should be used to communicate with local communities. A concern was raised concerning the poor attendance of council meetings by ward councillors. It was argued that it is expected from ward councillors to attend all municipal council meetings. The municipal council should further ensure that community forums function effectively to promote community participation and local accountability. It was argued that community participation is a constitutional requirement, therefore more needs to be done to establish and capacitate community participation forums to actively participate in the affairs of local government. It was further argued that that more needs to be done to capacitate the ward committees in all affiliated local municipalities of the Lejweleputswa District Municipality, to actively participate in the affairs of the municipality including to make meaningful recommendations to the municipal council regarding the matters that affect the ward.

Firstly, there is a tendency that citizens do not know how to engage constructively with municipalities and development agencies inadequate capacity building and information sharing and guidance on the side of municipalities hampers the function of ward committees. One could argue that municipalities do not inform community members about the purpose of their participatory structures such as ward committees and community participatory forums that hinders meaningful participation and accountability. The low levels of education of some communities make it difficult for them to comprehend effectively and to take part in decision that prevent them from making contributions or to hold the municipality to account for their actions or inactions. The low levels of education in some communities make it difficult for

them to understand and participate in decision-making, thus preventing them from making contributions. Municipalities should devise proper information sharing and participation strategies, to ensure that communities are involved in the affairs of local government to promote social accountability through participatory structures such as the ward committees and community participatory forums.

From theme 2 it was emphasised that both municipalities have serious challenges in the provision of quality service delivery in both Tokologo Local Municipality and Tswelopele Local Municipality of the Lejweleputswa District Municipality. It was accentuated that service delivery is a constitutional obligation. It was further mentioned that in terms of Section 56 of the *Municipal Structures Act, 1998* the executive mayor must oversee the provision of services to communities in the municipality in a sustainable manner. Responses from the interviews of the ward committee members showed that quality of service delivery is at the lowest, from very poor to poor. Since questions from the interview schedule were mainly about work ethics of municipal personnel, it could be deduced that there is lack of accountability and oversight with administrative section of these municipalities. The MM, as the accounting officer, must ensure that administrative staff implement action and conduct in accordance with the Code of Conduct for Municipal Staff members as contained in Schedule 2 of the *MSA, 2000*. The apparent absence of accountability and oversight has led to local municipalities' underperformance and the resultant negative audit findings. From theme 3 it was argued that the current service delivery performance of the municipal councils of both the Tokologo Local Municipality and Tswelopele Local Municipality of the Lejweleputswa District Municipality is of poor quality. Almost all respondents indicated very poor to poor service delivery performance at municipalities, except for the sub-themes provision of primary health services and provision of electricity. It was found that municipalities do not intervene in creating opportunities for communities to be self-sufficient and self-reliant is of concern. It was argued that noticeable interventions and visible accountable and consequence management should be implemented to address this apparent lack of accountability and oversight functions in all affiliated local municipalities of the Lejweleputswa District Municipality.

CHAPTER 7: CONCLUSION AND RECOMMENDATIONS

7.1 INTRODUCTION

In Chapter 6, data was analysed, interpreted and linked with the literature review chapters to make some recommendations related to the objectives and research questions of the study.

This final chapter gives a full overview of the entire study. The proposed framework for oversight and accountability of municipalities of the Free State province was discussed and recommendations made from the literature and empirical study. Possible limitations are acknowledged to enlighten the reader of the shortcomings of the study, thereby adding credibility to the findings and recommendations about possible further research from this study are also made.

7.2 THE RESEARCH PROCESS

The aim of the study was to contribute positively to instituted oversight and accountability in municipalities of the Free State province by developing a framework for oversight and accountability to promote democratic local governance. To achieve this aim, a step-by step research process was undertaken. Firstly, the research problem was formulated. Thereafter, the study was placed within a theoretical framework and an approach (research methodology, design) developed to collect and to analyse data. The study followed a qualitative research approach and a descriptive case study research design to reach the research objectives and answer the research questions. In addition, the results and findings of the empirical study were discussed. Lastly, conclusions were drawn, and recommendations made. The proposed framework for oversight and accountability for municipalities of the Free State province were illustrated and the components explained.

7.2.1 Step One

This step was the introduction and background of the study, followed by a clearly delineated research problem, the aims, objectives and a detailed description of the research questions. Literature from various sources such as scientific journals, dissertations, related books, policies, Acts and government reports were examined to gain a thorough understanding of

oversight and accountability in the South African local government context. Subsequently, A conceptual framework was developed to guide the research process followed in this study. Relevant theoretical frameworks of oversight and accountability were examined. Lastly, the research methodology, design, research population and sampling, as well as data collection and data analysis were outlined.

7.2.2 Step Two

The literature study for this research was qualitative and included statutory and regulatory legislative frameworks, journal articles, books, conference papers, internet sources and government reports about oversight and accountability of local government. The literature was spread over four chapters (Chapter 2 to 5).

7.2.3 Step Three

An empirical study was conducted by administering a semi-structured questionnaire and a semi-structured interview schedule. Chapter 6 of the study outlined the research methodology as well as the findings and results of the empirical study. The result was a rich blend which ensured that the findings were consistent, allowed for applicability, and emphasised the truth. An experienced statistician used three computer-aided programmes, namely, Excel spreadsheets, and statistical package, SAS Version 9.2, for analysing the data. Descriptive statistics were used to analyse the data of the semi-structured questionnaire and the semi-structured interviews. For this study, Cronbach's Alpha coefficient was used to achieve the internal reliability and consistency of the research instruments.

7.2.4 Step Four

The last step was to make sense of the findings of the study by drawing conclusions and making recommendations. The proposed framework for oversight and accountability of municipalities in the Free State province was illustrated and explained.

7.3 RESEARCH OBJECTIVES AND RESEARCH QUESTIONS

As indicated in Chapter 1, Section 1.11.2 of this study, the main objective of the study was to develop a proposed oversight and accountability framework to promote oversight and accountability within municipalities of the Free State province based on literature analysis and an empirical study. Subsequently, the main research question of this study was: What aspects should be taken into account in the literature analysis and empirical study to development the proposed oversight and accountability framework to promote oversight and accountability in municipalities in the Free State province?

The following secondary objectives were formulated:

- To investigate, through an extensive literature study, the statutory and regulatory legislative frameworks, principles and requirements of oversight and accountability in the South African public sector, local government particularly.
- To investigate through an extensive literature, study the political, administrative, financial and social accountability structures, requirements, principles, internal and external control mechanisms and measures to promote oversight and effective accountability within municipalities.
- To determine the current practices and challenges of oversight and accountability (political, administrative, financial and social) in selected municipalities of the Free State province.
- To determine the current challenges pertaining to public participation and social accountability in selected municipalities of the Free State province.
- To make specific recommendations based on research findings to improve oversight and accountability in municipalities of the Free State province.

The following secondary research questions were used to achieve the objectives as stated above:

- What are the principles and requirements of the statutory and regulatory legislative framework related to oversight and accountability in the South African public sector, especially local government?
- What structures, principles, requirements, internal and external control mechanisms and measures are available based on the extensive literature study to promote oversight and

effective political, administrative, financial and social accountability within municipalities?

- What are the current challenges of oversight and accountability (political, administrative, financial and social accountability) in selected municipalities of the Free State province?
- What are the current challenges pertaining to public participation and social accountability in selected municipalities of the Free State province?
- What specific recommendations, based on research findings, could be made to improve oversight and accountability in municipalities of the Free State province?

7.3.1 Achievement of the research aim, research objectives of this study

7.3.1.1 The aim and main objective of the study

As mentioned in Section 7.2, the aim of the study was to positively contribute to instituted oversight and accountability in municipalities of the Free State province by developing a framework for oversight and accountability to promote democratic local governance. The step-by-step research process that was undertaken to achieve the aim of the study was discussed in Section 7.2 above.

The main objective of the study was to develop a proposed oversight and accountability framework to promote oversight and accountability within municipalities of the Free State province based on the literature analysis and empirical study. This proposed framework will be illustrated and discussed in Section 7 of this chapter.

7.3.1.2 Secondary objective 1

The first secondary objective was to investigate, through an extensive literature study, the statutory and regulatory legislative frameworks, principles and requirements of oversight and accountability in the South African public sector, specifically local government. While the general statutory and regulatory framework and policy guidelines concerning oversight and accountability of the three spheres of government were outlined in Chapter 2, Section 2.5, the key legislative prescripts and policies concerning political, financial, administrative and social oversight and accountability were discussed in Chapters 3 to 5 of this study.

It was stressed in Chapter 2, Section 2.5.1 of this study, that Section 151 of the *Constitution, 1996* grants a municipal council legislative and executive powers. Additionally, Section 151(4) of the *Constitution, 1996* provides that the national and provincial governments may not impede or compromise local governments' right to perform its functions effectively. Based on the above, the objectives of local government, as detailed in Section 152(1) of the *Constitution, 1996* were discussed and it was emphasised that local government is mandated to provide democratic and accountable government for local communities as well as encourage their involvement and those of community organisations in the matters of local government.

It was further accentuated in Chapter 2, Section 2.5.3 of this study, that the Public Audit Amendment (Act 5 of 2018) empowers the Auditor-General not to just recommend remedial action for public financial mismanagement and abuse, but also to enforce them. The *Public Audit Amendment Act, 2018*, Section 3(1B) stipulates that the Auditor-General has the power to take any appropriate remedial action, and to issue a certificate of debt, as prescribed, where an accounting officer or accounting authority has failed to comply with remedial action.

As indicated in Chapter 2, Section 2.5.9 of this study, the *Municipal Structures Act, 1998* predominantly makes provision for the establishment of the different categories of municipalities, the division of powers and functions among the categories of municipalities and regulates the internal structures of political office-bearers and senior municipal officials. It also specifies the delegation of functions to committees such as established oversight committees. Section 32(1) of the *Municipal Structures Act, 1998* submits that a municipal council must develop a system of delegation that will maximise administrative and operational efficiency and allow adequate checks and balances. In accordance with that system, appropriate powers that may be delegated by a municipality include all powers except the power to approve its integrated development plan. These powers and functions may be delegated to the executive committee if there is one; the executive mayor if there is one; metropolitan sub-councils if there are such councils; ward committees if there are; other committees; elected office-bearers; the MM; or any other officials.

Section 44(1) of the *Municipal Structures Act, 1998* provides the principal committee of the municipal council of a municipality that is entitled to establish such is the executive committee. This committee receives reports from other committees of the council and must forward these reports together with recommendations to the municipal council when it cannot dispose of the

matter in terms of its delegated powers. In terms of Section 55(1) of the *Municipal Structures Act*, 1998, if a municipal council chooses to have an executive mayor, he or she is entitled to receive reports from committees of the municipal council and to forward these reports together with recommendations to the municipal council when the matter cannot be disposed of by him or her in terms of his or her delegated powers.

In Section 2.5.9 of this study, it was highlighted that Section 4(2) of the *MSA*, 2000 specifies that the municipal council has the duty to exercise the municipality's executive and legislative authority. This section holds that the municipal council must use the resources of the municipality in the best interests of the local community to promote a democratic and accountable local government. It further encourages that municipalities should involve local communities in municipal affairs and ensure that municipal services are provided in a financially and environmentally sustainable manner to local communities.

It was highlighted in Chapter 2 and 5 of this study, that in terms of Section 5(1)(a) of the *MSA*, 2000, members of the local community have the right to contribute to the decision-making of the municipality by submitting written or oral recommendations, representations and complaints to the municipal councillor, other political structures, political office-bearer or the administration of the municipality. Section 5(1)(c) of the *MSA*, 2000 indicates that members of the local community have the right to be informed of decisions of the municipal council, other political structures or any political office-bearer of the municipality that affect community members' rights, property and reasonable expectations.

7.3.1.3 Secondary objective 2

The second secondary objective was to investigate, through an extensive literature study, the political, administrative, financial and social accountability structures, requirements, principles, internal and external control mechanisms and measures to promote oversight and effective accountability within municipalities. These political, administrative, financial and social accountability structures, requirements, principles, internal and external control mechanisms and measures to promote oversight and effective accountability within municipalities were discussed in detail in Chapter 3 to 5 of this study.

7.3.1.4 Secondary objective 3

The third secondary objective was to determine the current practices and challenges of oversight and accountability (political, administrative, financial and social accountability) in selected municipalities of the Free State province. These were discussed in the literature chapters (Chapter 3 to 5) of this study. Specific practices and challenges were identified in the empirical chapter (Chapter 6) of this study.

In Chapter 2, Section 2.10 of this study, it was mentioned that the Auditor-General (AGSA, 2018:22) has stated that the majority of municipalities, not excluding those of the Free State province, are still facing a number of challenges amongst which the promotion of accountable government for local communities. The failure of municipalities to comply with regulatory legislative frameworks and regulations was also cited in this chapter as one of the major concerns of promoting effective oversight and accountability. The Auditor-General (AGSA, 2018:22) reported that one of the root causes of accountability failures that weakens oversight at local government is political interference and infighting of municipal councillors in the administration of the municipality.

In Chapter 3 of this study, it was argued that the poor performance of municipalities in the Free State province has raised concerns about the key functionality of municipal councils, the speaker, mayor and MPAC (Section 79) committees as oversight and accountable structures and bodies. It was stated that politicians (mayor or executive mayors) and municipal officials in many municipalities are often in conflict resulting in factions within the municipal councils. It was reasoned that this situation has a negative impact on service delivery and is not conducive to political accountability to citizens. Based on the latest findings of the Auditor-General for the 2016-2017 and 2017-2018 financial years' audit outcomes of municipalities in the Free State province, one could argue that political oversight and accountability remains a serious concern within municipalities of the province. Despite municipal councils being instrumental in maintaining representative accountability within the municipality, the Auditor-General's findings of the audit outcomes were that municipal councils of most municipalities, including those of the Free State Province, are unable to fulfil their accountability and oversight role effectively.

In Chapter 4, Section 4.19 of this study, concerns were raised about the functionality of the internal audit committees. One of the concerns is that there is a lack of sanctions against officials for non-compliance with the *MFMA*, 2003. Another concern is that nobody pays heed to deadlines for giving feedback to the internal audit committee. Another concern is that it is difficult for members of the internal audit committee to function without accurate, reliable information from management and internal audit units. It was further highlighted, in Chapter 4, that the municipal council together with the mayor and MM fulfil an important role to promote the accountable financial management of the municipality. The executive committee of the municipality is subject to the municipal council to ensure public accountability, while individual members of the municipal council (PR councillors) are accountable to the taxpayers/voters. Although the municipal council may delegate some of the financial functions to the CFO but, it remains accountable for the municipality's finances. In addition, the mayor is expected to oversee and manage the MM to ensure delivery on the agreed outputs and is answerable to the municipal council for promised outcomes. Thus, additional to the municipal council exercising oversight of the executive mayor or executive committee it must also consider the annual audit report and adopt the oversight report containing the comments on the annual audit report.

The continued disregard of internal controls which include proper record keeping, financial reporting and compliance with key financial management legislation was also raised as another concern. In Section 4.15 of Chapter 4 of this study, it was also accentuated that the continued inaction of municipal councils, mayors, MMs and other relevant executives to implement the recommendations of the Auditor-General weakened the oversight and accountability of the financial affairs of all municipalities in the Free State province. Moreover, it was highlighted that despite there being laws, numerous regulations and a code of conduct related to SCM and procurement, continued non-compliance and irregularities, especially in the Free State province, have led to a prevailing culture of non-consequences that weakens effective oversight and accountability of these municipalities. It was argued that any decline in the effectiveness of internal controls weakens oversight and accountability of the financial management of the municipality.

In Chapter 5, Section 5.13 of this study, it was mentioned that the executive mayor and mayoral committee oversee the administration of the municipality to ensure effectiveness and efficiency

in service delivery. Portfolio committees, such as Section 80 committees, are significant structures to promote oversight of the municipal council. Also, as a Section 79 portfolio committee, an MPAC is one of the key oversight mechanisms to assist the municipal council in holding the executive and municipal administration to account and to ensure the efficient and effective use of municipal resources. Moreover, it was extrapolated in Chapter 5 of this study that national strategies and interventions such as the LGTAS and the Back-to-Basic campaign (the latest) have failed to yield the required results. Other programmes, such as the MASP, to improve municipal leadership, governance, administration, institutional capacity and financial management practices were introduced by SALGA to supplement the national strategies but failed to produce the required results. It was also stated in Chapter 5 of this study that the MM, as the accounting officer and head of the municipality's administration, must ensure that proper administrative arrangements are in place to promote accountability of the administrative function of the municipality. It was argued that failure to give effect to assigned responsibilities should result in the removal of the MM from office.

One of the numerous concerns in Chapter 5 of this study was discussed in Section 5.13 and concerns defaulters who contributed to most municipalities' failure to comply with SCM legislative frameworks not being held accountable for their actions. This means that municipal SCM practitioners (who are part of the municipality administration) have defaulted in SCM processes without any action being taken against them. It was argued that there is an urgent need to think of innovative ways to curb corruption and other administrative malpractices within municipalities. Another challenge that was emphasised about the administration of municipalities (not excluding those in the Free State) was that the lack of clarity of roles and responsibilities of administrative technical staff and political office-bearers creates opportunities for interference, thereby giving rise to allegations or instances of corruption. Many administrative municipal officials' confusion comes from a lack of knowledge regarding who is responsible for the proper implementation of SCM legislation in municipalities. This inhibits proper implementation and could lead to poor service delivery.

The functionality of the various mechanisms and internal controls to promote administrative accountability to keep the functionaries (political and public officials) under surveillance and in check was also raised in Chapter 5 of this study. The accountability of municipal officials to elected representatives (political officials) is based on the premise that since elected representatives are accountable to local communities, municipal employees must be

answerable to said representatives. It was emphasised that there are different institutional arrangements and mechanisms such as the SDBIP, the municipality's IDP and monthly, quarterly, mid-year budgets and performance assessment report by which municipal officials responsible for the administration of local municipalities can be held accountable by the elected representatives. These are useful mechanism to ensure that the mayor or executive mayor of the municipality exercises his or her oversight role regarding the municipal administration. However, it appears that local communities in the Free State province fail to hold municipalities and functionaries to account for their poor performance (financial, decisions-making and actions). The Auditor-General (AGSA 2018:4) report of 2017-2018 confirms that the financial performance and administrative control measures of all municipalities (100%) in the Free State province has deteriorated. As such, this continued lack of accountability and leadership contributes to the development of a culture of no consequences in all municipalities in the Free State province.

In Chapter 5 of this study, it was mentioned that since 2005 the South African municipal administration has faced many challenges as a result of transformation, one being that valuable skills have been lost. Many municipalities make appointments based on political or cadre deployment and family ties. Thus, many junior posts in many municipalities are filled by inadequately trained employees. Consequently, municipalities are plagued with serious service delivery bottlenecks and staff with a poor attitude towards delivering services effectively and efficiently. It was emphasised in Chapter 5 that the following are important requirements to promote administrative accountability in the municipality: strong ethical leadership in the administrative, financial and SCM practices in municipalities; sufficient human and financial resources to assist in the implementation of municipalities' administration and financial management systems; effective co-ordination of capacity building opportunities; the urgent filling of key vacancies within the municipality to ensure sound administrative and financial management; budgetary and spending processes that are aligned with the IDP; and the involvement of local communities in promoting administrative and social accountability.

In Chapter 5 of the study it was mentioned that the Auditor-General (AGSA, 2017:1) report for 2016-2017 that accountability issues, such as appropriate consequences for accountability failures, still feature prominently in most municipalities (of which municipalities of the Free State Province cannot be excluded). The chapter under discussion, mainly raised a concern

about the continued lack of accountability and good leadership of the Free State municipalities. It was argued that national and provincial governments are obligated by constitutional prescripts to support local government, particularly struggling municipalities. The Auditor-General in the report of 2016-2017 and 2017-2018 warns that political interferences in the administration weaken oversight and are not conducive the effecting of consequences. Both reports indicate that the blatant disregard for controls and compliance with key legislation leads to deteriorating accountability within municipalities, those in the Free State included (AGSA, 2018:55; AGSA, 2019:12). A major concern for the province is that the Mangaung Metropolitan Municipality became the first municipality of its kind to be placed under provincial administration. The continued disregard of internal controls such as proper record keeping, financial reporting, compliance with key financial management legislation and the continued failure of municipal councils, mayors, MMs and other relevant executives to implement the recommendations of the Auditor-General undermined oversight and accountability of the financial affairs of this and most other municipalities. The culture of no consequences that prevails also affects the effectiveness of oversight and accountability.

Current practices and key challenges of oversight and accountability (political, administrative, financial and social accountability) in selected municipalities of the Free State province were identified in the empirical chapter (Chapter 6) of this study. Practices concerning political oversight and accountability were also identified from the findings of the semi-structured questionnaire (respondents of municipal officials) and are discussed below.

The majority of the respondents confirmed that municipal elections for political office-bearers are a good tool to ensure accountability and transparency. On whether there are any consequences for breaking the code of conduct for municipal councillors, the majority of the respondents agreed with the statement. On whether municipal councillors clearly understood the role of portfolio, audit and MPACs, the majority of the respondents agreed. These committees are key oversight mechanisms for municipalities.

