



SKOOL VIR PUBLIEKE
LEIERSKAP
SCHOOL OF PUBLIC
LEADERSHIP



Unit Standard 116361: Interpret SA Legislation and policy affecting municipal financial management

Group 3: Governance and Legislation

Module 2: Intergovernmental Fiscal Relations,
Legislation and Policies affecting Municipal
Financial Management

Karel van der Molen

Group	Modules
1. Strategic Management; Budgeting Implementation & Performance Management	3. Strategic Planning & Multi Year Income & Expenditure Management
	6. Budgeting Principles & Cycles
	7. Financial Reports & Performance Management
2. Municipal Accounting & Risk Management	8. Cash, Investment, Asset, Liability Management
	4. Risk Management; Internal Control Framework Design and Audit Planning and Implementation
3. Governance & Legislation	1. Stakeholder Consultation & Ethics in Municipal Finance
	2. Intergovernmental Fiscal Relations, Legislation & Policies affecting Municipal Financial Management
4. & 5. Costing & Capital Planning; Municipal IT Support & Project Management	9. Capital Planning & Financing & Costing Principles
	5. Managing Information Technology Resources in Municipal Finance
6. Supply Chain Management & Public Private Partnerships	10. Municipal Supply Chain Management
	11. Public Private Partnerships

26 US - ID's:	116339	116340	116341	116342	116343	116344	116345	116346	116347	116348	116351	116353	116357	116358	116360	116361	116362	116363	116364	119331	119334	119341	119343	119348	119350	119352	
NQF Le	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	6	5	5	5	5	5	5	5	5
Credits	10	11	12	15	10	10	15	10	15	8	12	12	8	15	8	8	11	12	8	12	12	15	15	12	15	12	
CMFM 48965	C	C	E	C	F	C	C	C	C	F	E	C	E	C	E	E	C	C	C	Not applicable for CMFM							
Key	Certificate SAQA ID - 48965 - 166 credits; F = Fundamental; C = Core; E = Elective (1)																										
AccOff	X		X	X	X		X			X		X		X		X	X	X	X	X	X	X		X	X	X	
CFO	X		X	X	X		X			X	X	X		X		X	X	X	X	X	X	X	X	X	X	X	X
SnrM	X		X		X						X	X		X		X		X	X	X	X	X	X	X	X	X	
MidFin	X		X		X		X				X	X						X	X	X	X	X	X	X	X	X	X
SCMH	X		X	X	X		X			X		X				X	X		X	X	X	X	X		X	X	
SCMM	X				X		X					X							X	X	X	X	X			X	

PROGRAMME

- Scan material
- Page 1 -9 Introduction,
- Page 10 -31
- Case study 1, 2 and 3
- Page 32-63
- Case study 1 and 2
- Page 64 -89
- Case study 1, 2, 3 and 4
- Page 90 -100
- Case study 1
- Page 101 -116
- Case study 1 and 2
- Research assignment 50%
- Examination 50% - 100 marks

UNIT STANDARD PURPOSE

- 5.1. This unit standard is intended for political executives, municipal managers and strategic executive managers in South African local government. This unit standard contributes to the development of policy analysis and the reviewing of skills amongst political executives, strategic executive managers and other role players contributing to the development of relevant legislation as well as policy affecting municipal financial management. It is in this context that this study intends to provide details of South African legislation and policy affecting municipal financial management. This unit standard will provide a clear indication of the wide range of techniques of sound framework management in local government.
- 5.2. It is also a specific objective of this discourse to situate an understanding of the municipal officials and executives within a broader gamut of different models of constitutional forms, structures and organs of national government. Specific legislative instruments responsible for the promotion of sound financial management in local government, factors influencing policy-making environment and basic values of good governance and ethical behaviour will also be articulated. As a consequence, this unit standard will add value and enhance competence of municipal officials who are determined to cultivate a culture of good governance in the public sector.