The Auditor-General reports for 2016-2017 and 2017-2018 warned that the continued lack of accountability and leadership failures were the main causes of governance failures (AGSA, 2018:55; AGSA 2019:12). Thus, the slow response by political and administrative leadership in addressing the decrepit control environment further contributes to the lack of consequences and poor oversight and accountability. The majority of the respondents concurred that there are

no consequences for municipal councillors breaking the code of conduct. The majority also agreed that the FS Provincial Treasury assists local municipal councils with compliance with the *MFMA*, 2003. On the question of whether non-executive councillors always held the executive mayor or committee accountable through monthly, quarterly and annual financial reports, the majority of the respondents also agreed. Most of the respondents also agreed that municipal councils fulfilled their oversight function regarding the municipal SCM. The Auditor-General cautioned in the 2016-2017 report that mayors and councillors should critically assess information such as procurement deviations before making any SCM related decisions (AGSA, 2018:57).

Key challenges identified from the findings of the semi-structured questionnaire include, firstly, that the majority of the respondents (municipal officials) disagreed and strongly disagreed that municipal councillors interfere in the normal administrative functions of the municipality. This finding contradicts the Auditor-General finding in the 2016-2017 and 2017-2018 reports (Chapter 3, Section 3.10 of this study) that political interference in the administration weakened oversight and did not enable the effecting of consequences (AGSA, 2018:3; AGSA, 2019:12). While the majority of the respondents also agreed that local government legislative acts and policies are understood by all political officials, most of them disagreed that local government legislations, rules and policies are always implemented. In addition, most of the respondents indicated that corruption at local government sphere is grossly exaggerated, again contradicting the Auditor-General (AGSA, 2019:2) report for 2017-2018 that a total of 74% of the municipalities did not adequately follow up on allegations of financial and SCM misconduct and fraud as discussed in Chapter 4 of this study. What was surprising and concerning was that most of the respondents disagreed that municipal political and administrative officials properly understood the *MFMA*, 2003. This corroborates the 2016-2017 and 2017-2018 report findings by the Auditor-General that the blatant disregard for controls and compliance with key legislation leads to decreasing accountability within municipalities (AGSA, 2018:55; AGSA, 2019:12).

Another finding by the Auditor-General in the 2015-2016 report indicated that municipal mayors clearly do not understand their respective oversight roles in municipal financial management and administration. The Free State local government's political and administrative leadership were especially cautioned to take accountability for, and address control weaknesses to improve, the audit outcomes. According to the Auditor-General report

for 2017-2018 (AGSA, 2019:2), a clear breakdown in controls and poor leadership responses to improving accountability, capacity and stability in municipalities were the main causes of transgressions in the Free State province. The deterioration of the local government environment is evident in the vulnerable financial position of 100% of the municipalities in the province which confirms that political officials do not clearly understand or fulfil their respective oversight roles concerning the financial management and administration of the municipality. The above is refuted by the majority of the respondents in the empirical study indicating that municipal mayors clearly understood their respective oversight roles in municipal financial management and administration.

The majority of the respondents indicated that they do not know whether the executive mayor or executive committee oversees the performance of municipal officials through monthly budgetary reports. Yet, the analysis of monthly budgetary and financial reports is key to promoting good governance and effective oversight of the financial affairs of the municipality. It was mentioned in Chapter 2 of this study that non-compliance with the Auditor-General's recommendations had resulted in municipal councils in the Free State not getting any clean audit reports in 2016-2017 and 2017-2018. This seems to hold true since most of the respondents disagreed that the municipal executive mayor or executive committee implemented the recommendations of the Auditor-General. This also contributes to a culture of no consequences. In Section 2.4.1 of Chapter 2 of this study it is indicated that the Public Audit Amendment Act of 2018 authorises the Auditor-General to act against public officials who engage in financial mismanagement and abuse. Section 3(1B) of this Act further states that the Auditor-General has the power to take appropriate remedial action such as issue a certificate of debt, as prescribed, where an accounting officer or accounting authority has failed to comply with remedial action.

Since most of the respondents disagreed with this point, it seems that a practice that is ignored is that of the municipality having public meetings about the Auditor-General's report on the municipality every financial year-end. The majority of the respondents disagreed that there are such meetings. It was stated in Section 4.7 (Chapter 4) and Section 5.10.4 (Chapter 5) that council meetings in which the audit reports are to be discussed must be open to the public. Again, the majority of respondents disagreed that local communities fully understand the mandate of the local government sphere or that they and their organisations fully participate in activities organised by ward committees and ward councillors. Lastly, the majority of the

respondents disagreed that municipal councillors regularly report back, at least quarterly, to their constituencies on the performance of the municipality. The findings from the interview schedule indicate that both Tokologo and Tswelopele Local Municipalities of the Lejweleputswa District Municipality have serious challenges in providing quality services.

7.3.1.5 Secondary objective 4

The fourth secondary objective was to determine the current challenges pertaining to public participation and social accountability in selected municipalities of the Free State province.

In Chapter 5 of this study, it was highlighted that in order for a municipality to promote public or social accountability it is imperative that local communities participate in the preparation, implementation and reviewing of the IDP and budgetary processes; monitoring and reviewing municipal performance; and any strategic decisions related to the provision of municipal services and developmental issues that will affect communities. However, mere involvement in the affairs of local government does not necessarily constitute social accountability. Social accountability calls for community participation in the affairs of local government through established structures and mechanisms such as sub-councils or ward committees. The involvement of citizens or community members in the matters of local government faces many challenges though, which functionaries can use as an excuse not to involve the public in effective decision and policy-making processes. Taking the above into consideration and that municipalities must arrange meetings with public representatives of all relevant stakeholders, social accountability can be quite time-consuming. In addition, community members might also often lack relevant competencies in basic analytical and decision-making skills or be illiterate and unable to make valuable inputs or hold functionaries to account for their actions or inactions. These could increase the cost of involvement in the affairs of municipalities.

Ward committees were established to enhance community participation in municipalities, but their efficacy is doubtful. Despite the good intentions of government policies and legislation to promote participatory governance through ward committees, powers delegated to them are limited. They do not have much decision-making powers, restricting their capacity to consult and to participate effectively with ward members in their municipal area. Among others, they also lack executive authority or power; the capacity to promote genuine community

participation; clarity about their responsibilities; and political stability. Lastly, it was argued in Chapter 5 of this study that ward committees in the Free State province has failed to hold municipalities and functionaries to account for their poor performance financially, in decision-making and acting timeously. The Auditor-General (AGSA, 2019:4) report for 2017-2018 indicated that the financial performance and administrative control measures of all municipalities (100%) in the Free State province have declined and that the continued lack of accountability and leadership contributes to the development of a culture of no consequences.

The following practices and key challenges concerning political oversight and accountability were identified from the findings of the semi-structured interviews (Chapter 6) with ward councillors from the Tokologo and Tswelopele Local Municipalities affiliated to the Lejweleputswa District Municipality.

The findings from theme two (public participation) showed that the majority of the respondents agreed that the municipality informed their local community members about municipal council meetings. The majority of the respondents indicated that the municipality makes use of public notice boards to inform the local community about municipal council meetings, while only two respondents indicated that their municipality uses other communication methods such as a load hailing system to inform the local community about municipal council meetings. One of the key challenges identified was that half of the respondents indicated uncertainty or did not know whether ward councillors ever made any recommendations to the municipal council regarding developmental priorities of the local community. From the responses concerning the representativeness of the ward committee, one could interpret that it is positive that the committee makes provision for people with special needs (disabled people) to serve on the ward committee. Regardless, it is a concern that none of the respondents made any mentioned about the representativeness of a variety of stakeholders, such as community-based organisations (CBO), to serves on ward committees to promote effective community participation. Another key challenge identified was that only one respondent (ward committee member) was aware of someone in the local municipality responsible for community participation, while the other respondents did not know or said there was no one within the local municipality to co-ordinate community participation.

In terms of Section 53 of the *MSA*, 2000, the speaker is responsible for the establishment and functioning of ward committees. It was argued in Chapter 5 of this study, that the municipal council must ensure that a person is appointed to monitor the functions of the ward committee in the absence of a speaker. Another key challenge that was identified from the semi-structured interviews was that ward councillors and ward committee members are not well-informed about their role to make recommendations to the municipal council concerning the ward's developmental priorities. Therefore, one could argue that ward committees are not functioning effectively. In Section 5.11.3 of this study, it was mentioned that the municipal council must inform the community and the ward committee members who represent local committees about the date, time and venue of consultative municipal council meetings. However, the majority of the respondents only attend municipal council meetings once a year or occasionally.

Findings from theme three (quality of service delivery) revealed that both the Tokologo and Tswelopele Local Municipalities have serious challenges in quality service delivery in the two local municipal councils. The semi-structured interviews indicated that service delivery at both these municipalities is of the lowest quality and were rated poor to very poor. Since questions from the interview schedule of theme three were mainly about work ethics of municipal personnel, it can be argued that there is a lack of accountability and oversight within the administrative section of both. It can further be argued that the apparent absence of accountability and oversight has led to the local municipalities underperforming and the resultant negative audit findings. Noticeable interventions and visible consequence management should be implemented to address this apparent lack of accountability and oversight functions.

From the findings of theme four (current service delivery performance of the municipal council) it was evident that, with the exception of the sub-themes provision of primary health services and electricity, the current service delivery performance of the local municipal councils at both the Tokologo and Tswelopele Local Municipalities is of a poor quality. It should be noted however that primary health care is provided by the provincial government and electricity is partly distributed by ESCOM. Disappointingly, neither of the municipalities try to create opportunities for communities to be self-sufficient and self-reliant. It was mentioned that assisting small-scale live-stock farmers and informal traders would go a long way in addressing unemployment and poverty reduction. Also found to be lacking were recreational parks and facilities to try and curb the current worrisome behaviour from the youth.

Anti-social behaviour such as drug abuse and crime thrive easily in an environment where most of the youth are roaming the streets aimlessly. It is also disturbing to note that Wi-Fi is still a luxury enjoyed by those who can afford it even though internet connectivity has lately come to be viewed as one of the basic needs provided by local governments. It seems that the much talked about fourth industrial revolution is based on communities that are technologically savvy. A lack of public ablution facilities was also noted and that this naturally creates a health hazard with serious consequences. Lastly, with the emphasis on the provision of low-cost housing, neglecting middle-income earners, the lack of housing opportunities for middle income groups has resulted in local municipalities not being able to recruit top-class talent. That shows an inadequacy in holistic planning on the part of municipal administrative personnel and their political principals.

7.3.1.6 The last secondary objective

The last secondary objective was to make specific recommendations based on research findings with the view to improve oversight and accountability in municipalities of the Free State province. Recommendations based on these research findings are provided in Section 7.5 of this chapter.

7.4 REVIEW OF THE CHAPTERS

Chapter 1 introduced the study by giving the background as well as the conceptual and theoretical frameworks of the study. The background to the problem, the problem statement, aim, research objectives and questions, research methodology, design, and ethical considerations and limitations were discussed briefly.

Chapter 2 of this study was an intensive overview of the literature, and the statutory and regulatory legislative frameworks, functions, principles and requirements of oversight and accountability in the three spheres of government with specific reference to local sphere. Concepts and functions of oversight and accountability were explained in-depth. In addition, key statutory and regulatory legislative frameworks promulgated to strengthen accountability and oversight at municipal councils, such as the *Constitution, 1996*, *Municipal Structures Act, 1998*, *Municipal Systems Act 2000*, and a myriad of other Acts, policies and regulations were

dealt with in detail. The role of constitutional bodies to strengthen accountability and oversight in the public institutions, especially at local government sphere were also outlined. This chapter concluded by briefly discussing good practices of oversight and accountability in international local governments from the following countries: Britain, Botswana, Namibia, Kenya, Brazil and China. Being former British colonies and members of the Commonwealth, South Africa, Botswana, Namibia and Kenya still have cultural and economic links with Britain. Also, China and Brazil are fellow BRICSA members with South Africa. As an emerging international economic block, BRICSA could have a noticeable influence on the South African economic and political outlook.

Chapter 3 dealt mainly with the theoretical review of legislative, and political oversight and accountability. In this chapter, each various literature sources were used to explain and discuss the concepts of legislative and political oversight and accountability. Legislative mechanisms to promote accountability and oversight at local government sphere were presented and discussed comprehensively. The Constitutional mandate of the Public Protector and the Auditor-General were debated from different points of view of different literature reviews. Other key legislative mechanisms to promote accountability and oversight such as the Office of Serious Economic Offences (OSEO), ad-hoc bodies like commissions of enquiry, special investigative units and special tribunals were all explained.

Political accountability and oversight and the function of elections to promote representational accountability at municipal councils also formed part of this chapter. It was questioned whether elections without recall systems by the electorate are enough to hold municipal councillors accountable. Since this study's focus was on local government, an overview of financial oversight and accountability at local sphere was also given together with in-depth discussions about various mechanisms and strategies to promote accountable, ethical and responsible municipal financial management. The accountability roles of senior municipal officials such as the MM, the CFO and departmental heads and managers accountable to the MM were scrutinised.

This chapter was concluded by discussing the concept of state capture in South Africa where corruption on a large scale was allegedly undertaken by powerful families and individuals. Martin and Solomon (2017:2) define state capture as the actions of individuals or groups, in the public and private sectors, influencing the formation of laws, regulations, decrees and other

government policies to their own personal advantage. These authors caution that since, the state and the economy cannot be conceived as two separate entities when discussing state capture, economic and political power is therefore fused. They also state that capture comes in many forms (Martin and Solomon 2017:2). Firstly, at one end of the spectrum, it can occur in terms of an individual or family that exerts control over both the state and the economy. Or, it could be oligarchies developing with a quasi-feudal structure of dependents or a complex range of networks with more equal and reciprocal relations. This is especially the case where laws and institutions become the product of corrupt transactions so that what counts as legality is itself a function of corruption.

In **Chapter 4**, the roles of National and Provincial treasuries were outlined. Fourie and Opperman (2007:393) submitted that National Treasury and Provincial Treasury, in their oversight and accountability roles, may monitor and assess compliance by municipalities and municipal entities with the *MFMA*, 2003, and any applicable standards of generally recognised accounting practices and uniform expenditure and revenue classification systems. National treasury may investigate any system of financial management and internal control in any municipality.

Fourie and Opperman (2007:393) indicate that Provincial Treasury must monitor compliance with the *MFMA*, 2003 by municipalities in the province, monitor the preparation of budgets, the monthly outcomes of those budgets and the submission of reports by the municipalities in the province. Provincial Treasury may assist municipalities in the province with the preparation of their budgets and may take appropriate steps if a municipality commits a breach of the *MFMA*, 2003. National Treasury (2004:23) holds that in order to strengthen the oversight role of councillors and prevent conflicts of interest, councillors are not allowed to serve on any bid or tender committee.

The directive of the *MFMA*, Circular 32 of 2006, and guidelines for the establishment of Municipal Public Accounts Committees (MPACs) were outlined. Van Niekerk and Dalton-Brits (2016:124) state that MPACs were established to help the municipal council in holding the executive and municipal administration to account and ensure the effective and efficient use of municipal resources. These authors maintain that the Auditor-General of South Africa's 2012-2013 Consolidated Report on Local Government identifies the primary duty of MPACs

as that of promoting transparency and accountability (van Niekerk and Dalton-Brits, 2016:124).

Chapter 5 dealt with theoretical literature reviews of administrative and social accountability and oversight within the local government sphere. An in-depth theoretical review of administrative and social accountability and oversight was presented. Among several concepts discussed, the *Public Audit Amendment Act, 2018* was of interest. Makwetu (2019:5) explains that the central feature of the amendments of this Act introduced the concept of material irregularity which refers to any fraud, theft, breach of a fiduciary duty or non-compliance with or contravention of the law that could result in material loss, the misuse or loss of a material public resources or substantial harm to the public sector or the public.

The *Public Audit Amendment Act, 2018* authorises the Auditor-General not just to recommend remedial action for public financial mismanagement and abuse, but also to enforce them. Section 3(b) of this Act states that the Auditor-General may, as prescribed, refer any suspected material irregularity identified during an audit performed to a relevant public body for investigation, and the relevant public body must keep the Auditor-General informed of the progress and the final outcome of the investigation. Section 3(1B) indicates that the Auditor-General has the power to (a) take any appropriate remedial action; and (b) issue a certificate of debt, as prescribed, where an accounting officer or accounting authority has failed to comply with remedial action.

Chapter 6 provided the findings and results of the empirical study. This chapter outlined the research methodology followed in the study and discussed the analysis and interpretations of the data, giving the results and findings in each case. A self-administered semi-structured questionnaire consisting of closed and open-ended questions/statements was used to elicit information from the MMs, chief financial manager, mayor or executive mayor of the Mangaung Metropolitan Municipality, the four district municipalities, and nine of the 19 local municipalities in the Free State province. The findings of some of the questions of the semi-structured questionnaire for municipal officials were at times contrary to the findings from the literature and in particular with the findings of the Auditor-General on the audit outcomes of the 2016-2017 and again 2017-2018 financial years of the municipalities of the Free State Province as discussed in the literature chapters of this study. It was argued that political oversight and accountable structures and role players of the municipalities in the Free State

must clearly understand and fulfil their oversight and accountable roles as required in the *Constitution*, 1996 and applicable local government legislation. A concern is that most of the respondents indicated that there are no consequences for continued non-compliance with municipal legislated rules and codes of conduct. This is a clear indication that the oversight and accountable structures within municipalities of the Free State are not functioning effectively.

An interview schedule was also used to conduct semi-structured interviews with representatives from the ward committees of two local municipalities, namely, Tokologo Local Municipality and Tswelopele Local Municipality of the Lejweleputswa District Municipality. This interview schedule was used to identify the current challenges pertaining to public participation and social accountability. The findings and results relating to the interview schedule, in which semi-structured interviews were conducted with selected ward committee members, also yielded results which were at times contrary to the findings from the literature review, especially the Auditor-General audit outcomes of 2016-2017 and again 2017-2018 of the municipalities of the Free State province as discussed in the literature chapters of this study. It is concerning that ward committees and community participation forums in both the selected local municipalities, are not successful in promoting effective community participation.

Chapter 7 is the last chapter of the study and deals with the recommendations of this study informed by the literature review, recommendations from the comparative analysis chapter and the empirical study. The development of the proposed oversight and accountability framework for municipalities in the Free State Province occurs in this chapter. Lastly, the limitations of the study are outlined together with implications for further research. It concludes with a short summary.

7.5 RECOMMENDATIONS FROM LITERATURE REVIEW

Since this study was mainly based on an interpretive paradigm that focused on qualitative research, the following recommendations were made from the literature chapters (Chapters 2 to 4) of this study.

The first recommendation was that all municipalities of the Free State province must give effect to the provisions of the *Constitution*, 1996 and other applicable local government legislative

frameworks, policies and SCM regulations and defaulters must be held accountable for their actions. Thus, there must be consequences for non-compliance with local government legislation, policies and SCM regulations. Continued non-compliance with key local government legislation and SCM processes in these municipalities results in irregularities and limited consequences for transgressions weakening oversight and accountability. A concern was raised in the 2017-2018 audit report on municipalities of the province that none of the municipalities, including the Mangaung Metropolitan Municipality, received clean audits. The audit outcomes of nine of the province's municipalities regressed with no improvements noted. In addition, financial statements of nine municipalities were late or not submitted by the cut-off date for inclusion in the Auditor-General's report which led to their audit outcomes being outstanding (AGSA, 2019:10).

Municipal councillors should give effect to Section 11(a) of the Code of Conduct of Councillors, as contained in Schedule 1 of the *MSA*, 2000. It states that a councillor may not interfere in the management or administration of any department of the municipal council, unless so mandated by council or by the law. Defaulters must be held to account for their actions, especially since the Auditor-General (2018:3) warns that political interferences and conflict as a result of political factions weakens the councils oversight function. This function is further worsened by political influence to appoint cadres and family members, particularly with the appointment of service providers and SCM related processes. Interference in the administrative activities of public organisations is especially widespread at the municipal sphere of government, most notably in human resources, where the appointment of senior executives such as the MM, is often done primarily based on party political considerations. This practice is commonly known as deployment in South Africa. Political interference of municipal councillors not only has a negative impact on the administrative functions of municipal officials, it also has a negative impact on their accountable role and on effective service delivery. Therefore, it is recommended that the roles and responsibilities of the municipal council should always be carried out with a clear distinction between oversight and political interference in administration as defined in the Section 52 and Section 103 of the *MFMA*, 2003, as well as in the Code of Conduct for Councillors as provided in Schedule 1 of the *MSA*, 2000.

Municipal councils must give effect to Section 152(1) of the *Constitution*, 1996 points out that the objective of local government is to provide democratic and accountable government for

local communities. In addition, the Code of Conduct for Councillors states that councillors represent local communities on municipal councils and should ensure that there are structured mechanisms to hold municipalities accountable to these communities in meeting their priority needs by providing services equitably, effectively and sustainably within the means of the municipality. It is therefore recommended that community members should be informed and empowered to understand their role to hold municipal councils to account for their actions or inactions, enabling them to effectively participate in local government matters. In this regard, it is further recommended that constant advocacy should be undertaken by SALGA to train councillors and educate members of communities about their responsibilities to hold municipal councils to account for their performance and actions or inactions. Electorates who are educated would make informed decisions during elections and this will empower them to hold municipal councils and PR councillors to account for their actions or inactions.

For this reason, the oversight role of the speaker, municipal council, mayor or executive mayor and the MPACs needs to be strengthened in municipalities of the Free State province so that the executive can be held to account and to ensure the efficient and effective use of municipal resources. CoGTA, SALGA and the MEC for local government of the Free State must ensure that mechanisms are in place to capacitate political office-bearers to clearly understand their oversight role to promote accountable local government. The Auditor- General (AGSA 2018:57) reported that the political leadership in the municipalities of the Free State province should create a culture that will result in a responsive, accountable, effective and efficient local government as envisaged in the *Constitution*, 1996 and the Medium-Term Expenditure Framework.

The MM, as the accounting officer, should personally be held accountable for any loss of allocated funds or assets as a result of any deficiency in the administrative or managerial arrangements of the municipality. Failure to give effect to assigned responsibilities should result in the removal of the MM from office. Afterall, the Public Audit Amendment Act of 2018 provides that if the accounting officer fails to implement remedial action, the Auditor-General may issue a certificate of debt in the name of the relevant accounting officer.

It is critical that internal controls that prevent irregularities and deviations from the MFMA of 2003 and SCM regulations be reinforced in all municipalities of the Free State province. This would be possible if political office-bearers fulfil their critical oversight role concerning the

SCM and procurement processes of their municipalities. The Auditor-General (AGSA, 2018:57) observes that mayors and councillors of Free State municipalities should critically assess information such as SCM and procurement deviations before making any decisions. In the 2016-2017 audit report, the findings for all 18 municipalities showed poor compliance with legislation owing to the slow response by the political and administrative leadership to address the weak control environment, lack of consequences, and the continued disregard for legislative prescripts (AGSA 2018:55). Although there are various critical mechanisms and internal controls to prevent irregular, unauthorised, fruitless and wasteful expenditure and keep functionaries under surveillance and in check, in the 2017-2018 financial year, oversight and accountability by the political leadership of municipalities and the provincial government failed completely which led to a complete breakdown of the Free State municipalities (AGSA, 2019:10). Blatant disregard for control measures, such as proper record keeping, and blatant non-compliance with key legislation and SCM regulations make it easy to commit fraud. In the literature chapters of this study, concerns related to SCM and procurement practices were shown to be tender irregularities, bribery, corruption, non-compliance with SCM Acts and regulations and the municipality's own SCM policy, incompetence and negligence of public officials. It is very troubling that most fraud and corruption in local government occurs through the SCM and procurement processes such as: inflated prices; bid committees not being properly constituted; conflict of interest not properly managed; tenders not advertised as required by SCM Acts, policies and regulations; and contracts awarded to friends and family members. The latter poses a serious financial risk for the municipality and defeats the aim of effective SCM and procurement management.

To promote participatory governance and accountable local governance, more should be done to empower ward committees and strengthen their role as a key link between the municipal council and the local community. They serve as a platform for local communities to raise their concerns and influence municipal policies that affect them. As such, they should seek answers from functionaries to hold them to account for their policies, decisions and actions. This requires that to promote participatory governance and accountable local governance, ward committees and residents from the formal ward committee and those ward committees operating within the area of traditional leaders should attend municipal council meetings in which both the annual and oversight reports are tabled.

Although no legislative prescripts make provision for a recall procedure it is recommended that SALGA investigate the possibility of implementing the recall procedure of councillors and mayors as a mechanism to improve public accountability in local government. In this way delinquent's political office-bearers could be recalled. Additionally, SALGA should investigate the possibility to establish an independent local government ombudsperson to address the crisis of perennial service delivery protests in municipalities. This ombudsperson should be empowered to investigate transgressions and complaints submitted by individuals and community organisations within a municipality. Such transgressions and complaints should then be speedily referred to law enforcement agencies for prosecution if found to have committed crimes.

It is imperative that key vacancies such as those of senior managers should be filled timeously to ensure sound administrative and financial management within the municipality of the Free State province. Of huge importance also, is that provincial government should ensure that it supports and effectively monitor the performance of all municipalities within the province. In addition, CoGTA should ensure that reports are submitted, analysed, and corrective actions are taken should interventions be required. Lastly, strategic interventions should be monitored, and their results evaluated to ensure successful implementation.

7.6 RECOMMENDATIONS FROM EMPIRICAL STUDY

Based on the findings of the empirical study (Chapter 6), the following are recommended:

- That CoGTA investigate the possibility of establishing a recall procedure. A concern is that municipal elections can be used to revoke the electoral mandate of an elected official. However, voters do not have any direct way of holding elected representatives to account during the term for which they have been elected.
- That SALGA ensures that all municipal councillors clearly understand their role and those of portfolio committees, MPACs, audit committees and municipal performance audit committee as promoting oversight and accountability in municipalities.
- That municipal councillors receive training regarding the difference between oversight and political interference in the administration of the municipality.

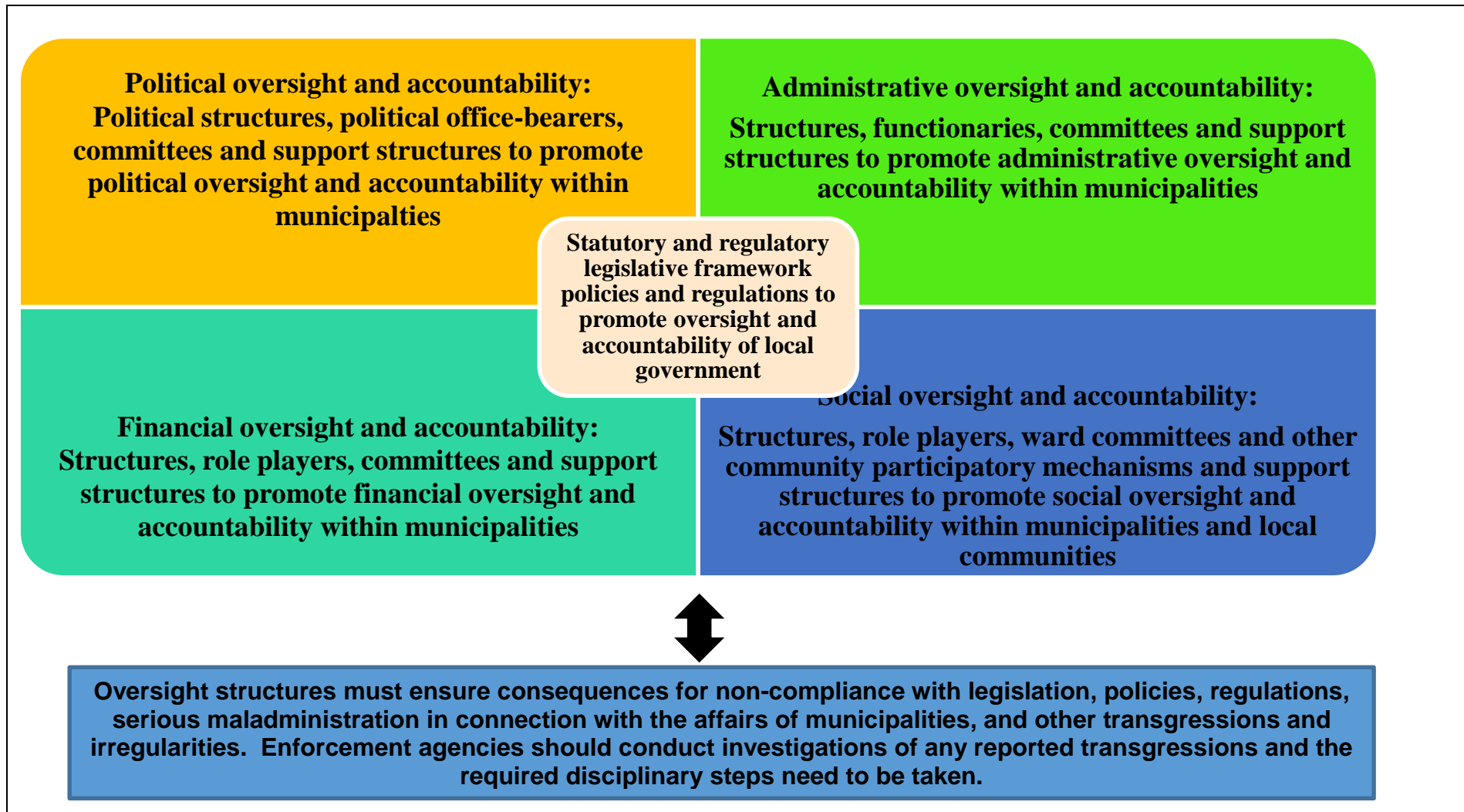
- That speakers, mayors, executive mayors and municipal councillors receive training on key municipal legislation and SCM regulations to fulfil their oversight role effectively so that they can ensure the municipal administration's successful implementation thereof.
- That National Treasury and Provincial Treasury should ensure functionaries have a clear understanding of the *MFMA*, 2003.
- That the MM must ensure the actions and conduct of administrative staff of the municipality are in accordance with the Code of Conduct for Municipal Staff Members as contained in Schedule 2 of the *MSA*, 2000.
- That mayors clearly understand their respective oversight roles in municipal financial management and administration. In the 2015-2016 report, the Auditor-General urged the Free State local government political and administrative leadership to take accountability for and address control weaknesses to improve audit outcomes. Municipal mayors not clearly understanding their respective oversight roles in municipal financial management and administration could be the reason that Free State municipalities' non-compliance with the Auditor-General's reports had resulted in municipal councils not getting any clean audit reports in 2016-2017 and 2017-2018. The Auditor-General warns in the report for 2016-2017 that mayors and councillors should critically assess information such as procurement deviations before making any decisions so that they do not contribute to a culture of no consequences.
- That the municipal council and mayor ensure the MM implements the recommendations of the Auditor-General. The continued inaction of municipal councils, mayors, MMs and other relevant executives to implement the recommendations of the Auditor-General weakens the oversight and accountability of the financial affairs of most municipalities.
- That more should be done to educate and inform local communities about the mandate of the local sphere of government.
- CoGTA must support municipal councils of all municipalities in the Free State province with empowering ward councillors and ward committee members to bolster community participation. Also, in the absence of a speaker, someone must be appointed to co-ordinate the activities of the ward committees.
- Municipal councils should ensure that more community participation forums are established to promote participatory governance.

- That more needs to be done to ensure that local communities and organisations fully participate in activities organised by ward committees and ward councillors.
- That there must be proper interventions at all municipalities (including Tokologo and Tswelopele) to address their serious backlogs and challenges in quality service delivery.

7.7 PROPOSED FRAMEWORK FOR OVERSIGHT AND ACCOUNTABILITY IN THE MUNICIPALITIES OF THE FREE STATE PROVINCE

The main objective of this study was to develop a proposed oversight and accountability framework (based on literature analysis and an empirical study) to promote oversight and accountability within municipalities of the Free State province. This proposed framework is illustrated in Figure 7.1 below.

Figure 7.1 Proposed framework for oversight and accountability in the municipalities of the Free State Province



The proposed framework provides a coherent and holistic approach by identifying key statutory and regulatory legislative frameworks, policies, regulations, structures, role players, support and enforcement structures required to promote political, financial, administrative and social oversight and accountability within municipalities of the Free State province. Oversight structures must ensure consequences for non-compliance with legislation, policies, regulations, serious maladministration in connection with the affairs of municipalities, and other transgressions and irregularities. Enforcement agencies should conduct investigations of any reported transgressions and requisite disciplinary steps need to be taken. The proposed framework also submits that there should be consequences for non-compliance and non-performance. Thus, mayors, accounting officer, CFOs and relevant officials should be accountable for any financial losses incurred by municipalities during their term in office. The framework holds that the political office-bearers must give effect to the constitutional mandate to promote accountable local government to local communities. The components of the proposed framework are discussed below.

7.7.1 Statutory and regulatory legislative framework, policies and regulations to promote oversight and accountability in local government

To promote effective oversight and accountability, municipalities and municipal entities must give effect to the key statutory and regulatory frameworks as illustrated in Figure 7.1. The key statutory and regulatory framework policies and regulations to promote oversight and accountability are the following:

- Section 139(1) of the *Constitution*, 1996 provides that when a municipality cannot or does not fulfill an executive obligation in terms of the Constitution or any other legislation, the relevant provincial executive may intervene by taking any appropriate steps to ensure fulfillment of that obligation.
- Section 155(6) of the *Constitution*, 1996 requires that provincial government monitor and give support to local governments in the province, as well as promote the development of local government capacity in such a way that it will enable all municipalities to perform their functions and manage their own affairs in an effective manner.

- Section 151(b) of the *Constitution*, 1996 confers the municipal council with legislative and executive powers so that the municipal council can hold the executives to account for their functions and actions.
- Section 152(2) of the *Constitution*, 1996 mandates local government to provide democratic and accountable government for local communities by ensuring the provision of sustainable services to communities, to promote social and economic development and a safe and healthy environment and encourage the involvement of communities and community organisations in the matters of local government.
- Section 195 of the *Constitution*, 1996 makes provision for the basic values and principles necessary to govern public administration in all three spheres of government, including municipalities of the Free State province.
- The *Public Audit Amendment Act* (Act 5 of 2018) empowers the Auditor-General not just to recommend remedial action for public financial mismanagement and abuse, but to enforce them. Section 3(b) states that the Auditor-General may, as prescribed, refer any suspected material irregularity identified during an audit, performed under this Act, to a relevant public body for investigation, and the relevant public body must keep the Auditor-General informed of the progress and the final outcome of the investigation. Section 3(1B) further indicates that the Auditor-General has the power to (a) take any appropriate remedial action; and (b) issue a certificate of debt, as prescribed, where an accounting officer or accounting authority has failed to comply with remedial action.
- Section 19 of the *MSA*, 1998 states that the municipal council retains responsibility for approving policy and exercising oversight of its mayor, and that the administration is accountable to the municipal council, via the mayor.
- Section 36 of the *Municipal Structures Act*, 1998 provides that each municipal council must have a chairperson who will be called the speaker.
- Section 56 of the *Municipal Structures Act*, 1998 provides that the executive mayor must receive reports from committees of the municipal council, to be forwarded with recommendations to the municipal council when the matter cannot be disposed of by the executive mayor in terms of the executive mayor's delegated powers. Section 56(3)(a) states that the executive mayor must review the performance of the municipality in order to improve its economy, efficiency, and effectiveness. According to Section 53(3)(d), the

executive mayor must monitor the municipality's administration in accordance with the directions of the municipal council and Section 56(3)(e) provides that the executive mayor must oversee the provision of sustainable services to communities. In Section 56(5) it is stated that the executive mayor must report to the municipal council.

- Section 37 of the *Municipal Structures Act, 1998* provides that the speaker of the municipal council should perform the duties and exercise the powers delegated to the speaker in terms of Section 59.
- Section 49(b) of the *Municipal Structures Act, 1998* provides that the mayor of the municipality should perform the duties and exercise the powers delegated to him or her by the municipal council or the executive committee.
- In terms of Sections 44 and 56 of the *Municipal Structures Act, 1998*, the executive mayor or committee is responsible for providing the municipality with political leadership, proposing policy and overseeing implementation thereof.
- Section 44(1) of the *Municipal Structures Act, 1998* holds that the executive committee is the principal committee of the council of the municipality that is entitled to establish such. It and the committee of the municipal council receive reports from other committees and forward them with recommendations to the council when they cannot dispose of the matter in terms their delegated powers.
- Section 55(1) of the *Municipal Structures Act, 1998* indicates that if a municipal council chooses to have an executive mayor, he or she is entitled to reports from committees of the municipal council and to forward these reports with a recommendation to the council when he or she cannot dispose of a matter in terms of the executive mayors delegated powers.
- Section 59 of the *MSA, 2000* provides that a municipal council should have a system of delegation that will maximise administrative and operational efficiency and provide for adequate checks and balances. The council may delegate appropriate powers to any of the municipality's other political structures, political office-bearers, councillors or staff members to perform any of the municipality's duties and withdraw any delegation or instruction. Exceptions to powers that may be delegated are those mentioned in Section 160 (2) of the *Constitution, 1996*: setting tariffs; deciding to enter into a service delivery agreement in terms of Section 76(b); and approving or amending the municipality's integrated development plan (IDP). Section 59(3) provides that the municipal council (or

at least one quarter of the councillors) may, in accordance with procedures in its rules and orders, request in writing to review any decision taken by a political structure, political office-bearer, councillor or staff member in consequence of a delegation or instruction, and either confirm, vary or revoke the decision subject to any rights that may have accrued to a person. Section 56(5) provides that the executive mayor must report to the municipal council.

- Section 79 of the *Municipal Structures Act*, 1998 provides that a municipal council may establish one or more committees necessary for the effective and efficient performance of any of its functions or to exercise of any of its powers.
- Section 80 of the *Municipal Structures Act*, 1998 provides that a municipal council with an executive committee or executive mayor may appoint, in terms of Section 79, a committee or councillors to assist the executive committee or mayoral committee.
- Section 4(1)(b) of the *MSA*, 2000 provides that municipal councils exercise municipalities' executive and legislative authority, without improper interference.
- According to Section 6 of the *MSA*, 2000, the municipalities' administration must be governed in accordance with the constitutional values and principles for public administration. Section 6(2) of the Act provides that municipal administrations are responsible for the following: to be responsive to the developmental needs of their communities; to promote a culture of accountability and public service amongst municipal officials; to take steps to prevent corrupt activities; to promote co-operation and communication with local communities; to provide the local community with accurate and reliable information about the level and standard of service delivery; and to inform and involve local communities and community organisations in the affairs of local government.
- Section 16 of the *MSA*, 2000 makes provision for the development of a culture of municipal governance that complements formal representative government with a system of participatory governance. Section 17 makes provision for mechanisms, processes and procedures for community participation in the affairs of the municipality.
- In terms of Section 38 of the *MSA*, 2000, a municipality must administer its affairs in an economical, effective, efficient and accountable manner.
- Section 39 of the *MSA*, 2000 provides that the performance management system must measure the performance of the municipality.

- Section 51 of the *MSA*, 2000 states that the MM of a municipality is accountable for the overall performance and administration of the municipality.
- Section 53 of the *MSA*, 2000 defines the specific governance roles and areas of oversight and accountability of each political structure and political office-bearer. Section 53(5) of the *MSA*, 2000 emphasises that the municipality must determine the relationships among political structures, political office-bearers and MMs when defining their respective roles and areas as well as how they must interact. Their appropriate lines of accountability and reporting should also be outlined.
- Section 55(1)(a) of the *MSA*, 2000 provides that, as head of administration, the MM of a municipality is subject to the policy directions of the municipal council and responsible and accountable for forming and developing an economically effective, efficient and accountable administration.
- In terms of Section 56 of the *MSA*, 2000, the MM is appointed by the municipal council, as are the managers directly accountable to him or her.
- The Code of Conduct of Municipal Councillors, provided in Schedule 1 of the *MSA*, 2000 states that a councillor must perform the functions of office in good faith, honestly and transparently and act in the best interest of the municipality at all times so that the credibility and integrity of the municipality is not compromised.
- The Code of Conduct for Municipal Staff as in Schedule 2, Section 2 of the *MSA*, 2000 states that staff, as members of the municipality, must perform the functions of office in good faith, diligently, honestly and transparently and act in the best interest of the municipality at all times and in such a way that the credibility and integrity of the municipality are not compromised. Staff should therefore be impartial and treat all people, including other staff members, equally and without favour or prejudice.
- Section 5(1) of the *MFMA*, 2003 provides that National Treasury may monitor the budgets of municipalities to establish whether they are consistent with national government's fiscal and economic policy. Section 5(2) further provides that National Treasury must investigate any system of financial management and internal control in any municipality or municipal entity and recommend improvements.