UNIT STANDARD CONTENT

- **UNIT 1 – Apply the techniques of sound financial management in local government**
-
- **UNIT 2 – Identify and describe the key elements in the structure of public-policy making in South Africa, the connections and power relations between them**
-
- **UNIT 3 – Interpret the elements of initiatives taken through various pieces of legislation to promote sound financial management in local government**
-
- **UNIT 4 – Demonstrate through analysis, an understanding of the environment in which policy-making takes place with particular emphasis on factors that significantly impinge on policy-making**
-
- **UNIT 5 – Demonstrate an understanding of the principles of good governance and ethical behaviour within setting legislation governing municipal borrowing**

LEARNING TASKS AND ACTIVITIES

- Each study unit contains a set of case studies and questions. Case studies are often followed by questions to help learners in self-assessment relating to their learning activities. These questions also help learners to relate the knowledge they have gained to the MFMA implementation. It is in this context that learning tasks and activities are essential components of continuous self-assessment.



**Unit One: Techniques
of Sound Financial
Management in
Local Government**

Unit One: Techniques of Sound Financial Management in Local Government

AIM OF STUDY UNIT

The aim of this study unit is to introduce learners to the techniques of sound financial management in local government

2. LEARNING OBJECTIVES

After studying this unit, a learner should be able to define and identify the following in his or her own words:

DIFFERENT TYPES OF EXPENDITURE

- Role players in deciding the overall levels of expenditure
- Mechanisms for deciding the overall levels of expenditure
- Challenges and techniques in achieving sound financial management

KEY CONCEPTS

- Current expenditure
- Unauthorised expenditure
- Capital expenditure
- Fruitless expenditure
- Auditor-General
- Constitution
- Wasteful expenditure
- Irregular expenditure

- DEFINE AND DISTINGUISH BETWEEN DIFFERENT TYPES OF EXPENDITURE IN LOCAL GOVERNMENT
- The word expenditure means government spending of money or the amount of money spent. In terms of section 18 of the MFMA
- The following are some of the types of expenditure(s), namely:
 - current expenditure; and
 - capital expenditure.

- The Constitution of South Africa, in particular section 215
- The MFMA deals with categories of expenditure namely:
 - unforeseen and unavoidable expenditure; and
 - unauthorised, an irregular or a fruitless and wasteful expenditure.

Expenditure in local government

- **Expenditure** - *government spending of money or the amount of money spent*
- **MFMA:**
 - *Capital*
 - *Current*
- **MFMA:**
 - *unforeseen and unavoidable expenditure;*
 - *unauthorised, an irregular or a fruitless and wasteful expenditure*

Unforeseeable and unavoidable expenditures

- **... in line with any prescribed framework**
- **may not exceed a prescribed percentage of the approved annual budget**
- **must be reported by the Mayor to the Municipal Council at its next meeting**
- **must be appropriated in an adjustment budget**
- **MFMA – criminal sanctions**

- Section 29 of the Municipal Finance Management Act, 2003-unforeseen and unavoidable:
- must be in line with any prescribed framework;
- may not exceed a prescribed percentage of the approved annual budget;
- must be reported by the Mayor to the Municipal Council at its next meeting; and
- must be appropriated in an adjustment budget.

- Section 32 of the Municipal Finance Management Act, 2003 makes a provision for a framework of unauthorised, an irregular or a fruitless and wasteful expenditure.
- Circular 68 and annexures