- Section 10(1) of the *MFMA*, 2003 points out that the accounting officer must administer the entire municipality's bank accounts since he or she must account for it to the municipal council which must enforce compliance with the Act.
- Section 52 of the *MFMA*, 2003 establishes the role of a mayor or executive mayor in municipal financial matters. He or she is responsible for the fiscal and financial affairs of the municipality as well as monitoring and overseeing the responsibilities assigned to the accounting officer and the chief financial officer. However, he or she may not interfere in the exercising of these responsibilities.
- Section 60 of the *MFMA*, 2003 states that the MM of the municipality is the accounting officer of the municipality. He or she must therefore exercise the functions and powers assigned to the accounting officer in terms of the Act and provide guidance and advice on compliance with the Act to the political structures, political office-bearers and officials of the municipality as well as any municipal entity under the sole or shared control of the municipality.
- Section 61(1)(a) of the *MFMA*, 2003 provides that the accounting officer of the municipality must act with fidelity, honesty, integrity and in the best interest of the municipality in managing its financial affairs. Section 61(1)(b) requires that he or she disclose to the municipal council and the mayor all material facts which are available to him or her; reasonably discoverable; and which might influence the decisions or actions of the council or the mayor in any way.
- Section 73 of the *MFMA*, 2003 compels the accounting officer to inform the provincial treasury, in writing, of any failure by the municipal council to adopt or implement a budget-related or chain management policy or about non-compliance by political structures or office-bearers of the municipality with any such policy.
- Section 74 of the *MFMA*, 2003 sets out that the accounting officer of the municipality must submit any information requested by National Treasury, the relevant Provincial Treasury, the department for local government in the province or the Auditor-General.
- Section 129(1) of the *MFMA*, 2003 specifies that the municipal council must consider the annual report of the municipality or of any entity under the control of the municipality.
- According to Section 131(1) of the *MFMA*, 2003, the MM must address all aspects raised by the Auditor-General in an audit report and the mayor must ensure the MM's compliance.

- Section 62 of the *MFMA*, 2003 specifies the general financial management functions of the accounting officer who is responsible and accountable for the financial administration of the municipality.
- Section 165 of the *MFMA*, 2003 requires municipalities to establish internal audit units to exercise effective financial control.
- In terms of Section 166 of the *MFMA*, 2003, each municipality and municipal entity is required to establish an audit committee as a committee of the municipal council.
- National Treasury and the *MFMA* (Circular 32 of 15 March 2006) give municipal councillors practical guidance regarding municipal financial management and their oversight role within the municipal council. They delineate what the municipal council must do when considering the annual report and producing the oversight report of the municipality.
- National Treasury and the Guide for Accounting Officers of Municipalities and Municipal Entities of 2005 provides that every municipality and municipal entity must adopt and implement an SCM policy, which gives effect to Section 217 of the *Constitution*, 1996. Section 3 of the Code of Conduct requires that SCM practitioners be accountable for their decisions and actions to the public and should use public property scrupulously. Only accounting officers or their delegates have the authority to commit the government to any transaction for the procurement of good and services. All transactions conducted by a practitioner should be recorded and accounted for in an appropriate accounting system.

Considering the above, the *Constitution*, 1996 and applicable Acts make provision for the function and roles of oversight and accountable structures and functionaries within municipalities to give effect to Section 152(1)(a) of the *Constitution* to provide democratic and accountable government for local communities. However, the latest findings of the Auditor-General, Kim Makwetu, concerning the local government 2017-2018 audit outcomes confirm that blatant non-compliance with key municipal legislation is getting worse. Since mayors, municipal managers and municipal councils are not taking their oversight and accountable role serious, the culture of non-compliance ultimately reigns. The oversight structure (municipal councils) of municipalities of the Free State Province must ensure that statutory, regulatory and legislative frameworks, policies and SCM regulations are implemented and that disciplinary actions are taken for non-compliance.

Attention is given below to the requirements for political, administrative, financial and social oversight and accountability as illustrated in Figure 7.1.

7.7.2 Political Oversight and Accountability

Political accountability, as indicated in figure 7.1 above, refers to the political accountability of politicians to the public for representing them. It requires that municipal councils and political office-bearers render account to the local communities for the way in which they fulfil the functions and responsibilities assigned to them. This implies that the political structure and political office-bearers of the municipality are responsible for political oversight and accountability. Therefore, Figure 7.1 illustrates that certain political structures, political office-bearers, committees and support structures must promote political oversight and accountability to give effect to Section 152 of the *Constitution*, 1996 to promote democratic and accountable governance to local communities. The Auditor-General notes that continued and blatant non-compliance with key municipal legislation shows that municipal councils, mayors, and MMs in the Free State are not serious about their oversight and accountable role which ultimately leads to non-compliance as a culture. He also expresses that mayors do not understand their oversight role otherwise they and councillors would critically assess information such as procurement deviations before making any decisions. The weak internal control environment, the lack of consequences, and failure to adhere to the requirements of local government legislative frameworks and the slow response by the political and administrative leadership of municipalities in addressing these issues are the reason are the reasons the Free State performs so poorly (AGSA, 2018:55-57). Overall bad performance is also the reason that the Mangaung Metropolitan Municipality was the first metropolitan municipality to be placed under provincial administration. For any improvement, the political oversight and accountable structures and role players of the municipalities in the Free State must understand and fulfil their oversight and accountable roles as required in the *Constitution*, 1996 and other applicable local government legislation.

Chapter 1 of the *MSA*, 2000 identifies the municipal council, committee or other collective structure of a municipality as the key political structure of a municipality. In terms of the *Laws Amendment Act*, 2008, political office-bearer refers to the speaker, mayor, executive mayor, deputy

executive mayor, deputy mayor, or member of the executive committee as referred to in the *Municipal Structures Act*, 1998. The specific governance roles and areas of oversight and accountability of each political structure and political office-bearers are provided in Section 53 of the *MSA*, 2000.

Section 151(2) of the *Constitution*, 1996 points out that the executive and legislative authority of the municipality is vested in its municipal council which is responsible for oversight of the executive (municipal administration). Members of the council are individually and collectively accountable to local communities for local government's achievement of objectives as provided in Section 152 of the *Constitution*, 1996. Moreover, Section 2 of Schedule 1 of the *MSA*, 2000, determines that for the oversight and accountability role of municipal councils, councillors should perform the functions of office in good faith, honestly and transparently. At all times, they should act in the best interest of the municipality so that its credibility and integrity are not compromised.

As part of the system of delegation provided in Section 59 of the *MSA*, 2000, the municipal council may establish one or more committees necessary for the effective and efficient performance of any of its functions and it may exercise any of its powers, including that of overseeing committees. One key oversight committee that reports directly to the municipal council is the MPAC. The MPAC is responsible for overseeing executive functionaries (political and municipal officials) of the municipal council and to ensure the good governance and performance of the municipality. The fact that local government legislation does not mandate MPACs' enforcement of their recommendations on municipalities means that they are only implemented by a few municipalities. The chairperson of this committee therefore consults directly with the speaker of the municipality, who is also the chairperson of the municipal council and the person who can ensure that MPAC recommendations are implemented.

The municipal council may also appoint portfolio committees such as Section 80 committees to assist the executive mayor. A concern, however, is that municipalities with a mayoral executive system and Section 80 portfolio committees, with few or no Section 79 committees, significantly reduces the municipal council's capacity to fulfil its oversight role over the executive. This also

means that in a municipality with few to no Section 79 committees, ordinary councillors' capacity to exercise oversight of executives is limited.

In terms of Section 59 of the *MSA*, 2000, the municipal council must develop a system of delegation for adequate checks and balances (oversight) and instructing any political structure, political office-bearer, councillor or staff member to perform any of the municipality's duties. One of the key political office-bearers, as illustrated in Figure 7.1 above, is the speaker. SALGA (2011:16) promulgates that the speaker's role depends mostly on the internal arrangements made by the municipality but that the formulation of the terms of reference should be regulated in terms of Section 53 of the *MSA*, 2000 which makes provision for the roles and responsibilities of political structures and office-bearers. Section 37 of the Municipal Structures Act of 1998 sets out the functions of the speaker, namely, to chair council meetings; maintain order during council meetings; implement the Code of Conduct for Municipal Councillors (Schedule 1 of *MSA*, 2000); and exercise delegated functions as required in Section 59 of the *MSA*, 2000. These functions include facilitating public participation regarding legislative matters; the establishment and functioning of ward committees; and supporting councillors. The speaker therefore has a key role in ensuring oversight, accountability, integrity, discipline and efficiently running the municipal council. He or she is also the guardian of the integrity of the municipal council and of council members' privileges and interests (Schedule 1 of *MSA*, 2000).

The mayor, who is the chairperson of the executive committee within a collective executive system, is another important political office-bearer. Section 49 of the *Municipal Structures Act*, 1998 ordains that the mayor should preside at meetings of the executive committee, perform duties and exercise powers delegated to him or her by the municipal council or executive committee. Section 44 of this Act identifies the executive committee as a municipal council committee that receives reports from other committees of the council and forwards them with recommendations to the council when it cannot dispose of the matter in terms of its delegated powers. This committee must also report all its decisions to the municipal council. In terms of Section 44(d), this committee must ensure that regard is given to public views and report on the effect of consultation about decisions of the municipal council. As the political head of municipalities with a mayoral executive system, the executive mayor, also has a key oversight and accountability role over the executives

of the municipality. The statutory functions of the executive mayor are provided in Section 56 of the *Municipal Structures Act, 1998*. In terms of Section 56(1) thereof, an executive mayor is entitled to receive reports from committees of the municipal council and to forward these reports with recommendations to the council when the matter cannot be disposed of in terms of the executive mayor's delegated powers.

The most important support structures to assist the municipal councils include national and provincial governments and SALGA. In terms of Section 154(1) of the *Constitution, 1996*, the national and provincial governments, through legislative and other measures, must support and strengthen the capacity of municipalities to exercise their powers and perform their functions. Provincial government is responsible for municipal oversight and support and may intervene in the affairs of a municipality which cannot fulfil its constitutional mandate or its statutory and legislator executive obligations (administration). Section 139 of the *Constitution, 1996* provides that provincial governments should intervene in the affairs of a municipality which fails to fulfil an executive obligation. Based on this decree, the Mangaung Metropolitan Municipality of the Free State province was the first metropolitan of its kind that was placed under administration by the provincial government. This shows how bad the municipal council and functionaries were at oversight and accountability. In the 2017-2018 audit outcomes report of local government, the Auditor-General reported that municipalities of the State Province that were placed under administration had shown no improvement during the financial year. It was argued in the study that the functionality of political oversight of the Free State provincial government and of the municipalities under administration could be questioned.

The Organised Local Government Act of 1997 recognises SALGA as representing organised local government. The role of SALGA is to contribute to the development of municipalities throughout the country, through the provision of specialised services to supplement and strengthen the capacity of municipalities; research and information dissemination; facilitating shared learning between municipalities; human resource development and councillor training. The poor performance of municipalities in the Free State province, as indicated in the Auditor-General's audit reports of 2016-2017 and 2017-2018, is an indication that the national and provincial governments as well as national and provincial treasuries must fulfil their role to support and

monitor the performance of municipalities. SALGA should therefore invest in the proper training of municipal councillors to ensure that they fulfil their oversight role as members of the municipal councils effectively and hold functionaries to account for their actions or inactions.

The most important constitutional bodies and or enforcement agencies include the Auditor-General, Public Protector, SIU, NPA and SAPS. The Public Audit Amendment Act of 2018 empowers the Auditor-General to both recommend and enforce remedial action for public financial mismanagement and abuse. Section 3(1B) stipulates that the Auditor-General has the power to (a) take any appropriate remedial action; and (b) issue a certificate of debt, as prescribed, where an accounting officer or accounting authority has failed to comply with remedial action. Furthermore, Section 5A (1) of the Act also grants him or her the power to take remedial action if the accounting officer or accounting authority of the municipality fails to implement the recommendations contained in the audit report. Although, this means that the Auditor-General may issue a directive to determine the amount of the loss and recover that loss, as required in terms of any applicable legislation, from the responsible person., the investigation of serious maladministration in connection with the affairs of municipalities, *inter alia*, is the domain of the Special Investigation Unit (SIU). Evidently, the current poor performance of 100% of the municipalities of the Free State demands that the relevant enforcements agencies, including the Auditor-General, take the required remedial action as required in applicable legislation.

7.7.3 Financial oversight and accountability

As illustrated in Figure 7.1 above, financial accountability requires that all public resources entrusted to municipalities be used judiciously for the programmes and projects for which they are intended and not be diverted for private use. As elected political representatives, councillors may be held responsible, individually and collectively, for the collection, safeguarding and the efficient and effective use of public funds. Section 16 of the *MFMA*, 2003 imposes financial executive obligations on every municipal council as the key political structure of any municipality. Firstly, the municipal council must approve the budget of the municipality. Secondly, it must preside over the tabling of the annual budget, approval of the SDIP or the signing of annual performance agreements as required in Section 53(2) of the *MFMA*, 2003. Lastly, the council must adopt and

annually review the SCM policy as required in Chapter 11 of the *MFMA*, 2003. In terms of Section 67 of the *MSA*, 2000, the municipal council must enforce the code of conduct for the councillors and officials concerned and exercise oversight of the executive mayor or executive committee. All municipal councils of the Free State Province must give effect to the above financial executive obligations to promote effective financial oversight and accountability.

The annual report of the municipality is another key mechanism to promote financial oversight and accountability. It is the mechanism through which the municipal council accounts to the local community for the decisions made by the municipality in any given year. This way, both the council and the local community can hold the political and municipal office-bearers to account for their decisions and actions. The *MFMA*, Circular 32 of 15 March 2006 provides guidance on the oversight process that the municipal council must follow when considering the annual report and producing the oversight report of the municipality.

The mayor's mid-year budget and performance assessment report are also key oversight mechanisms over the municipal financial administration. The mayor or the executive mayor of the municipality, in terms of Section 52 of the *MFMA*, 2003 must provide guidance over the fiscal and financial affairs of the municipality. In addition to monitoring and overseeing the CFO and the MM in the exercising of their responsibilities, the mayor is also responsible for overseeing the preparation of the annual budget; providing political guidance over the budgetary process and the priorities that must guide the budget; ensuring that the municipality performs its statutory functions in the limits of the approved budget; and tabling the draft budget before the municipal council. Moreover, as part of the accountability function, the mayor must submit quarterly reports to the municipal council on the implementation of the budget and the financial status of the municipality and ensure that reports to the municipal council will adequately facilitate the latter's oversight functions in relation to the executive committee and him or herself. The mayor must also ensure that the public have access to the SDBIP of the municipality by making it available no later than 14 days after its approval. In terms of Section 52 to 59 of the *MFMA*, 2000, the powers and duties assigned to the executive mayor may be delegated to another member of the mayoral committee.

Section 60 of the *MFMA*, 2003 regulates the accounting officer of the municipality, that is, the MM. The MM is responsible for the effective and efficient management and safeguarding of all funds received as well as all payments made by the municipality. He or she also has some general and specific responsibilities related to developing and maintaining effective, efficient and transparent systems of financial and risk management, internal control, budget and expenditure control, control of assets and liabilities and reporting. With the financial function delegated to the CFO, the MM must submit monthly budget progress reports to the mayor and provincial treasury, a mid-year budget report and performance assessment to the mayor, National Treasury and Provincial Treasury by 31 January each year. In addition, he or she must also report on prescribed withdrawals from bank accounts to municipal council each quarter as well as unforeseen or unavoidable expenditure or expenditure that is deemed to be unauthorised, irregular or fruitless and wasteful. Within one month of receiving the Auditor-General audit reports, it and a copy of the financial statements should be tabled in the municipal council. The MM must also submit copies of the municipality's annual report, the financial statements and the audit report to National Treasury and the Provincial Treasury. For oversight, he or she should monitor whether the CFO of a municipal entity that functions under the control of the municipality acts in accordance with the prescripts of the *MFMA*, 2003. Any non-compliance with the *MFMA*, 2003 must be reported to the municipal council and the Provincial Treasury. In terms of Section 131(1) of the *MFMA*, 2003, the MM has to address all aspects raised by the Auditor-General in an audit report.

Another key role player in the municipality's financial affairs is the CFO who must be appointed by the municipal council and who is directly accountable to the MM. CFOs may sub-delegate in, accordance with the *MFMA*, 2003, any of the delegated functions to an official in the budget and treasury office, any other municipal official or, with prescribed safeguards, to any other person contracted by the municipality. In term of Section 77(1) and (2) of the *MFMA*, 2003, the CFO must assist the MM in managing and co-ordinating the financial administration of the municipality. The CFO is accountable to the MM for his or her delegated functions and responsible for the financial management, budgetary process, accounting, analysis, financial reporting, cash management, debt management and other review functions delegated by the MM. As part of the administrative functions, the CFO oversees the budget and treasury office of the municipality.

Financial controls are key mechanisms that promote effective financial management in the municipality. They and performance controls include proper record keeping and relevant and accurate information that is addressable and available to support financial and performance reporting. Both include daily and monthly processing and reconciling of transactions. One of the key requirements of effective financial control is the establishment of an effective financial management system that incorporates a planning system, a budget system, an accounting system, financial control systems and allocation systems. Financial reporting is the most important means to determine the extent to which the accounting officer, the CFO and other municipal officials responsible for municipal finances fulfil their responsibilities. Thus, financial controls ensure that the spending of scarce financial resources occurs in accordance with prescribed legislation, policies, rules, regulations, directives, and in line with predetermined plans such as the IDP and budgeted items. Apart from effective record keeping, general control measures must be instituted to limit any risks and losses.

Section 59 of the *MSA, 2000* makes provision for the establishment of Section 79 oversight and Section 80 portfolio committees. Another important committee is the municipal audit committee. The municipal audit committee is an advisory committee that advises the municipal council, political office-bearers and the accounting officer on matters relating to internal audits, internal financial controls, accounting procedures and practices, risks and risk management, loss control, compliance with the *MFMA, 2003* and any applicable legislation. The internal audit unit can help the municipal council improve its financial oversight function of municipal projects especially. It is concerning when the internal audit committee's recommendations are not implemented by the municipal council and no sanctions are taken against members of the council for non-compliance with the *MFMA, 2003*. Another concern is that elements of mismanagement and corruption that are hidden from the internal audit committee impedes its effective functioning.

There are also external structures or role players that should monitor, support and enforce compliance with the *MFMA, 2003*. Section 5(1) of the *MFMA, 2003* provides that National Treasury may monitor the budgets of municipalities to establish whether they are consistent with national government's fiscal and economic policy. Section 5(2) of the *MFMA, 2003* provides that the National Treasury may enforce compliance with the measures provided in Section 216 of the

Constitution, 1996 as well as investigate any system of financial management and internal controls in any municipality or municipal entity and recommend improvements. In terms of Section 3, the Provincial Treasury must assist the National treasury in enforcing compliance with the measures in Section 216 of the *Constitution*, 1996. In addition, Provincial Treasury must monitor compliance of municipalities with the *MFMA*, 2003, the preparation of the municipal budgets, monthly outcomes of those budgets, and submissions of reports. Appropriate steps must be taken if a municipality or municipal entity violates the *MFMA*, 2003.

Other key external role players include the MEC for Local Government, Auditor-General, CoGTA, Offices of the Premier of the nine provincial governments, and SALGA. All these entities must support and monitor all municipalities to ensure they attain their constitutional mandate. A concern raised by the Auditor-General (AGSA, 2018:3) in the report for 2016-2017 was that national and provincial governments did not sufficiently support municipalities to comply with the *MFMA*, 2003. As indicated in the section, other constitutional bodies and enforcement agencies include the Public Protector, SIU, NPA and SAPS.

The study highlighted that despite numerous legislative frameworks which include the *MFMA*, 2003, SCM regulations and a code of conduct related to SCM and procurement, continued non-compliance and irregularities remain concerns, especially in municipalities of the Free State. In the 2017-2018 audit outcomes, the Auditor-General a total breakdown in controls and poor leadership in improving the accountability, capacity, and stability in these municipalities. Among his concerns were the vulnerable financial position experienced by 100% of the municipalities of the Free State Province, the increase in irregular expenditure as result of blatant and continued non-compliance with legislated rules and SCM regulations and significant deficiencies in infrastructure projects. The study also emphasised that the most common irregular expenditures by of Free State municipalities are that bids are not competitive, bid adjudication committees are not composed properly, and the use of contracts appropriated from other organs and that do not meet the requirements of National Treasury *MFMA*, Circular 32 of 15 March 2006 (also known as the SCM Regulations 32 of 2006). A culture of no consequences that weakens effective oversight and accountability seems to prevail since the municipal council and political office-bearers are failing to ensure compliance with *MFMA*, 2003 and applicable SCM regulations. The Auditor-

General and National and Provincial Treasuries should therefore enforce compliance with key local government legislation and ensure that remedial action is taken against functionaries for non-compliance and transgressions. Moreover, to promote consequences for non-compliance with local government legislation and SCM regulations, enforcement agencies should investigate transgressions and take required disciplinary steps against any transgressors.

7.7.4 Administrative oversight and accountability

Administrative accountability, as illustrated in Figure 7.1 above, refers to all the internal control mechanisms, relationships among structures, appropriate lines of accountability and reporting, and systems and processes of interaction within a municipality to keep the bureaucracy under surveillance and in check. The statutory obligations of the municipal council, which has a key oversight role of municipal executives (administration), is provided in Section 4(2) of the *MSA*, 2000. These include that the council should, within a municipality's financial and administrative capacity, be the executive and legislative authority and use the resources of the municipality in the best interest of the community. Therefore, the council should, without favour, provide a democratic and accountable local government to local communities, involve communities in the affairs of local government; ensure that municipal services are provided to local communities in a financially and environmentally sustainable manner; consult the community about the level, quality, range and impact of municipal services; and assess available options for service delivery. Due to 100% of the municipalities of the Free State's continued transgressions in overall performance, municipal councils must revisit the regulatory obligations of the municipal council to strengthen their oversight role over the executives (administration).

Section 55 of the *MSA*, 2000 provides that, as head of administration, the MM is responsible and responsible for developing an effective, efficient and economical municipal administration as required by applicable legislation. After all, the accounts to the executive mayor for the management, the overall performance and administration of the municipality as well as the functions and responsibilities that were assigned by the municipal council. In addition, he or she is responsible for the implementation of the municipality's IDP and managing the provision of sustainable and equitable services to the local community. The MM must further advise the

political structure (municipal council) and political office-bearers, ensure the effective implementation of all the decisions of the municipal council and maintain discipline amongst staff.

Section 6(2) of the *MSA*, 2000 provides that municipal administration is responsible for the following: be responsive to the developmental needs of their communities; promote a culture of accountability and public service amongst municipal officials; take steps to prevent corrupt activities; promote co-operation and communication with local communities; provide the local community with accurate and reliable information about the level and standard of service delivery; and inform and involve local communities and community organisations in the affairs of local government. As part of the MM's administrative responsibilities he or she should implement municipal by-laws, policies and other applicable legislation; perform all duties; and exercise all powers delegated by other authorities regarding the IDP or performance management systems.

Due to 100% of the municipalities of the Free State's political and administrative leadership's continued slow reaction in addressing weak control environments, its disregard of legislative prescripts, the increase in the vacancy rates of senior managers, and poor performance reporting, findings on compliance with legislation of all 18 municipalities, including the Mangaung Metropolitan Municipality, were bad. This shows that municipal councils, political-office-bearers and municipal managers of all municipalities in the Free State should ensure that they give effect to the legislative prescripts and exercise their functions in accordance with applicable legislative frameworks, policies and SCM regulations to ensure administrative oversight and accountability.

The MM may delegate certain powers and functions to respective managers. However, these managers then become accountable for any transgressions their delegated responsibilities. Regardless, the MM is not totally divested of the responsibility for the exercise of a delegated power and must still oversee and monitor the performance of senior managers. Apart from the MM and municipal council's accountable functions, there are also committees and political officials who must fulfil the functions of oversight of municipal administration to ensure that municipalities are able to meet their constitutional obligations. These include executive committees, mayoral committees, council portfolio committees, MPAC committees and audit committees.

Chapter 10, Section 105 of the *MSA*, 2000 provides guidelines of how provincial governments should monitor and evaluate the performance of municipalities, assess the support needed to improve the performance of municipalities and develop relevant capacity development initiatives. Although CoGTA initially established the LGTAS, that was replaced with the Back-to-Basics campaign to establish a responsive municipal administration and ensure political and administrative stability. This study showed neither intervention has the desired effect. The Auditor-General reports on the audit outcomes for 2016-2017 and 2017-2018 confirm that accountability and the need for appropriate consequences for the accountability failures of most municipalities were the most prominent reasons for their poor performance (AGSA, 2018:22; AGSA, 2019:12). National government and the Free State provincial government should do more to ensure that the municipalities of the Free State province are capacitated to achieve the objectives of local government that are provided in Section 152 of the *Constitution*, 1996.

7.7.5 Social Oversight and Accountability

Social accountability refers to citizen participation by assessing or generating relevant information and building credible evidence that will serve to hold political and public officials accountable for their actions. Municipal councils of all municipalities must give effect to the constitutional obligation to involve local communities and community organisations in the affairs of local government in accordance with Section 152 of the *Constitution*, 1996. Section 17 of the *MSA*, 2000 states that local communities should participate in the affairs of their municipalities through the political structures for participation as set out in the *Municipal Structures Act*, 1998. However, citizen involvement in the affairs of local government alone does not necessarily constitute social accountability. Another part of social accountability is communities' participation in the affairs of local governments through established structures and mechanisms for participation such as sub-councils or ward committees.

The MM is responsible for facilitating local communities' participation in the affairs of the municipality through participation mechanism such as *imbizos*, budget and IDP reviews and council meetings. Municipal councils of must also ensure that their and their committees' meetings that discuss or vote on matters such as by-laws, budgets, amendments to the IDP,

performance management system amendments, service delivery agreements, and the annual report are open to the public or any organ of state. This way, the local community can fulfil an oversight role and they hold functionaries to account for their actions or inactions. The speaker is responsible for communication with the community. To ensure regular and proper community participation takes place, the office of the speaker manages ward committees (one of the key structures to promote community participation) and liaises with respective councillors.

In terms of Section 73 and 74 of the *Municipal Structures Act*, 1998, metropolitan and local municipalities may decide to have a ward committee structure. These ward committees may make recommendations to ward councillors on any matters that affect them. Such committees are bestowed delegated duties and powers by the metro or local council in terms of Section 59 of *MSA*, 2000. The study indicated that a critical mechanism to hold functionaries to account is when ward councillors establish a relationship with community newspapers and radio stations relating community participation opportunities. This study shows that, despite the good intentions of government policies and legislation to promote participatory governance through ward committees, powers delegated to them are limited as they do not have many decision-making powers. This limits their capacity to consult and participate effectively with ward members of their municipal area. The lack of clarity of the roles of the ward committees and the availability of resources to conduct their activities effectively are some of the challenges that were highlighted in the study as limiting social accountability.

Other mechanisms through which locally elected representatives can be accountable to the public include, among others, elections, public meetings and formal grievance procedures. Lately, the mass and social media, and pressure and consultative groups have gained some credence in making functionaries accountable for their actions in the course of performing their duties. Local newspapers especially have been at the forefront of revealing the various mismanagements by corrupt officials.

In this study it was argued that it seems that local communities of the municipalities of the Free State province have failed to hold municipalities and functionaries to account for their poor financial performance, bad decisions and actions. The Auditor-General report of 2017-2018 shows

alarming deterioration in the financial performance and administrative control measures of all municipalities (100%) in the Free State province (AGSA 2018:4). This deterioration indicates citizens' failure to hold functionaries to account for poor performance. The need to ensure that political oversight structures and MMs give effect to the constitutional obligations to involve community members and community organisations in the affairs of local government is dire. This calls for relevant support structures, such as CoGTA, to ensure that mechanisms are in place to promote social accountability. Ward committees should also be capacitated to fulfil their role to promote participatory democracy in local government.

7.8 LIMITATIONS OF THE STUDY

The following were identified as factors that hampered or imposed limitations to the research:

- **General limitations.** The vastness Free State and poor road infrastructure made contributed to making the data collection data very costly. Travelling between municipalities was also time-consuming.
- **Generalisation of findings.** The findings of the study are restricted to respondents based in one particular geographical location, namely, the Free State province. Therefore, caution should be exercised regarding the generalisation of the findings to other provinces or municipalities in the country and beyond.
- **Participants' willingness to participate.** There was a sense of fear and mistrust from the respondents (municipal officials) as some wrongly interpreted academic research as some form of investigation. Although a letter requesting permission to conduct the research was given to officials and the purpose of the study was clearly outlined, most municipal officials reluctant to participate. It took a visit to a municipal council and several telephone calls to get a response.
- **Municipal officials' unavailability and lack of commitment or honesty.** Municipal officials' unavailability and their lack of commitment due to fear that they may be caught for certain non-compliance issues could also mean that some resolved not to tell the truth.

This fear might have influenced the respondents' perceptions and their answers in the self-administered semi-structured questionnaire.

7.9 IMPLICATIONS FOR FURTHER RESEARCH

Further research could be undertaken by doing a comparative study with other municipalities in other provinces in South Africa regarding their challenges with oversight and accountability. This comparative study could cover municipalities that have consistently been getting clean audits in their Auditor-General Annual Reports and are known for good governance. A study of this nature could open possibilities of shared good practices, services and functions regarding oversight and accountability within the context of local government. Further research of the current study could examine the challenges of oversight and accountability of SCM practices within municipalities of the Free State province. Another study could be conducted to assess the functionality of the Section 79 committees and portfolio committees to promote oversight and accountability within municipalities of the Free State.

7.10 SUMMARY

The aim of the study was to positively contribute to instituted oversight and accountability in municipalities of the Free State province by developing a framework for oversight and accountability to promote democratic local governance. It was accentuated in this study that municipalities are obliged in terms of Section 152(1) of the *Constitution*, 1996 to provide democratic and accountable government for local communities and ensure the provision of services to communities in a sustainable manner. In terms of Section 4(2) of the *MSA*, 2000, the municipal council must exercise the executive and legislative authority of the municipality and use the resources thereof in the best interest of the local community. As the highest authority in the municipality, the council has significant approval powers and oversight responsibilities. The speaker (also the chairperson of the municipal council) and MPACs have critical oversight roles in that they must hold political executives to account for their actions. The mayor (in a municipality with an executive committee) or executive mayor (where there is no executive committee) is the political leader and must provide political guidance over the fiscal and financial matters of the

municipality. This means that he or she should monitor the performance of the accounting officer and the CFO but not interfere with their exercising of their responsibilities. The executive mayor also oversees that the provision of services to communities in the municipality is sustainable.

As mentioned elsewhere in this study, the municipal council, in terms of Section 59 of the *MSA*, 2000, must develop a system of delegation that will maximise the administrative and operational efficiency of the municipality. This allows for adequate checks and balances and enables the municipal council to delegate certain powers to any of the municipality's political structures, political office-bearers, councillors, or staff members to perform any of the municipality's duties and / or withdraw any delegation or instruction. According to Section 60 of the *MFMA*, 2003, the MM is the accounting officer of the municipality accountable for safeguarding all municipal funds received and for all payments made by the municipality. He or she is responsible and accountable for the municipality's revenue (income), expenditure, asset management, discharge of all liabilities, and ensuring compliance with legislation regulating local government. The MM should therefore be accountable for promoting the sound financial management of the municipality.

Despite numerous legislative prescripts and the establishment of mandated oversight and accountable structures, municipalities in the Free State province have failed to provide accountable local government to local communities. This is evidenced by the Auditor-General reporting in the 2017-2018 audit report that the financial positions of all (100%) the municipalities of the Free State province had deteriorated to a total breakdown in financial controls. It was argued in this study that the political leadership (mayors, executive mayors and municipal councils) showed no inclination to improve political oversight and accountability for the financial and overall performance of these municipalities.

The findings from the empirical study show that most of the respondents agreed about there not being any consequences for breaking the Code of Conduct for Municipal Councillors, as contained in Schedule 1 of *MSA*, 2000. Another issue that came out in the empirical study was that mayors seem not to understand their respective oversight roles. This raises the question of whether non-executive councillors hold the executive mayor or executive committee to account for their municipalities. Another question was whether municipalities of the Free State province ever held

public meetings every financial year-end to discuss the Auditor-General's report on their performance. The findings of the empirical study indicate an apparent lack of accountability and oversight being the reason local municipal underperform and get negative audit findings. In addition, local communities of the municipalities of the Free State fail to hold municipalities and functionaries to account for poor performance (financial performance, decisions and actions). Citizens failure to hold functionaries to account for poor performance could partly be responsible for the deterioration of all Free State municipalities' financial position. There is an urgent need for political oversight structures and the MM to give effect to the constitutional obligations to involve community members and community organisations in the affairs of local government. Noticeable interventions and visible consequence management should also be implemented to address the apparent lack of accountability and oversight functions in all local municipalities affiliated to the Lejweleputswa District Municipality.

For this purpose, the proposed framework provides a coherent and holistic approach by identifying key statutory and regulatory legislative framework, policies, regulations, structures, role players, support and enforcement structures required to promote political, financial, administrative and social oversight and accountability within municipalities of the Free State province. Oversight structures must ensure consequences for non-compliance with legislation, policies, regulations, serious maladministration in connection with the affairs of municipalities, and other transgressions and irregularities. Enforcement agencies that undertake investigations of any reported transgressions and take the required disciplinary steps need to be established.

BIBLIOGRAPHY

Anon. 2019a. *Municipalities' of the Free State Province*. Available at: <https://www.gov.za/aboutgovernment/contact-dictionary/fs-municipalities>. (Accessed on 31 August 2018).

Anon. 2019b. *The Richest and Poorest Provinces of South Africa*. Available at: <https://www.worldatlas.com/articles/the-richest-and-porest-prvince-of-south-africa-html>. (Accessed on 31 March 2019).

Adeleke, F. 2017. *South Africa has work to do to make government more accountable*. 11 January 2017. Available at: <https://mg.co.za/article/2017-01-11-south-africa-has-work-to-do-to-make-government-more-accountable>. (Accessed on 31 March 2017).

Adeyemi, O.O., Akindele, S.T., Aluko, O.A. and Agesin B. 2012. Review: Institutionalizing the culture of accountability in local government administration in Nigeria. *African Journal of Political Science and International Relations*, 6(4), 81-91.

Ajam, T. and Fourie, D.J. 2014. The role of the provincial treasury in driving budget reform in South Africa's decentralised fiscal system. *Administratio Publica*, 22(3), 43-61.

Alexander, G. and Kane-Berman, J. 2014. *The 80/20 Report: Local Government in 80 Indicators Over 20 Years*. Holborn, L. and Kane-Berman, J. (Eds). In: *South African Race Relations*. Johannesburg: SARR.

Ambe, I.M. 2016. Insight into supply chain management in a municipal context. *Public and Financial Management*, 5(2), 20-29.

Aranha, A.L.M. 2017. Accountability, corruption and local government: mapping the control steps. *Brazilian Political Science Review*, 11(2), 1-29.

Asha, A. 2014. Towards effective planning and implementation of the local development initiatives in Limpopo province, South Africa. *Mediterranean Journal of Social Sciences*, 5(20), 398-400.

Asha, A., Belete, A. and Moyo, T. 2014. Analysing community participation in the municipal Integrated Development Planning processes in Limpopo Province, South Africa. *Mediterranean Journal of Social Sciences*, 5(25), 257-258.

Auditor-General South Africa (AGSA). 2013. *MFMA 2003: Consolidated General Report on the Audit Outcomes of Local Government 2011-12*. Pretoria: Government Printers.

Auditor-General South Africa (AGSA). 2015. *MFMA 2003: Consolidated General Report on the Audit Outcomes of Local Government 2014-15*. Pretoria: Government Printers.

Auditor-General of South Africa (AGSA). 2018. *Consolidated General Report on the audit outcomes of local government 2016-2017*. Pretoria: Government Printer.

Auditor- General South Africa. (AGSA) 2018. *Media Release. Auditor-General laments lack of accountability as he releases declining local government audit results*. 23 May 2018 Available at: www.agsa.co.za/media-reease-2016-2017/MFMA, 2003/Media/Release. (Accessed on 31 March 2019).

Auditor-General of South Africa (AGSA). 2019. *Consolidated General Report on the audit outcomes of local government 2017-2018*. Pretoria: Government Printer.

Auriacombe, C.J. 2006. Understanding and planning measurement. *Journal of Public Administration*. 41(3.1), 641 – 642.

Babbie, E. 2010. *The practice of social research*. Belmont: Wadsworth Cengage Learning.

Babbie, E and Mouton, J. 2001. *The practice of social research*. Cape Town: Oxford University Press.

Babbie, E. and Mouton, J. 2004. *The practice of social research*. Cape Town: Oxford Press.

Badenhorst, C. 2012. *Research writing, breaking the barriers*. Pretoria: Van Schaiks Publishers.

Bekker, K. (ed.). 1996. *Citizen participation in local government*. Pretoria: Van Schaik Publishers.

Bekker, J. 2009. *Public sector governance: accountability in the state*. Paper presented for CIS Corporate Governance Conference on 10 and 11 September 2009.

Bless, C. and Higson-Smith, C. 1995. *Social research methods. An African perspective*. Kenwyn: Juta and Company.

Bless, C., Higson-Smith, C. and Sithole, S.L. 2014. *Fundamentals of Social Research Methods – An African Perspective*. 5th edition. Lansdowne: Juta and Company.

Botha, T. and Khan, S. In Hussein, M.K. 1999. *Enhancing Accountability in Local Government: An Assessment of the Enforcing Mechanisms*. Unpublished mini dissertation. Johannesburg: Randse Afrikaanse University

Bovens, M. 2005. *Public accountability: a framework for the analysis and assessment of accountability arrangements in the public domain*. Utrecht: Utrecht University.

Brassington, F. and Pettitt, S. 2013. *Principles of marketing*. London: Prentice Hall.

Brewerton, P. and Millward, L. 2006. *Organisational research methods: a guide for students and researchers*. London: Sage Publications.

Brynard, P.A. and Hanekom, S.X. 2006. *Introduction to the research management*. Pretoria: Van Schaik Publishers.

Burns, J.P. and Zhiren, Z. 2010. Performance Management in the Government of the People's Republic of China: Accountability and Control in the Implementation of Public Policy. *OECD Journal on Budgeting*, (2), 1 -28.

Caiden, G.E. 1991. What really is public maladministration? *Public administration review*, 51(6), 486-493.

Camargo, C.B and Jacobs, E. 2013. *Social accountability and its conceptual challenges: An analytical framework*. Basel: Basel Institute on Governance.

Cambell, J. 2019. Zondo Commission Witness Details State Capture in South Africa. Available at: <https://www.cfr.org/blog/zondo-commissin-witness-details-state-capture-south-africa>. (Accessed on 15 February 2019).

Carey, M. 2009. *The social work dissertation using small-scale qualitative methodology*. Berkshire: Open University Press.

Chikulo, B.C. 2013. Developmental local governance and service delivery in South Africa: Progress, achievements and challenges. *Journal of Social Development in Africa*, 28(1), 35-64.

Chetty, M. 2015. *An integrated debt management model for municipalities in the Free State Province*. Thesis (D. Tech). Bloemfontein: Central University of Technology.

Cloete, F. and Mokgoro, J. 1995. *Policies for public service transformation*. Cape Town: Van Schaik Publishers.

Cloete, J.J.N. 1997. *South African municipal government and administration*. Goodwood: Van Schaik Publishers.

Cloete, J.J.N. and Thornhill, C. 2005. *South African Municipal Government & Administration*. Pretoria: Dotsquare Publishing.

Cooper, D.R. and Schindler, P.S. 2003. *Business Research Methods*. 8th Edition. New Delhi: Tata McGraw-Hill.

Compte, G. 2008. *Accountable democracy: Citizens as the 4th power of government*. Available at: <http://www.researchgate.net/publication>. (Accessed on 04 March 2015).

Community Law Centre. 2008. *Local Government Project. Municipal Accountability: Assessing Municipal Accountability Tools*. Cape Town: University of the Western Cape.

Corruption Watch. 2015. *Corruption Watch Annual Report*. Johannesburg: Corruption Watch (RF) NPC.

Craythorne, D.L. 2006. *Municipal administration the handbook*. 6th edition. Cape Town: Juta and Company.

Creswell, J.W., Ebershon, L., Eloff, I., Ferreira, R., Ivankova, N.V., Jansen, J.D., Nieuwenhuis, J., Pietersen, J., Clark, V.L.P. 2017. In Maree, K. (ed.). *First steps in research*. Pretoria: Van Schaik Publishers.

Davis, G., Pecar, B., Santana, L. and Burke, A. 2014. *Statistics for the social sciences using Excel: a first course for South African students*. Cape Town: Oxford University Press.

Dauids, I. and Theron, F. 2014. *Development, the State and Civil Society in South Africa* (Eds). Pretoria: Van Schaik Publishers.

De Beer, F. and Swanepoel, H. 2012. *Community development: breaking the cycle of poverty*. Johannesburg: Juta and Company.

Democratic Alliance. 2014. *The Rot in ANC Municipalities: Five case studies of cronyism, corruption and ineptitude*. Available at: www.da.org.za. (Accessed on 21 September 2014).

De Visser, J. 2008. Good governance learning network: what lies in store for local government? Local Government Project Community Law Centre. UWC. *LGB*, 11(2), 2-6.

De Visser, J. 2010. Research and evaluation: The political-administrative interface in South African municipalities assessing the quality of local democracies. *Commonwealth Journal of Local Governance. Special Issue*, March 2010: Commonwealth Local Government Conference Freeport, Bahamas, May 2009. Available at: <http://epress.lib.uts.edu.au/ojs/index.php/cjlg> Associate Professor Community Law Centre. (Accessed on 15 April 2015).

De Vos, A.S., Strydom, H., Fouché, C.B. and Delport, C.S.L. 2005. *Research at grass roots: for the social sciences and human service professions*. Pretoria: Van Schaik Publishers.

De Wet, C. 2014. Public administration in a democratic development state. In Thornhill, C., Van Dijk, G. and Ile, I. (eds.). *Public Administration & Management in South Africa: A Developmental Perspective*. Cape Town: Oxford University Press.

Diale, A., Maserumule, H. and Mello, D. 2007. Public sector administrative reforms and accountability. *Journal of Public Administratio*, 42(7), 636-649.

Dixon, R. and Elston, T. 2017. The effect of shared service centres on administrative intensity in English local government a longitudinal evaluation. *BSG Working Paper Series: Providing access to the latest policy-relevant research*, (021), 1-29.

Du Plessis, L.M. 2013. *Implementing integrated strategic plans in Free State municipalities*. Unpublished Doctoral Thesis. Bloemfontein: University of the Free State.