NATIONAL TREASURY

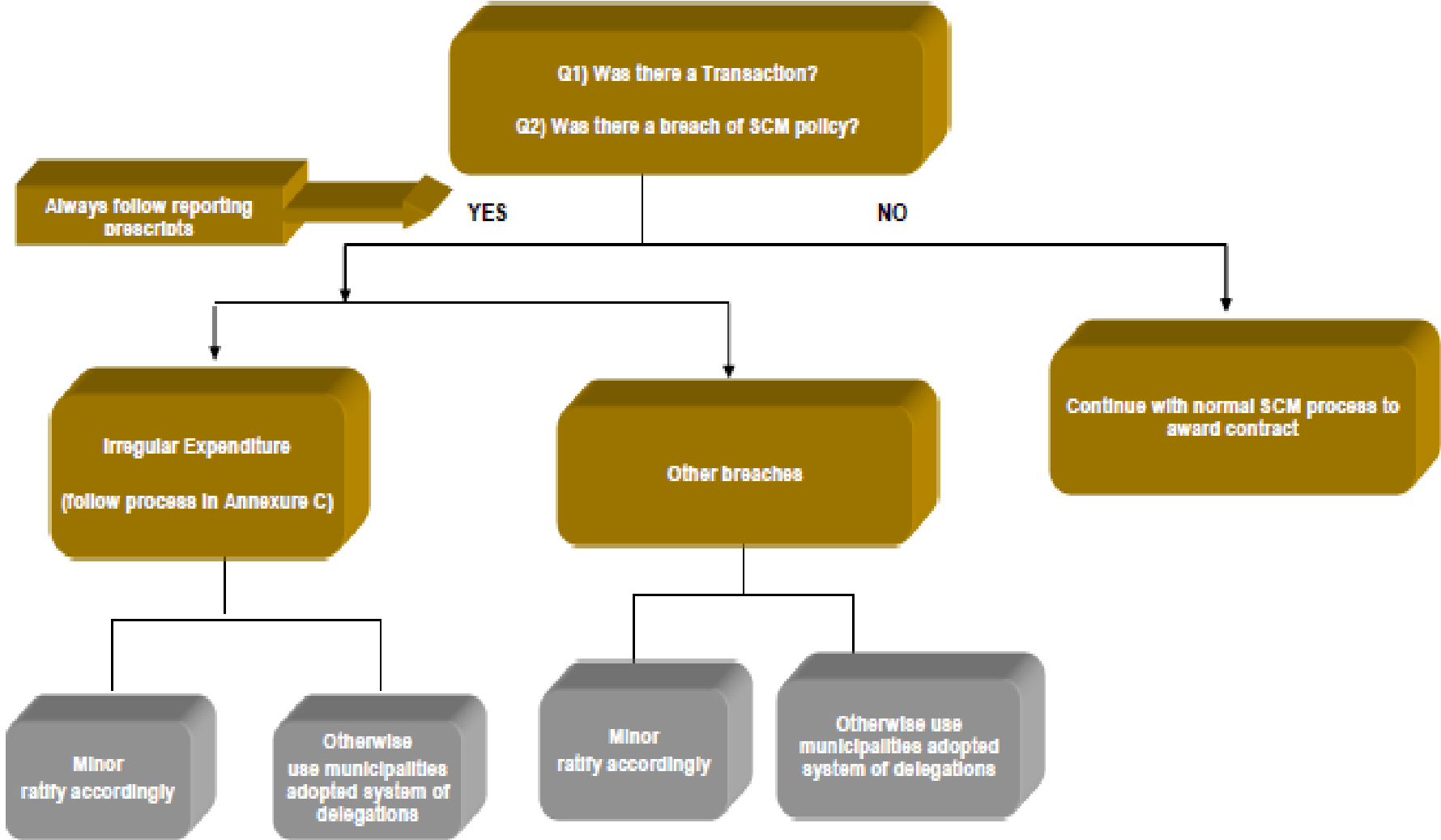
MFMA Circular No 68

Municipal Finance Management Act No. 56 of 2003

**Unauthorised, Irregular, Fruitless and Wasteful
Expenditure**

SCM REGULATION 36 (1)(B)