Du Plessis, L.M. and Lues, L. 2011. A conceptual framework for preparing effective Municipal councillors. Ensuring the future of local government through skills identification. *Administratio Publica*, 19(1), 104-120.

Du Plessis, L. 2012. Dimensions of local governance Guidelines for consideration in the management of South African municipalities. *Administratio Publica*, 20(1), 12-13.

Du Plooy-Cilliers, F., Davis, C. and Bezuidenhout, R. 2014. *Research Matters*. Claremont: Juta.

Durrheim, K. and Painter, D. 2006. Collecting quantitative data: sampling and measuring. In Terre Blanche, Durrheim and Painter, D. (Eds). *Research in practice*. Cape Town: UCT Press.

Engel, R.J. and Schutt, R.K. 2013. *The practice of research in social work*. Los Angeles: Sage Publishers.

Erasmus, G. 2019. *Good Governance is vital but is easier said than done once the state has been captured*. Available at: <https://www.org/blog/article/13928-good-governance-is-vital-but-easire-said-than-done-once-the-state-has-been-captured.html>. (Accessed on 5 February 2019).

Erasmus, W. 2015. Public administration. A negotiation of just administrative action. *Administratio Publica*, 23(1), 102-120.

Esau, M.V. 2008. Exploring the practice of legislative oversight by the South African parliament through an examination of the activities of the standing committees on public accounts. *Africanus*, 38(2), 95-105.

Faherty, V.E. 2010. *Wordcraft: applied qualitative data analysis (QDA): tools for public and voluntary social services*. California. Sage Publications.

Ferraz, C. and Finan, F. 2007. *Electoral accountability and corruption in local governments: evidence from audit reports*. Discussion Paper, 2843, June 2007.

Fourie, D. 2015. Public procurement: a bastion against corruption. In Thornhill, C., Van Dijk, G. and Ile, I. (eds). *Public administration & management in South Africa: a developmental perspective*. Cape Town: Oxford University Press.

Fourie, M. and Opperman, L. 2011. *Municipal finance and accounting*. 2nd Edition. Pretoria: Van Schaik Publishers.

Fourie, M. and Opperman, L. 2015. *Municipal finance and accounting*. 3rd Edition. Pretoria: Van Schaik Publishers.

Fourie, D. 2018. Ethics in municipal Supply Chain Management in South Africa, London South Bank University, 33(7), 726-739. Available at: https://repository.up.ac.za/bitstream/handle/2263/67253/Fourie_Ethics_2018.pdf (Accessed on 26 September 2019).

Fox, J. 2000. *Civil society and political accountability: propositions for discussion: presented at: Institutions, accountability and democratic governance in Latin America*. The Helen Kellogg institute for international studies; University of Notre Dame May 8-9, 2000. Santa Cruz: University of California.

Fox, W. and Meyer, I.H. 1995. *Public Administration Dictionary*. Johannesburg: Juta and Company.

Galvin, M. 1999. *The impact of local government on rural development in South Africa*. Available at: www.hrsc.ac.za. (Accessed on 18 December 2015).

Gauteng Provincial Legislature. 2012. *The people shall govern: public participation beyond slogans*. Deliberations of the International Conference on Public Participation. Johannesburg: Gauteng Provincial Legislature.

Gauteng Provincial Local Government and Housing. 2012. *Local government performance review: Reflecting on the 2006 – 2011: Term of local government in Gauteng*. Johannesburg: Gauteng Legislature.

Gerber, J. 2019. Ramaphosa appoints Special Investigation Unit Tribunal. News 24, 26 September 2019.

Gerhart, T. 1997. *State, society and democracy: Decentralisation and state-building at the local level*. The Association of Regional Councils Consultative Conference, Windhoek.

Gericke, M. 2019. “Mangaung-metro gaan die kreeftegang, wys OG-verslag. *Die Volksblad*, 10 Julie 2019.”

Gericke, M. 2020. “Metro nou laer as Rommel. Heel laagste gradering volg dalk. *Die Volksblad*, 30 Januarie 2020.”

Gibson, C.C. and Hoffman, B.D. 2006. *Political accountability and public service provision in Africa: evidence from Tanzania and Zambia*. Paper prepared for presentation at the workshop in political theory and policy analysis, Indiana University. San Diego: University of California.

Gildenhuys, J.S.H. 1993. *Public Financial Management*. Pretoria. Van Schaik Publishers.

Gildenhuys, J.S.H. 1997. *Introduction to the management of public finance: A South African perspective*. Pretoria: Van Schaik Publishers.

Gildenhuys, J.S.H. 1997. *Restructuring your local government*. Pretoria: Van Schaik Publishers.

Gildenhuys, J.S.H. 2018. Introduction to Local Government Finance. A South African Perspective. 15 Impression. Pretoria: Van Schaik Publishers.

Gildenhuys, J.S.H. and Knipe, A. 2000. *The organisation of government: an introduction*. Pretoria: Van Schaik Publishers.

Gliem, J.A. and Gliem, R.R. 2003. *Calculating, interpreting, and reporting Cronbach's alpha reliability coefficient for Likert-type scales*. Midwest Research-to-Practice Conference in Adult, Continuing, and Community Education.

Good Governance Learning Network (GGLN). 2010. *Ethical leadership and political culture in local government*. Cape Town: GGLN.

Gordhan, P. 2014. Get the basics right first. *City Press*, 21 September 2014.

Hair, J.F., Buch, R.P. and Ortinau, D.J. 2003. *Marketing research within a changing information environment*. New York : McGraw-Hill Irwin.

Hanabe, L., Taylor, D. and Maclean, S. 2017. Normative Model for Enhanced Implementation of the Local Government Budgetary Reforms. *Journal of Public Administration*, 52(2), 393-437.

Henning, E., Van Rensburg, W. and Smit, B. 2004. *Finding Your Way in Qualitative Research*. Pretoria: Van Schaiks Publishers.

Ho, G. 2010. *In local government good governance is King III: The principles of the King III report municipalities give an opportunity to improve both governance and service delivery*. Cape Town: KPMG.

Hoffman, P. 2017. Making accountability matter in South Africa State capture began with cadre deployment. *IFAISA Accountability Now*. Available at: <http://accountabilitynow.org.za/state-capture-began-cadt=re-deployment/>. (Accessed on 15 February 2019).

Hofstee, E. 2006. *Constructing a good dissertation: a practical guide to finishing a master's, MBA or PhD on schedule*. Sandton: EPE.

Holtzhausen, N. 2016. Ethical public information services. In Draai, E. (Ed). Van Rooyen E.J. and Raga, K. 2016. *A Practical Introduction to Public Management*. Cape Town: Oxford University Press.

Hussein, M.K. 1999. *Enhancing Accountability in Local Government: An Assessment of the Enforcing Mechanisms*. Unpublished mini dissertation. Johannesburg: Randse Afrikaanse University.

Ijeoma, E.O.C. and Sambumbu, A.M. 2013. A framework for improving public accountability in South Africa. *Journal of Public Administration*, 48(2), 282-298.

IMIESA. 2012. *Service Delivery: Leadership for local government is critical*. October, 2012. Johannesburg: IMIESA.

Ismail, N., Bayat, S. and Meyer, I. 1999. *Local government management*. Johannesburg: International Thomson Publishing.

Joseph, C. 2002. *The political Role of the Councillor*. Johannesburg: Friedrich Ebert Stiftung.

Johnson, C. and Williams, E. 2017. *Considerations for designing and implementing effective shared services*. Public Policy Institute for Wales: Queen's Printer and Controller of HMSO.

Kafakoma, R., Roka, M., and Chimutu, P. 2005. *Local government accountability*. Blantyre: Institute of Environment and Development.

Kahn, S., Madue, S.M. and Kalema, R. 2016. *Intergovernmental Relations in South Africa*. 2th Edition. Pretoria: Van Schaik Publishers.

Kakumba, U. 2008. External Control Systems in the Enhancement of Accountability in Local Government: The Case of Uganda. Unpublished Thesis. Pretoria: University of Pretoria.

Kanyane, M.H. 2011. Financial Viability of Rural Municipalities in South Africa. *Journal of Public Administration*, 46(2), 935-946.

Karim, S.A. 2016. *State capture report explained*. Available at: <https://www.groundup.org.za/article/simple-explanaiton-state-capture-report/>. (Accessed on 15 February 2019).

Kaunda, J.M. 2009. *The progress of good governance in Botswana 2008: Final report of the UNECA project measuring and monitoring progress towards good governance in Africa*. The African Governance Report II (AGR II). Gaborone: Printing and Publishing Company Botswana.

Khalo, T. 2011. *Municipal financial management*. In Van der Waldt, G. (Ed). 2011. *Municipal Management: Serving the People*. Cape Town: Juta and Company.

Khalo, T., Nealer, E., Phutiagae, K., Van der Walt, C., van Niekerk, D. and Venter, A. 2011. *Municipal Management Serving the People*. In Van der Waldt, G. (ed.). 1st Edition. Claremont: Juta and Company.

Khalo, T. 2013. Accountability and Oversight in Municipal Financial Management: The Role of Municipal Public Accounts Committees. *Journal of Public Administration*, 48(4), 589 – 501.

Khalo, T., Nealer, E., Phutiagae, K., van der Walt, C., Van Niekerk, D. and Venter, A. 2014. *Municipal Management Serving the People*. In Van der Waldt, G (ed.), 2nd Edition. Claremont: Juta.

Khalo, T. and Vyas-Doorgapersad, S. 2018. *Municipal financial management*. In Van der Waldt, G. (ed.), Van der Walt, C., Venter, A., Phutiagae, K., Nealer, E., Khalo, T. and Vyas-Doorgapersad, S. 2018. *Municipal Management Serving the People*. 3rd Edition. Claremont: Juta.

Koma, S.B. 2012. The evolution of developmental local government in South Africa: issues, trends and options. *Journal of US-China Public Administration*, 9(1), 53 – 67.

Koma, S.B. 2017. A Critical Analysis of Municipal Governance Challenges and Lessons Learnt: The cases of two South African municipalities. *Administratio Publica*, 25(4), 23-39.

Koon, M. 2015. Validity and Reliability. In Du Plooy-Cilliers, F, Davis, C. and Bezuidenhout, R. (Eds). *Research matters*. Cape Town. Juta and Company.

Kraai, S., Holtzhausen, N. and Malan, L. 2017. Oversight mechanisms in local government: a case of Ekurhuleni Metropolitan Municipality in South Africa. *African Journal of Public Affairs*, 9(6), pp. 59-72.

Krishnan, H.B. 2008. *Public accountability: from concept to practice in the South African local government context*. Prepared for: the democracy development programme. Durban. University of KwaZulu-Natal, 5th Annual Local Government Conference, 11-12 August 2008, Southern Sun – Elangeni.

Kroukamp, H.J. 2008. *Trust in leadership: a prerequisite for organisational effectiveness in the South African local government*. Kampala. Paper presented at the annual IASIA conference held in Kampala, Uganda, 14 – 18 July 2008.

Kroukamp, H. 2016. Strategies to restore confidence in South African Local Government. *African Journal of Public Affairs*, 9(3), 105-116.

Kumar, K., Moodley, S. and Reddy, P.S. 2003. *Statutory reforms in local government financing*. In Reddy, P.S, Sing, D and Moodley, S. (Eds). *Local government financing and development in Southern Africa*. Cape Town: Oxford University Press.

Kuye, J.O., Thornhill, C. and Fourie, D. 2002. *Critical Perspectives on Public Administration issues for consideration*. Sandown: Heinemann.

Kwele, L. 2016. *Strategic management in local government*. In Draai, E. Van Rooyen E.J. and Raga, K. (eds.). 2016. *A Practical Introduction to Public Management*. Cape Town: Oxford University Press.

Landberg, C. and Graham, S. (eds.). 2017. *Government and Politics in South Africa. Coming of age*. Pretoria: Van Schaik Publishers.

Laubscher, L.H. 2011. Challenges on financial controls and accountability in South African municipalities. *Journal for new generation sciences*, 10(1), 63 – 79.

Laubscher, L.H. 2007. *Finansiële beheer en verantwoording by plaaslike owerhede in Suid Afrika*. Unpublished Doctoral Thesis. Bloemfontein: University of the Free State.

Leedy, P.D. 1985. *Practical research planning and design*. 4th Edition. New York: Macmilliam Publishing Company.

Leedy, P. and Ormrod, J. 2005. *Practical research*. 8th Edition. Upper Saddle River, New Jersey: Prentice Hall.

Legodi, L.F. 2017. *Governance Challenges in Combating Supply Chain Management Corruption in Ekurhuleni metropolitan Municipality*. Unpublished of master thesis. Johannesburg: University of Witwatersrand.

Lekorwe, M. 1998. The politics of urban governance and management in Gaborone. *Pula: Botswana Journal of African Studies*, 1.12 (1 & 2), 69 – 84.

Lindberg, S. 2009. *Accountability: the core concept and its subtypes*. Working Paper. 1 April, 2009, Published on behalf of the Africa Power and Politics Programme (APPP) by the Overseas Development Institute. Brighton: University of Sussex.

MacSporran, A.J. 2015. *Transparency and accountability in local government*. Queensland: Crime and Corruption Commission.

Madumo, O.S. 2015. Developmental Local Government and Progress in South Africa. *Administratio Publica*, 23(2), 153-166.

Mafunisa, M.J. 2002. *Public partnership in South Africa: an overview of the BEE experiment*. Thesis (PhD). Pretoria: University of Pretoria.

Majam, T. 2011. *Good governance principles for an integrated budget at local government level*. Department of Public Governance. Johannesburg: University of Johannesburg.

Makwetu, K. 2019. Wholesale good governance. *City Press*, 7 April 2019.

Malan, L. 2014. *The intergovernmental structure of the state: national, regional and local*. In Thornhill, C, Van Dijk, G. and Ile, I. (eds). *Public Administration & Management in South Africa: A Developmental Perspective*. Cape Town: Oxford University Press.

Malapane, A.T. 2015. Effective Oversight in the South African Legislative sector: A demand for accountability. *Journal of Public Administration*, 50(4), 863-872.

Mamogale, M.J. 2014. Financial Performance of Local Government in Limpopo Province, 2010-2012. *African Studies Quarterly*, 15(1), 71-93.

Mangcu, X. 2015. ANC's disdain for grassroots is sowing the seeds of revolt. *Sunday Times*, 20 December.

Manning, T. 2006. *Delivering the Dream: Designing and Implementing Strategy in the Public Sector*. Cape Town: Zebra.

Mantzaris, E.A. 2017. Trends, realities and corruption in Supply Chain Management. *African Journal of Public Affairs*, 9(8), 121-134.

Maree, K. and Pietersen, J. 2007. Sampling. In Maree, K. (Ed). *First steps in research*. Pretoria. Van Schaik Publishers.

Maree, K. and Van der Westhuizen, C. 2007. *Planning a research proposal*. In Maree, K. (ed.). *First steps in research*. Pretoria: Van Schaik Publishers.

Marrian, N. 2019. Office of the public protector must not be captured. *Mail and Guardian*, 14 June 2019.

Martin, M.E. and Solomon, H. 2017. Understanding the Phenomenon of “State Capture” in South Africa. *Southern African Peace and Security Studies*, 5(1), 21-34.

Masango, R.S. and Mfene, P.N. 2012. *Citizen empowerment for promoting access to public services*. *Administratio Publica*, 20(1), 75-76.

Mashamaite, K. and Madzivhandila, A. 2014. Planning Process for Effective Public Service Delivery in the Rural Limpopo Province. *Mediterranean Journal of Social Sciences*, 5(25), 227.

Mathane, L.P. 2013. The impact of the local government turnaround strategy on public participation and good governance with regard to the integrated development planning process: The case of Mangaung Metropolitan Municipality. Unpublished master’s dissertation. Bloemfontein: Central University of Technology, Free State.

Matshabaphala, M.D.J. 2014. Finding our way: The need for accountable leadership and good governance in South Africa’s Public Services. *Journal of Public Administration*, 49(4), 1008-1018.

Maughan, K. 2018. Prosecutions service. Ramaphosa's hurry up and wait approach to NPA boss is puzzling. President turns to experts with just one month until the deadline to appoint a successor to Shaun Abrahams. *Business Day*, 11 October, 7.

Mavee, S.E.A. 2014. Civil society participation in a democracy towards the fostering of good governance. *Administratio Publica*, 22(3), 202-217.

Mboga, H. 2009. *Understanding the Local Government System in Kenya*. A Citizen's Handbook. Nairobi: Institute of Economic Affairs (IEA).

Mazibuko, G. and Fourie, D.J. 2013. Municipal Finance. *Administratio Publica*, 21(4), 130-152.

Meyer, D.F. and Venter, A. 2013. Challenges and Solutions for Local Economic Development (LED) municipal institutional arrangements. The case of the Northern Free, State. *Administratio Publica*, 21(4), 91-116.

Mfene, P.N. 2013. Public Accountability: A professional basis for the South African Public Service. *Administratio Publica*, 21(1), 6-23.

Mkhabela, M. 2018. *Government is overrun by corruption, yet where is the Public Service Commission*. 03 May 2018. Available at: <https://www.news24.com/Columnist/Mpumelelo/Mkhabela/government-is-overrun-by-corruption-yet-where-is-the-public-service-commission>. (Accessed on 15 June 2019).

Moeti, K. (ed.). 2014. *Public Finance Fundamentals*. Cape Town: Juta and Company.

Mojapelo, P.M. 2013. *The doctrine of separation of powers: A South African perspective*. Paper presented at Middle Temple South African Conference, Forum, 37-43.

Motingoe, R.S. 2011. The performance management system as implementation tool for integrated development plans: The case of Ngwathe local municipality. Unpublished Master Dissertation. Potchefstroom: University of the North-West University.

Mouton, J. 2001. *How to succeed in your master's and doctoral studies. A South African guide and resource book*. Pretoria: Van Schaik Publishers.

Mouton, J., Auriacombe C.J, and Lutabingwa J. 2006. Problematic aspects of the research, design and measurement process in public administration research: conceptual considerations. *Journal of Public Administration*, 41(3.1), 574-587.

Moyo, T., Asha, A., Belete, A. Analysing decentralisation and local government's role in development in South Africa. *The Journal of African & Asian Local Government Studies*, 2(2), 94-107.

Mphaisha, C. 2014. Functioning between the branches of government: ensuring democracy. In Thornhill, C, Van Dijk, G. and Ile, I. (Eds). *Public Administration & Management in South Africa: A Developmental Perspective*. Cape Town: Oxford University Press.

Municipal Infrastructure Task Team. 2004. *Policy framework for the introduction of the Municipal Infrastructure Grant (MIG) concise version – final*. Pretoria: Government Printers.

Munzhedzi, P.H. 2016. South African public sector procurement and corruption: Inseparable twins? *Journal of Transport and Supply Chain Management*, 10(1), 1-8.

Namibia. 1992. *Local Authorities Act, Act 23 of 1992*. Windhoek: Government Printers.

Namibia. 2000. Ministry of Regional and Local Government and Housing. *Decentralization Performance*. Windhoek: Government Printer.

Napier, C.J. 2007. Accountability: An Assessment at the Local Government Sphere. *Journal of Public Administration*, 42(4), pp. 376-390.

National Development Agency (NDA). 2013. *Funding Constraints and Challenges Faced by Civil Society in South Africa*. A Research Report Commissioned by the National Development Agency and developed by Co-operative for Research and Education (CORE). Johannesburg. NDA.

Ndaba, B. 2019. 25 billion wasted: municipalities in a mess, auditor-general to hold mayors, municipal managers to account. *The Star*, 27 June 2019.

Nealer, E. 2011. Municipal Human Resource Management. In Van der Waldt, (Ed). *Municipal Management: Serving the People*. Cape Town: Juta and Company.

Nel, P., Werner, A., Poissant, P., Sono, T., Du Plessis, A. and Ngalo, O. 2011. Human Resource Management. 8th ed. Johannesburg: Oxford University Press.

Netswera, F.G. and Phago, K.G. 2013. How popular protest influence public discourse and public accountability revisiting the theory of public spheres in South Africa. *Politeia*, 23(1), 24-39.

Nkatini, N.L. 2005. *Glimpses of research: guidelines of the writing of research proposals, reports, essays, dissertations, and theses*. Polokwane: Academic Bookshop.

Nkuna, N. and Sebola, M. 2014. *Public Finance Fundamentals*. Cape Town: Juta and Company.

Nombembe, T. *Auditor-General South Africa*. Auditor-General Report 23 July 2012: *Free State Times*, 23 July 2012.

Ntliziywana, P. 2011. Leadership matters professionalising political leadership. *LGB*, 12(4), 4-6.

Nzuza, Z.W. and Lekhanya, L.M. 2014. Perceived Effectiveness of Municipal Management on the Performance of Inventory Stock Management in Local Government of South Africa. *Journal of Economics and Behavioural Studies*, 6(3), 251-261.

Obioyo, R. 2007. Democracy and the committee system of the South African Parliament with special reference to the standing Committee of Public Accounts. *Politeia*, 26(1), 60-79

Ochieng, K.O. 2017. Policy and practice. Who is responsible? Local government and accountability for service delivery in Kenya's devolved health sector. *Commonwealth Journal of Local Governance*, 20, 158 – 171.

Olum, Y. 2014. Public Accountability and Good Governance in Uganda's Public Sector. *Journal of Public Administration*. Special Edition, 49(2.1), 603-621.

Okafor, C., Matiwane, S. and Onuigbo, R.A. 2015. Examining Municipal councillors' Oversight Roles in Alfred Nzo District Municipality of the Eastern Cape, South Africa. *Africa's Public Delivery Performance Review*, 52-71.

Paradza, G., Mokwena, L. and Richards, R. 2010. *Assessing the Role of Councillors in Service Delivery at Local Government Level*. In South. *Research Report 125* funded by the Open Society. Centre for Policy Studies. Johannesburg: Centre for Policy Studies.

Pauw, J.C., Van der Linde, G.J.A., Fourie, D. and Visser. C.B. 2015. *Managing Public Money*. 3rd Edition. Cape Town: Pearson Holdings.

Pricewaterhouse and Coopers (PwC). 2010. *Local Government and King III: Public Sector Working Group Position Paper*, 2 October 2010. Johannesburg. PwC and the Institute of Directors in Southern Africa (IoDSA).

Pienaar, G. 2000. Office of the Public Protector. *African Security Review*. 9(2), 6-7.

Pillay, P. 2016. Ethics and accountability in South African municipalities: the struggle against corruption. *African Journal of Public Affairs*, 9(2), 115-126.

Pillay, U., Tomlinson, R. and Du Toit, J. 2006. *Democracy and Delivery, Urban Policy in South Africa*. Cape Town: Human Sciences Research Council.

Potgieter, E. and Govender, R. 2016. *20 Years of the SA Constitution: people, institutions and rights*. Cape Town: Institute for Justice and Reconciliation (IJR).

Public Service Commission. 2001. *A review of South Africa's national anti-corruption agencies*. Pretoria: Government Printers.

Quist, R.E., Certan, C. and Dendura, J. 2008. *Republic of South Africa Public Expenditure and Financial Accountability Public Financial Management Performance Assessment Report Final Report Client: European Commission Delegation South Africa Specific Contract No: AFS/2008/159-145*. Amsterdam: European Commission.

Raga, K. and Taylor, D. 2005. Overview of the required skills and expertise of municipal councillors at the Nelson Mandela Metropolitan Municipality, In Terms of the New Developmental Mandate. *Journal of Public Administration. Conference Proceedings*, October 2005.

Raga, K., Taylor, J.D. and Albrecht, W. 2011. Challenges for developmental local government and public participation in contemporary South Africa. *Administratio Publica*, 19(1), 149- 168.

Reddy, P.S. (ed.). 1996. *Reading in Local Government Management and Development: A Southern African Perspective*. Cape Town: Juta and Company.

Reddy, P.S., Sing, D. and Moodley, S. 2003. *Local Government Financing and Development in Southern Africa*. Cape Town: Oxford University Press.

Ringold, D., Holla, D.A., Koziol, M. and Srinivasa, S. 2012. *Citizens and Service Delivery Assessing the Use of Social Accountability Approaches in Human Development: The International Bank for Reconstruction and Development*. Available at: www.worldbank.org. (Accessed on: 12 December 2015).

Ritchie, K. and Ansell, G. (eds.). 2006. *Reporting the Courts: A Handbook for South African Journalists*. Pinetown: Pinetown Printers.

Robson, C. 2002. *Real world research*. Oxford: Blackwell.

Royse, D. 2011. *Research methods in social work*. Belmont: Brooks/Cole Cengage Learning.

Salkind, N.J. 2018. *Exploring Research*, New Jersey: Pearson Prentice Hill.

Samson, T. 2011. *Accountability in Public Services in South Africa: Selected Issues World Bank*. Washington: Communications Development Incorporated.

Sandford, M. 2015. *Local government: new models of service delivery*. A briefing paper. London: House of Commons Library.

Sargiacomo, M. 2010. Accounting and Accountability in Local Government: Contributions from Accounting History Research. *The sixth Accounting History International Conference "Accounting and the State"*. Wellington.

Saunders, M.N.K., Thornhill, A. and Lewis, P. 2009. *Research Methods for Business Students*. Essex: Prentice-Hall.

Schaeffer, M. 2005. *Local Government Accountability: Challenges and Strategies*. World bank, Public Sector Expenditure and Management Thematic Group. Available at: <https://slidepalyer.com/slides/5937360>. (Accessed on 15 August 2019).

Senay, C. and Besdiek, D. 1999. Political Oversight of Municipal Projects. In Van der Waldt, G. (ed.). An empirical Investigation. *Administratio Publica*, 23(3), 48-69

Sharma, K.C. 2010. Role of local government in Botswana for effective service delivery: Challenges, prospects and lessons. *Commonwealth Journal of Local Governance*, 6, 1-8.

Sebudubudu, D. 2010. Issues and Challenges in Democratic Governance in Africa: The Case of Botswana. *A Paper Presented at the Conference on Governance Reform: What is the record? Perspectives from the South and North on governance, policy space and democratic processes.* Montreal: University of Quebec.

Sibanda, M.M. 2017. Control, ethics and Accountability in The Financial Management Performance of Eastern Cape Municipalities. *Journal of Public Administration*, 52(2), 313-339.

Siddle, AM. 2011. *Decentralisation in South African Local Government: A Critical Evaluation.* Thesis (PhD). Cape Town: University of Cape Town.

Siddle, A. and Koelble, T.A. *The Failure of Decentralisation in South African Local Government.* Claremont: UCT Press.

Sikhakane, B.H. and Reddy, P.S. 2011. Public Accountability at the Local Government Sphere in South Africa. *African Journal of Public Affairs*, 4(1), 85-102.

Sing, D. 2003. *The theory and practice of performance management in local government.* In Reddy, P.S, Sing, D and Moodley, S. (Eds) *Local Government Financing and Development in Southern Africa.* Cape Town: Oxford University Press.

Sing, D and Ntshangase, B. 2003. *Ethics and corruption.* In Reddy, P.S, Sing, D and Moodley, S. (eds). *Local Government Financing and Development in Southern Africa.* Cape Town: Oxford University Press.

Sirovha, K.I. and Thornhill, C. 2017. Partnership between traditional leaders and municipalities with special reference to Bojanala District Municipality. *Administratio Publica*, 25(3), 134-156.

Skiti, S. 2019. NPA's new directorate consolidating state capture cases. Available at: <https://mg.co.za/article/2019-04-18-00-npas-new-directorate-consolidating-state-capture-cases>.

(Accessed on 15 February 2019).

South Africa (Republic). 1994. *Public Protector Act*, Act 23 of 1994. Pretoria: Government Printers.

South Africa (Republic). 1995. *Auditor- General Act*. Act 12 of 1995. Pretoria: Government Printer.

South Africa (Republic). 1995. *The Labour Relations Act*, Act 66 of 1995. Pretoria: Government Printers.

South Africa (Republic). 1996. *The Constitution of the Republic of South Africa*. Pretoria: Government Printers.

South Africa (Republic). 1996. *The Local Government Transition Second Amendment Act*, Act 97 of 1996. Pretoria: Government Printers.

South Africa (Republic). 1996. *Special Investigation Unit and Special Tribunals Act, Act 74 of 1996*. Pretoria: Government Printers.

South Africa (Republic). 1997. *The White Paper on Transformation of Service Delivery (Batho Pele)*. Pretoria: Government Printer

South Africa (Republic). 1997. *Intergovernmental Fiscal Relations Act*, Act 57 of 1997. Pretoria: Government Printers.

South Africa (Republic). 1997. *Organised Local Government Act*, Act 52 of 1997. Pretoria: Government Printers.

South Africa (Republic). 1998. *Demarcation Act*, Act 27 of 1998. Pretoria: Government Printers.

South Africa (Republic). 1998. *Employment Equity Act, Act 55 of 1998*. Pretoria: Government Printer.

South Africa (Republic). 1998. *Local Government: Municipal Structures Act, Act 117 of 1998*. Pretoria: Government Printers.

South Africa (Republic). 1998. *White Paper on Local Government*. Pretoria: Government Printers.

South Africa (Republic). 1999. *Public Finance Management Act (PFMA), Act 1 of 1999*. Pretoria: Government Printer.

South Africa (Republic). 2000. Department of Provincial and Local Government. *IDP Guide Pack: A General Overview*. Pretoria: Government Printers.

South Africa (Republic). 2000. *Local Government: Municipal Systems Act, Act 32 of 2000*. Pretoria: Government Printers.

South Africa (Republic). 2000. *Local Government: Municipal Systems Act, Regulations on the Appointment and Condition of Service of Senior Managers*. Pretoria: Government Printers.

South Africa (Republic). 2000. *Procurement Policy Framework Act, Act 5 of 2000*. Pretoria: Government Printer.

South Africa (Republic). 2000. *Local Government Municipal Electorate Act, Act 27 of 2000*. Pretoria: Government Printers.

South Africa (Republic). 2000. *Municipal Fiscal Powers and Functions Act, Act 12 of 2000*. Pretoria: Government Printers.

South Africa (Republic). 2001. *Preferential Procurement Policy Framework Act, Act 5 of 2000*. Pretoria: Government Printers.

South Africa (Republic). 2001. *Performance Management Guide for Municipalities*. Pretoria: Government Printers.

South Africa (Republic). 2002. *Disaster Management Act, Act 57 of 2002*. Pretoria: Government Printer.

South Africa (Republic). 2002. *Traditional Leadership and Governance Framework Act, Act 41 of 2002*. Pretoria: Government Printers.

South Africa (Republic). 2003. *Local Government: Municipal Financial Management Act (MFMA, 2003), Act 56 of 2003*. Pretoria: Government Printer.

South Africa (Republic). 2003. National Treasury. *Modernising financial governance implementing the Municipal Finance Management Act 2003: Updated Edition – August 2004 Municipal Finance Management Act, Act 56 of 2003*. Pretoria: Government Printers.

South Africa (Republic). 2003. National Treasury. *Municipality / Municipal Entity Code of Conduct for Supply Chain Management Practitioners and other Role Players in accordance with Regulation 46(4) and 46(5) of the Local Government Municipal Finance Management Act, 2003: Municipal Supply Chain Management Regulations General Principles*. Pretoria: Government Printers.

South Africa (Republic). 2003. National Treasury. *MFMA 2003 Circular 80, Municipal Finance Management Act, Act 56 of 2003*. Pretoria: Government Printer.

South Africa (Republic). 2003. *Prevention and Combating of Corrupt Activities Act, Act of 2003*. Pretoria: Government Printers.

South Africa (Republic). 2004. *Public Audit Act*. Act 25 of 2004. Pretoria: Government Printer.

South Africa (Republic). 2004. *Promoting Good Governance and Accountability: Local Government Anti-Corruption Strategy*, 2004. Pretoria: Government Printer.

South Africa Republic). 2004. National Treasury. *SCM Guide for Accounting Officers/authorities*. Pretoria: Government Printer.

South Africa (Republic). 2005. *Intergovernmental Relations Framework 2005*, Act 13 of 2005. Pretoria: Government Printers.

South Africa (Republic). 2005. National Treasury. *Annual Report: Guidelines, January 2005. MFMA 2003 Circular 11, Municipal Finance Management Act*. Act 56 of 2003. Pretoria: Government Printer.

South Africa (Republic). 2005. National Treasury. *MFMA 2003. Version 1: Frequently Asked Questions*. Pretoria: Government Printer.

South Africa (Republic). 2005. National Treasury. *MFMA. Municipal SCM Regulations*. Pretoria: Government Printer.

South Africa (Republic). 2005. National Treasury. *SCM Guide for Accounting Officers of Municipalities and Municipal Entities*. Pretoria: Government Printer.

South Africa (Republic). 2006. National Treasury. *MFMA, Circular 32 of 15 March 2006. Municipal Finance Management Act*. Act 56 of 2003. March 2006. Pretoria: Government Printer.

South Africa (Republic). 2007. *Local Government: Municipal Regulations on Minimum Competency Levels* June 15. Pretoria: Government Printers.

South Africa (Republic). 2007. *Local Government: Municipal Fiscal Powers and functions Act*, Act 12 of 2007. Pretoria: Government Printers.

South Africa (Republic). 2008. *Department of Provincial and Local Government. National Framework: Guidelines for provinces and municipalities in the implementation of the ward funding model*. Pretoria: Government Printer.

South Africa (Republic). 2008. *Division of Revenue Act (DORA)*, Act 2 of 2008. Pretoria: Government Printer.

South Africa (Republic). 2008. *Local Government: Laws Amendment Act*, Act 19 of 2008. Pretoria: Government Printers.

South Africa (Republic). 2009. Department of Provincial and Local Government (DPLG). *State of Local Government in South Africa: Overview Report*. Pretoria: Government Printers.

South Africa (Republic). 2009. Parliament. *Oversight and accountability model: Asserting Parliaments oversight role in enhancing democracy*. Cape Town: Government Printers.

South Africa (Republic). 2009. Department of Communication and Information Services. *South Africa Yearbook 2009*. Pretoria: Government Printer.

South Africa. (Republic). 2010. Department of Provincial and Local Government (DPLG). *Delivery Agreement Outcome 9. A responsible accountable effective and efficient local government*. Pretoria: Government Printer.

South Africa (Republic). 2011. National Treasury. *Intergovernmental relations and the local government fiscal framework: Local Government Budgets and Expenditure Review*. Pretoria. Government Printer.

South Africa (Republic). 2011. National Treasury. *State of Local Government Finances and Financial Management Report*. Pretoria: Government Printer.

South Africa (Republic). 2011. National Treasury. *Preferential Procurement Regulations of 2011*. Pretoria: Government Printer.

South Africa (Republic). 2012. National Planning Commission. The Presidency. *The National Development Plan: Vision for 2030*. Pretoria: Government Printers.

South Africa (Republic). 2012. National Planning Commission. The Presidency. *National Development Plan. 2030. Executive Summary. Building a Capable and Developmental State*. Pretoria: Government Printers.

South Africa (Republic). 2012. National Treasury. *Municipal Public Accounts Committees (MPAC) Guide and Toolkit*. Available at: <https://www.Salga.org.za/event/document/municipal-public-accounts-committees-guide-toolkit>. (Accessed on 31 March 2018).

South Africa (Republic). 2012. *Statistics South Africa: Census 2011*. Pretoria: Government Printer.

South Africa (Republic). 2013. Auditor-General. *Consolidated report on the audit outcomes of the Free State municipalities*. Available at: www.agsa.gov.za. (Accessed on 15 June 2013).

South Africa (Republic). 2013. Department of Co-operative Governance. *Research Weekly e-Alert: oversight in the local government sphere*. Pretoria: Government Printers.

South Africa (Republic). 2014. Department of Co-operative Governance and Traditional Affairs. *The Back to Basics Concept and Outcomes of the Back to Basics Local Government Summit*. Pretoria: Government Printers.

South Africa (Republic). 2015. The Presidency. *Twenty Year Review South Africa 1994 – 2014. Background Paper: Local Government*. Pretoria. Government Printers.

South Africa (Republic). 2015. *National Treasury*. Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings, October 2015. MFMA 2003 Circular 76, Municipal Finance Management Act 56 of 2003. Pretoria: Government Printer.

South Africa (Republic). 2016. National Treasury. *Municipal Financial Systems and Processes requirements in support of the Municipal Standard Chart of Accounts (MSCOA)*, March 2016.

South Africa (Republic). 2016. *National Treasury*. Municipal Budget Circular for the 2017/18 MTREF March 2016. MFMA 2003 Circular 85, December 2016. Municipal Finance Management Act, Act 56 of 2003. Pretoria: Government Printer.

South Africa (Republic). 2017. National Treasury. *Preferential Procurement Regulations of 2017*. Pretoria: Government Printer.

South Africa (Republic). 2018. *Local Government: Amendments to Municipal Regulations on Minimum Competency Levels 2007* (Proclamation No. 1146). Government Gazette, 41996, October 26.

South Africa (Republic). 2018. *Public Audit Amendment Act, Act 5 of 2018*. Pretoria: Government Printer.

South African Legislative Sector. 2012. *Oversight Model of the South African Legislative Sector*. Cape Town: South African Legislative Sector.

South African Local Government Association (SALGA). 2005. Guideline Document on the role and responsibilities of Councillors, Political Structures and Officials. Available at: www.salga.org.za/pages/Municipalities/Guidelines-for-Municipalities (Accessed: 03 March 2016).

South African Local Government Association (SALGA). 2005. *The Ward Committee Resource Book*. Pretoria: SALGA.

South African Local Government Association (SALGA). 2011. *Guideline Document on the Roles and Responsibilities of Councillors, Political Structures and Officials March 2011*. Pretoria: SALGA.

South African Local Government Association (SALGA). 2012. *Learning Framework for Local Government. Social Accountability: Compiled 19 April 2010 Consultations completed May 2012*. South African Local Government Association (SALGA). 2012. SALGA Strategic Plan 2012-2017. Pretoria: SALGA.

South African Local Government Association (SALGA). 2011. *Handbook for Municipal councillors*. Pretoria: Government Printer.

South African Local Government Association (SALGA). 2013. *National Human Resources Management and Development Strategy (HMR&D) - Blueprint for Local Government*. Pretoria: SALGA.

South African Local Government Association (SALGA). 2015. *SALGA National Members Assembly, Discussion Documents*. Gallagher Convention Centre, Johannesburg, 24-26 March 2015.

South African Local Government Association (SALGA). 2018. *Accountability and Consequence Management in Local Government*. SALGA/CIGFARO, Free State May 2019. Available at: www.salga.org.za/salga/accountability-consequence-management-local-government. (Accessed on 10 June 2019).

Subban, M. and Wissink, H. 2015. Key Factors in Assessing the State of Local Government in South Africa. Crisis Management or Facing the Realities of Transformation? *Administratio Publica*, 23(2), 33-56.

Swilling, M., Bhorat, H., Buthelezi, M., Chipkin, I., Duma, S., Mondi, L., Peter, C., Qobo, M., and Friedenstein, H. 2017. *Betrayal of the promise: How the Nation is Being Stolen*. Cape Town. The State Capacity Research Project (SCRCP).

Taaibosch, T.A. 2015. Training and competency challenges of municipal councillors in the Mangaung Metropolitan Municipality in the Free State Province. Unpublished master dissertation. Bloemfontein: Central University of Technology.

Terreblanche, M., Durrheim, K. and Painter, D. 2006. *Research in Practice*. Cape Town: UCT Press.

Theron, F. and Machunu, N. 2016. *Development, Change and the Change Agent Facilitation at grassroots*. 2nd edition. Pretoria: Van Schaik Publishers.

Thornhill, C. 2009. Local government's contribution to a sustainable developmental state: Opportunities and challenges. *Administratio Publica*, 17(3), 25-44.

Thornhill, C. and Cloete, J.J.N. 2014. *South African Municipal Government and Administration*. Pretoria: Van Schaik Publishers.

Thornhill, C., Van Dijk, H.G. and Ile, I. 2014. *Public Administration and Management in South Africa: A Developmental Perspective*. Cape Town: Oxford University Press.

Thornhill, C. 2015. Accountability. A Constitutional Imperative. *Administratio Publica*, 23(1),77-101.

Thornhill, C. 2016. Public Protector. Fearless defender of ethical conduct - A seven-year campaign. *African Journal of Public Affairs*, 9(3), 129-151.

Töttemeyer, T. 1997. Decentralisation and state-building at the local level. *State, Society and Democracy*, 108-149.

Toxopeüs, M. 2019. Municipalities (II): Assessing mechanisms of municipal oversight. 18 July 2019. Available at: <https://www.politicsweb.co.za/opinion/municipalities-ii-assessing-mechanisms-of-municipalities>. (Accessed on 15 August 2019).

Tsatsire, I. 2008. A critical analysis of challenges facing developmental local government: A case study of the Nelson Mandela Metropolitan Municipality. Unpublished doctoral thesis. Port Elizabeth: NMMU.

Tshabalala, E.K. 2006. *The role of community participation in the Intergrated Development Plan of Govan Mbeki Municipality*. Dissertation (Masters). Pretoria: University of Pretoria.

Tutu, M. 2006. *The Role of Ward Committees in Enhancing Public Participation in Rustenburg Municipality: A Critical Evaluation*. Cape Town: Idasa.

UNDESA. 2003. Katsiaouni: *Workshop on Poverty Alleviation and Decentralisation for ten West African countries*. Organised jointly by UNDESA and the Government of Senegal, Dakar: July 2003. Dakar: UNDESA.

Van der Nest, D.O., Thornhill, C. and De Jager, J. 2008. Audit Committees and Accountability in the South African Public Sector. *Journal of Public Administration*, 43(4), 545-558.

Van der Waldt, G. and Du Toit, D.F.P. 1997. *Managing for Excellence in the Public Sector*. Kenwyn: Juta and Company.

Van der Waldt, C. 2011. The statutory and regulatory framework for local government. In Van der Waldt, G. (ed.). *Municipal Management: Serving the People*. Cape Town: Juta and Company.,

Van der Walt, C., Venter, A., Phutiagae, K., Nealer, E., Khalo, T. and Vyas-Doorgapersad, S. 2018. *Municipal Management Serving the People*. In Van der Waldt, G. (ed.). 3rd Edition. Claremont: Juta.

Van der Walt, D. 2015. Public procurement: A bastion against corruption. In Thornhill, C., Van Dijk, G. and Ile, I. (eds.). *Public Administration & Management in South Africa: A Developmental Perspective*. Cape Town: Oxford University Press

Van der Waldt, G. 2015. Political oversight of municipal projects. An empirical investigation. *Administratio Publica*, 23(3), 48-69.

Van der Waldt, G. 2017. Local Government. In Landberg, C. and Graham, S. (eds.). 2017. *Government and Politics in South Africa. Coming of age*. Pretoria: Van Schaik Publishers.

Van der Walt, S. 2018. “Alle oë op ondersoek na kaping van staat. *Volksblad*, 20 Augustus 2018.”

Van Donk, M., Swilling, M., Pieterse, E., and Parnell, S. (eds.). 2008. *Consolidating developmental local government: lessons from the South Africa experiment*. Cape Town: UCT.

Van Niekerk, T. 2012. The local government turnaround strategy: challenges, constraints and benefits. *Administratio Publica*, 20(2), 61-62.

Van Niekerk, T. and Dalton-Brits, E. 2016. Mechanisms to strengthen accountability and oversight within municipalities, with specific reference to the Municipal Public Accounts Committee and Audit Committee of Mangaung Metropolitan Municipality. *African Journal of Public Affairs*, 9(3), 117-128.

Van Niekerk, T. 2018. *The Praxis of Ethics, integrity and accountability in the South African Public Service: Failure vs efficacy*. Presentation made at the annual IASIA/LAPAGA Conference, Lima, Peru, 26-28 July 2018.

Van Rensburg, G. 2007. *The Leadership Challenge in Africa*. Pretoria: Van Schaik Publishers.

Van Rooyen E.J. and Raga, K. 2016. A Practical Introduction to Public Management. In Draai, E. (ed.). Cape Town: Oxford University Press.

Venter, A. 2011. Administering national government. In Venter and Landsberg, (eds). *Government and Politics in South Africa*. Pretoria: Van Schaik Publishers.

Venter, A. 2011. Local government and its external environment. In Van der Walddt, (eds.). *Municipal Management: Serving the People*. Cape Town: Juta and Company.

Visser, C.B. and Erasmus, P.W. 2002. *The Management of Public Finance: A Practical Guide*. Cape Town: Oxford University Press SA.

Webb, W. and Auriacombe C.J. 2006. Research design in public administration: critical considerations. *Journal of Public Administration*, 41(3.1), 588-602

Welman, C., Kruger, F. and Mitchell, B. 2005. *Research methodology*. 3rd Edition. Thousand Oaks, CA: Sage Publications.

Western Cape Government. 2012. *Improving financial oversight with a practical approach to MPACs/oversight institutions*. Cape Town: Western Cape Government.

William, E.N. 2012. *Improving political oversight in municipalities. Examining the law and practice surrounding oversight by the council over municipal executive and municipal administration*. Available online: <http://www.etd.uwc.ac.za/usrfiles>. Date accessed: 06 August 2013.

Woolman, S. 2018. A Politics of Accountability: How South Africa's Judicial recognition of the Binding Legal effect of the Public Protector's Recommendations Has a Catalysing effect that Brought down a President. *Constitutional Court Review*, 19, 155-192.

World Bank. 2011. *Accountability in public services in South Africa – selected issues*. Washington. Communication Development Incorporated.

Xuedong, Y. 2010. Constructing an accountable government in China. *Cadernos Gestão Pública e Cidadania*, 15(57), 197-214.

Yilmaz, S., Beris, Y. and Serrano-Berthet, R. 2008. *Local governance and accountability series paper no. 113 / July 2008: Local government discretion and accountability; a diagnostic framework for local governance*. Washington: World Bank.

Zainal, Z. 2007. Case study as a research method. *Journal Kemanusiaan* (9), 1-6.

Zama, S.B. 2012. *Citizen Report Card Surveys: A tool for effective social accountability. Policy Brief*. Pretoria. Human Sciences Research Council.

Zybrands, W. 2011. Local government. In Venter, A. and Landsberg, C. (eds.). *Government and politics in South Africa*. Pretoria: Van Schaik Publishers.

ANNEXURE A: PERMISSION LETTER

Boshoff Street

Dealesville, 9348

tsebakamotse@yahoo.com / 0824655151

November 20, 2017

The MM

Re: Permission to Conduct Research Study

Dear Sir/Madam

This letter serves as a request to ask for permission to conduct a research study at your local municipality. I am currently enrolled for Doctor of Public Management degree in the Department of Public Management, Faculty of Management Sciences at the Central University of Technology in the Free State and I am in the process of finishing my doctoral thesis. The topic of this study is “*The development of oversight and accountability framework for municipalities in the Free State Province*”.

I hope that your office will allow me to conduct a simple research survey with two of your Ward Committee members.

The survey process should take not longer than thirty minutes to complete. The survey results will be pooled for the thesis project only and individual results of this study will remain absolutely confidential and anonymous. Should this study be published, only pooled results will be documented. No costs will be incurred by either your municipality or the individual participants.

Your approval for me to conduct this study will be greatly appreciated.

Sincerely,

Teboho Sebakamotse (student)

Research supervisor: Prof. T, Van Niekerk: Department of Public Management, Faculty of Management Sciences at the Central University of Technology

ANNEXURE B: SEMI-STRUCTURED QUESTIONNAIRE

Municipal Management Semi-structured Questionnaire

MMs, Chief Financial Officer, Mayor or Executive mayor.

JKT Sebakamotse

Respondent number

Purpose

I, Mr Jermia Khahliso Teboho Sebakamotse, a Doctor of Public Management student at the Central University of Technology (CUT), am conducting an academic this study in fulfilment of my doctoral degree.

The purpose of this research semi-structured questionnaire is to determine the current practices of oversight and accountability within municipalities in the Free State Province.

Your contribution to this semi-structured questionnaire will remain private and all information will be considered confidential and that no personal information will be published. Your identity will also remain anonymous and no information that can identify you will be on the questionnaire.

Instructions

- Your responses should be as accurate as possible to the situation in your municipality.
- Please use **X** mark where applicable and please use a black ink pen.

Thank you for your participation.

1. SECTION A: BIOGRAPHICAL INFORMATION

1.1 Population Group

1	African	2	Asian	3	Coloured	4	White
---	---------	---	-------	---	----------	---	-------

1.2 Gender

1	Male	2	Female
---	------	---	--------

1.3 Disabled

1	Male	2	Female
---	------	---	--------

1.4 Language most commonly used

1	Afrikaans	2	English	3	Sesotho	4	Setswana
5	IsiXhos	6	IsiZulu	7	Other		

1.5 Age Group

1	18 - 29	2	30 - 39	3	40 - 49	4	50 - 59
5	60 - 69	6	70 - 79	7	Older		

1.6 Highest level of education completed (indicate only one of the following)

1.6.1 Basic Education

1	Primary
2	Secondary

1.6.2 Higher Education
(University/University of Technology/
College)

3	Degree
4	Diploma

5	Certificate
---	-------------

1.6.3 Postgraduate Qualification

6	Honours or
7	Masters/MBA
8	Doctorate

1.7 State Municipal council are you currently employed by.

1	Mangaung Metropolitan Municipality
	Xhariep District Municipality

3	469
---	-----

4	
---	--

5	
---	--

6	
---	--

2

Lejweleputswa District Municipality

Thabo Mofutsanyana District Municipality

Fezile Dabi District Municipality

Letsemeng Local Municipality

Kopanong Local Municipality

Mohokare Local Municipality

Naledi Local Municipality

Masilonvana Local Municipality

Tokologo Local Municipality

2. 2. POLITICAL OVERSIGHT AND ACCOUNTABILITY

1=Strongly Agree 2=Agree 3=Don't Know 4=Disagree 5=Strongly Disagree

- | | | | | | | | |
|------|---|---|---|---|---|---|--------------------------|
| 2.1 | Local government legislative acts and policies are understood by all political officials. | 1 | 2 | 3 | 4 | 5 | <input type="checkbox"/> |
| 2.2 | Local government legislations, rules and policies are always implemented by all political officials. | 1 | 2 | 3 | 4 | 5 | <input type="checkbox"/> |
| 2.3 | Municipal councillors interfere in the normal administrative functions of the municipality. | 1 | 2 | 3 | 4 | 5 | <input type="checkbox"/> |
| 2.4 | Municipal elections are a good tool to ensure accountability and transparency for political office-bearers. | 1 | 2 | 3 | 4 | 5 | <input type="checkbox"/> |
| 2.5 | Municipal council meetings are always well attended by Councillors. | 1 | 2 | 3 | 4 | 5 | <input type="checkbox"/> |
| 2.6 | Academic qualifications are important for municipal councillors. | 1 | 2 | 3 | 4 | 5 | <input type="checkbox"/> |
| 2.7 | Reports of corruption at local government sphere are grossly exaggerated. | 1 | 2 | 3 | 4 | 5 | <input type="checkbox"/> |
| 2.8 | State capture reports at local government sphere are a creation of the agents of the white monopoly capital. | 1 | 2 | 3 | 4 | 5 | <input type="checkbox"/> |
| 2.9 | Municipal councillors clearly do not understand the role of Portfolio Committees, Audit Committees and Municipal Performance Audit Committee. | 1 | 2 | 3 | 4 | 5 | <input type="checkbox"/> |
| 2.10 | There is no consequence management for breaking the Code of Conduct for Municipal councillors. | 1 | 2 | 3 | 4 | 5 | <input type="checkbox"/> |
| 2.11 | There are no reported cases of corruption at your municipality in the past year? | 1 | 2 | 3 | 4 | 5 | <input type="checkbox"/> |

Any additional comments:

3. SECTION C: MUNICIPAL FINANCIAL OVERSIGHT AND ACCOUNTABILITY

- | | | | | | | | |
|-----|---|---|---|---|---|---|--------------------------|
| 3.1 | Municipal political and administrative officials have a proper understanding of the Municipal Finance Management Act, 2003. | 1 | 2 | 3 | 4 | 5 | <input type="checkbox"/> |
|-----|---|---|---|---|---|---|--------------------------|

- 3.2 The FS Provincial Treasury is assisting local municipality councils with compliance with the MFMA of 2003. 1 2 3 4 5

- 3.3 Municipal Mayors understand their respective oversight roles in municipal financial management and administration. 1 2 3 4 5

- 3.4 The executive mayor or committee oversees the performance of its officials by taking budgetary monthly reports seriously. 1 2 3 4 5

- 3.5 The non-executive Councillors always hold the executive mayor or committee accountable by monthly, quarterly and annual financial reports. 1 2 3 4 5

- 3.6 The municipal executive mayor or committee implements the recommendations of the Auditor-General. 1 2 3 4 5

- 3.7 The municipal budget is always aligned to the IDP of the municipality. 1 2 3 4 5

- 3.8 Municipal council does not do proper oversight function concerning municipal Supply Chain Management. 1 2 3 4 5

- 3.9 MM as Accounting Officer is responsible for all funds managed by the municipality. 1 2 3 4 5

- 3.10 Mayor or Councillor can authorise the spending of municipal funds. 1 2 3 4 5

- 3.11 The report of the Auditor-General is accessible to all stakeholders in the municipality 1 2 3 4 5

- 3.12 The municipality holds public meetings on the Auditor-General's report on the municipality every financial year-end. 1 2 3 4 5

Any additional comments:

4. SECTION D: MUNICIPAL ADMINISTRATIVE AND SOCIAL OVERSIGHT AND ACCOUNTABILITY

Municipal Administrative Oversight and Accountability

4.1 The MM is responsible and accountable to the executive mayor for the management and administration of the Municipal council.

1	Very true	2	True	3	Not true	4	Not sure
---	-----------	---	------	---	----------	---	----------

4.2 The MM is responsible for the appointment of municipal staff.

1	Very true	2	True	3	Not true	4	Not sure
---	-----------	---	------	---	----------	---	----------

4.3 The MM is tasked with the advising of the political structures and political office-bearers.

1	Very true	2	True	3	Not true	4	Not sure
---	-----------	---	------	---	----------	---	----------

4.4 The Chief Financial Officer must advise the MM on his/her accounting duties.

1	Very true	2	True	3	Not true	4	Not sure
---	-----------	---	------	---	----------	---	----------

4.5 Municipal Performance Management System for the MM and other Section 56 managers is effectively implemented.

1	Very true	2	True	3	Not true	4	Not sure
---	-----------	---	------	---	----------	---	----------

Any additional comments:

SECTION E: Social Oversight and Accountability

4.6 Local communities fully understand the mandate of the local government sphere.

1	Very true	2	True	3	Not true	4	Not sure
---	-----------	---	------	---	----------	---	----------

4.7 Local communities and their organisations fully participate in activities organised by Ward Committees and Ward councillor.

1	Very true	2	True	3	Not true	4	Not sure
---	-----------	---	------	---	----------	---	----------

4.8 The Integrated Development Plan (IDP) is an effective a tool for local community participation.

1	Very true	2	True	3	Not true	4	Not sure
---	-----------	---	------	---	----------	---	----------

4.9 Municipal councillors regularly report back at least quarterly to their constituencies on the performance of the municipality.

1	Very true	2	True	3	Not true	4	Not sure
---	-----------	---	------	---	----------	---	----------

4.10 Your municipality is characterised by patronage politics, weak leadership and capacity, financial mismanagement and corruption.

1	Very	2	True	3	No true	4	Not sure
---	------	---	------	---	---------	---	----------

4.11 There has been no service delivery conflicts/protests within the local municipality.

1	Very true	2	True	3	Not true	4	Not sure
---	-----------	---	------	---	----------	---	----------

Any additional comments:

5. COMMENTS

Which one of the following options would best summarise your opinion of the survey?

1	The survey is relevant
2	The questionnaire addresses current issues
3	The questionnaire is too long
4	The survey is a waste of time
5	The survey is outdated

ANNEXURE C: SEMI-STRUCTURED INTERVIEW SCHEDULE WITH WARD COMMITTEE MEMBERS

Tokologo Local Municipality and Maluti-a-Phofung Local Municipality.

JKT Sebakamotse

Respondent number

Purpose

I, Mr Jermia Khahliso Teboho Sebakamotse, a Doctor of Public Management student at the Central University of Technology, am conducting an academic this studying fulfilment of my doctoral degree.

The purpose of this semi-structured interview schedule is to determine the current practices of participation, administrative accountability (quality of service delivery and the performance of service delivery) within municipalities of the Free State Province.

Your contribution to this semi-structured interview schedule will remain private and all information will be considered confidential and that no personal information will be published. Your identity will also remain anonymous and no information that can identify you will be on the questionnaire.

Instructions

- Your responses should be as accurate as possible to the situation in your municipality.
- Please use **X** mark where applicable and please use a black ink pen.

Thank you for your participation.

1. SECTION 1 - BIOGRAPHICAL INFORMATION

1.1 Population Group

1 African	2 Asian	3 Coloure	4 White	<input type="checkbox"/>
-----------	---------	-----------	---------	--------------------------

1.2 Gender

1 Male	2 Female	<input type="checkbox"/>
--------	----------	--------------------------

1.3 Disabled

1 Male	2 Female	<input type="checkbox"/>
--------	----------	--------------------------

1.4 Language most commonly used

1 Afrikaans	2 English	3 Sesotho	4 Setswana	<input type="checkbox"/>
5 IsiXhosa	6 IsiZulu	7 Other		

1.5 Age Group

1 18 - 29	2 30 - 39	3 40 - 49	4 50 - 59	<input type="checkbox"/>
5 60 - 69	6 70 - 79	7 Older		

1.6 Highest level of education completed (indicate only one of the following)

1.6.1 Basic Education

1	Primary
2	Secondary
3	Degree

1.6.2 Higher Education (University/University of Technology/College)

4	Diploma
5	Certificate

1.6.3 Postgraduate Qualification

6	Honours or
7	Masters/MBA
8	Doctorate

1.6.4 Which one is your Local Municipal Council?

Tokologo Local Municipal Council	
Tswelopele Local Municipal council	

1.6.5 Mention the portfolio/s you hold in the Ward Committee

1.7 How long have you been in this/these portfolio/s?

Less than 1 year	
Between 2 - 3	
Between 4 - 5	
Between 6 - 7	
Between 8 - 9	
Over 10 years	

SECTION 2 - THEME 1 : PUBLIC PARTICIPATION

1.8 How is your local community informed about Municipal council meetings? **More than one answer is permitted for this question.**

a) Municipal accounts	
b) Public notice boards	
c) Municipal newsletters	
d) Local newspapers	
e) Ward committee meetings	
f) Radio announcements	

g) Members of the public are not informed	
h) Loud hailing	
i) Word of mouth	
j) Other, please specify	
k) Don't know	

2 How often do you attend Municipal council meetings?

a) Every meeting	
b) Occasionally	
c) Attended once	
d) Never attended	

3 In your municipal council what forums exist for community participation? **More than one answer is permitted for this question.**

a) Ward committees	
b) CWP forums	
c) Steering committees	
d) No forums exist	
e) Don't know	

4 If there are forums, how often did you attend any of these forums for community participation in the past year?

a) Never	
b) Once	
c) Twice	
d) Thrice	
e) All	

5 In your opinion how effective are the following forums for community participation in your Local Municipal council?

Status	IDP forum	Ward committee
a. Non-existent		
b. Very ineffective		
c. Ineffective		
d. Effective		

6 Do you, through your Ward Committee, give recommendations to the municipal council regarding your development priorities?

a) Don't know	
b) Never	
c) Rarely	
d) Regularly	

7 Do you, through IDP meetings, give recommendations to municipal council regarding your development priorities?

a) Don't know	
b) Never	
c) Rarely	
d) Regularly	

8 Are Ward Committees representative in terms of the following criteria? **More than one answer is permitted for this question.**

a) Gender	
b) Disability	
c) Variety of stakeholders (i.e farmers, faith-based organisations, CBOs, political parties)	
d) ace	
e) Geographical location	
f) Age	

9 Is there someone within the municipal council who is responsible for co-ordinating community participation?

a) Yes	
b) No	
c) Do not know	

10. If yes, who is the person?

Position of person	Do not know

11. How many consultative meetings were held to discuss the most recent municipal budget?

a) 1	
b) 2	
c) 3	
d) 4	
e) None	
f) Do not know	

12. Has there been any conflict within your Municipal council in the past year?

a) Yes	
b) No	
c) Do not know	

13. If yes, what was the conflict about?

a) Water supply	
b) Electricity supply	
c) Bad roads	
d) Corruption	
e) Poor performance of councillor	
f) Poor performance of official	

g) Unemployment	
h) Crime/drugs/gangsters	
i) Other (specify)	

SECTION 3 - ADMINISTRATIVE ACCOUNTABILITY THEME 2: QUALITY OF SERVICE DELIVERY

14. Please indicate your present impression of the **quality of service delivery** of your municipal council on a scale of 1-5 (**1 for least** satisfactory and **5 for most** satisfactory)

Local Municipal council service	1	2	3	4	5
a) Employees of the municipality have the knowledge to answer the questions of the local community.					
b) The Municipal council has employees who give members of the local community personal attention.					
c) When the Municipal council promises to do something by a certain time it does so.					
d) The Municipal council does repairs the first time and quickly when reported.					
e) The Municipal council has adequate resources (vehicles, personnel, etc) to perform its functions.					
f) Employees of the Municipal council are always willing to help members of the local community.					
g) Employees of the Municipal council are always punctual and willing to work extra hours to help members of the local community.					
h) The Municipal council environment is clean and refuse is collected regularly.					

SECTION 4 - ADMINISTRATIVE ACCOUNTABILITY THEME 3: SERVICE DELIVERY PERFORMANCE

15. How would you rank the current **service delivery performance** of your Local Municipal council (Use a scale of 1-5 where **5 denotes excellent** and **1 denotes very poor**).

Local Municipal council service	1	2	3	5	6
	Very poor	Poor	Fair	Good	Excellent
a) Overall cleanliness of town/street (refuse removal)					
b) Quality of roads and streets					
c) Provision of houses					
d) Overall provision and control of water					
e) Quality of water					
f) Assistance to small-scale communal farmers					
g) Provision of electricity					
h) Recreational facilities (parks, playing grounds, etc)					
i) Provision of sanitation					
j) Public facilities (toilets, taxi/bus ranks)					
k) Provision of primary health services					

l) Wi-Fi and internet connectivity					
m) Assistance to informal traders and small businesses; e.g. trading space, etc					
n) Provision of fire services					
o) Provision of site-and-service residential sites for middle income groups					

16. In your opinion, do you think your Municipal council is transparent in conducting its affairs with the community? Briefly explain your answer.

.....

.....

.....

.....

.....

Thank you for your participation.