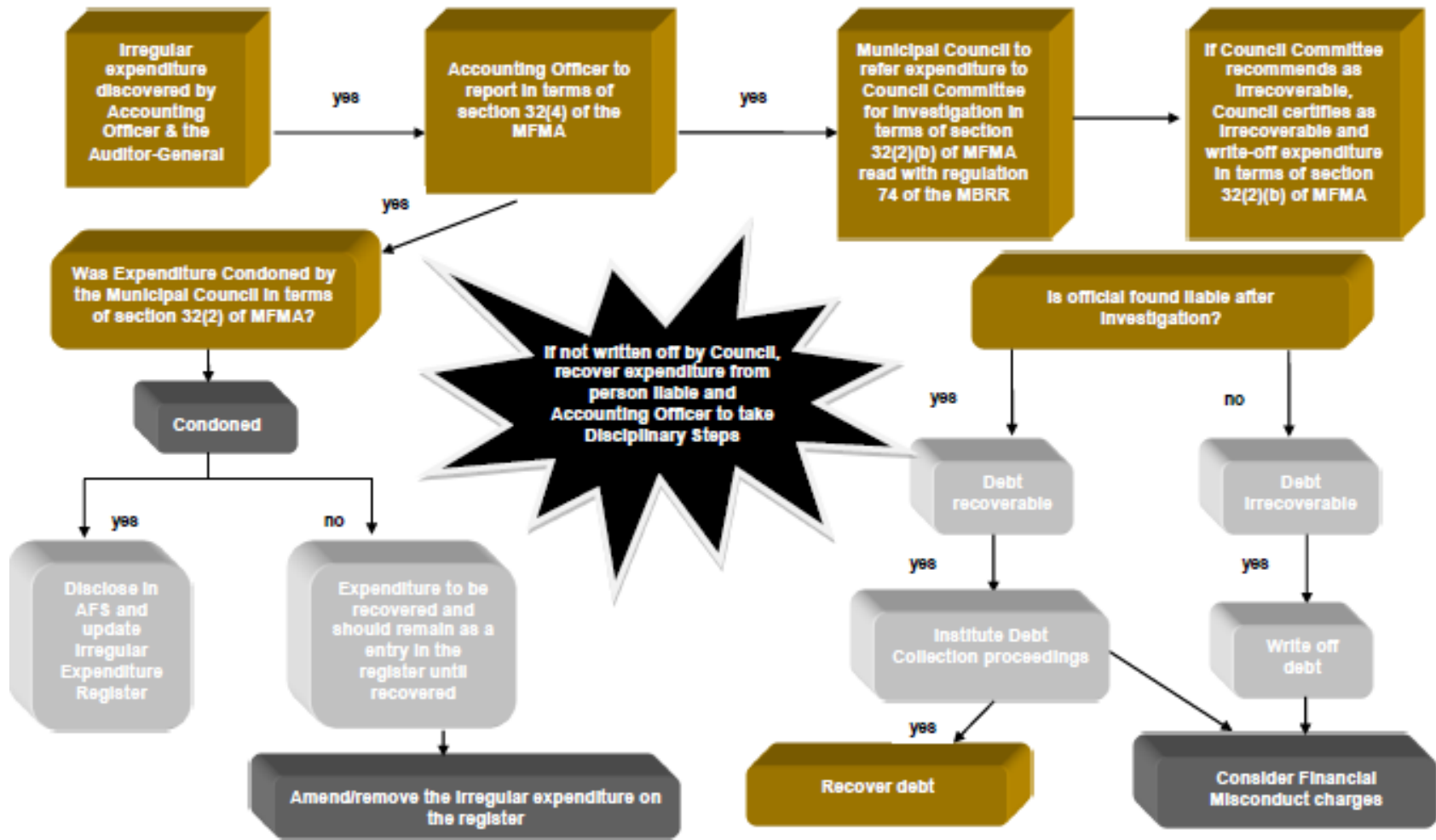
ANNEXURE B



IRREGULAR EXPENDITURE

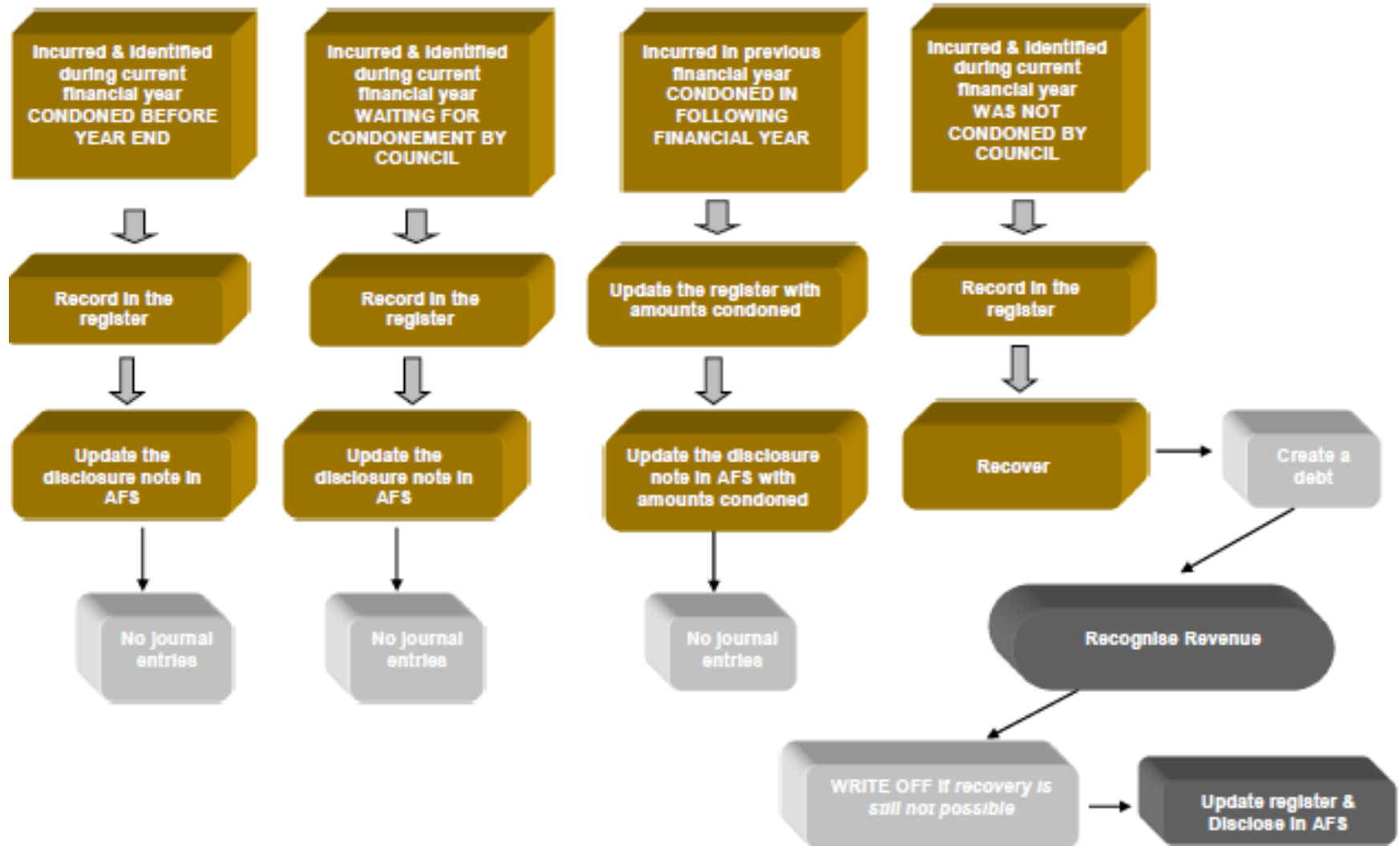
STEP BY STEP PROCESS

ANNEXURE C



IRREGULAR EXPENDITURE - ACCOUNTING FRAMEWORK

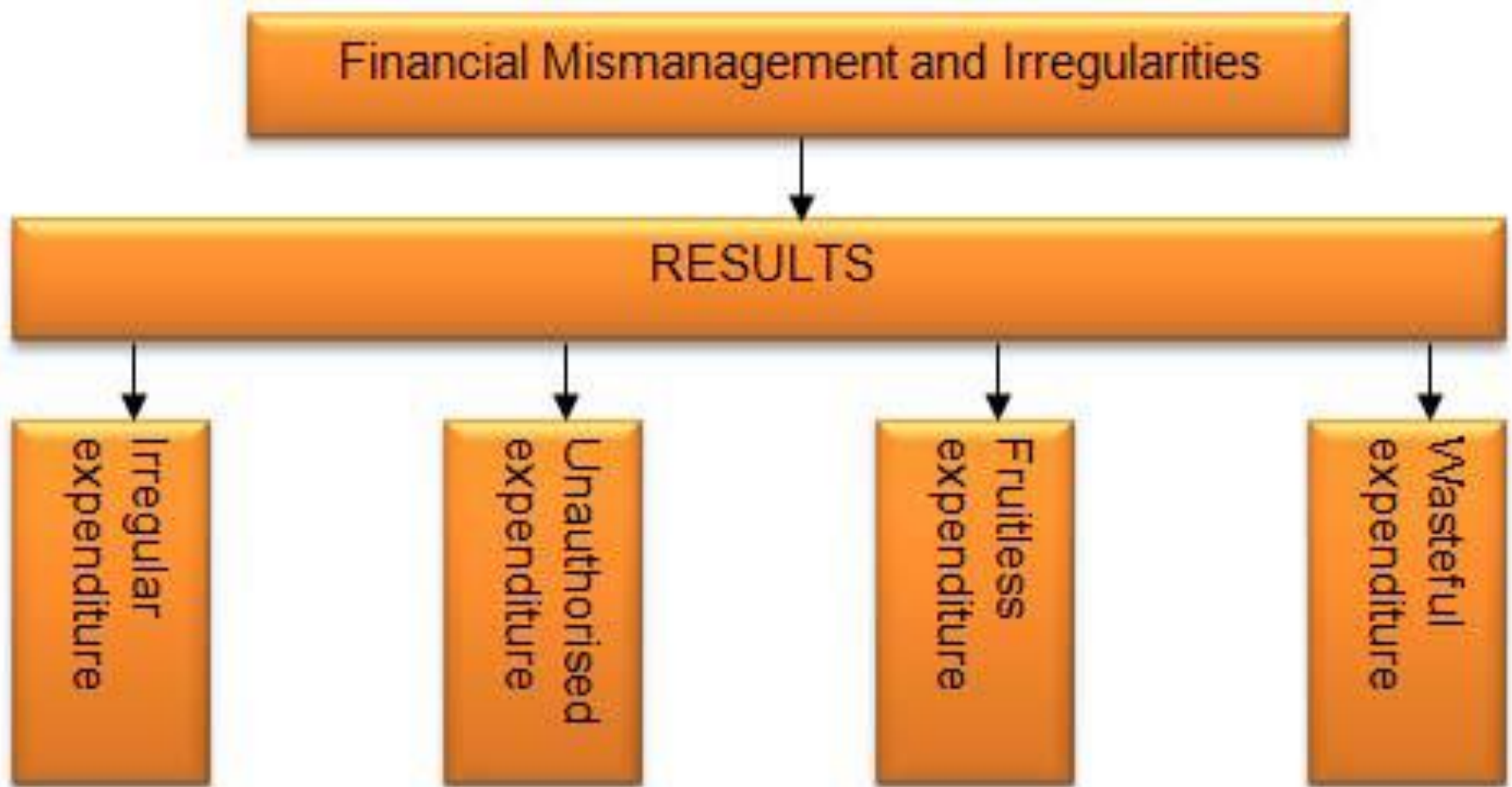
ANNEXURE D



- For example, section 171 of the Municipal Finance Management Act, 2003

- The Municipal Finance Management Act, 2003 does not limit liability
- Municipality must recover such expenditure from a liable person.
- The accounting officer must inform:
 - the Mayor;
 - the MEC for local government; and
 - the Auditor-General in writing of:

Paths of financial mismanagement



- ROLE PLAYERS INVOLVED IN DECIDING THE OVERALL LEVELS OF EXPENDITURE AT LOCAL GOVERNMENT
- The followingpolitical representatives and appointed officials of a municipality are involved in the levels of expenditure, namely:
 - the Mayor; Sect 52-53 MFMA
 - the municipal manager; Sect 62-65 MFMA
 - Councillors Sect 53 of MSA; and
 - community or public Sect 74 of Structures Act

- The Mayor is the principal guide in respect of the expenditure of a municipality. The Mayor is obliged to oversee the responsibilities of the accounting officer and the chief financial officer in respect of expenditure and other financial matters of the municipality.

- The Mayor must report to the Council within 30 days at the end of each quarter in relation to the implementation of the budget and the state of financial affairs of the municipality.

The MM

- In terms of sections 62-65 of the Municipal Finance Management Act, 2003 the municipal manager as the accounting officer is responsible for the management of the expenditure of the municipality. He or she must take all reasonable steps to ensure inter alia that:

Councillors

- The roles and responsibilities of the councillors are articulated in section 53 of the Municipal Systems Act, 2000. Councillors have a number of policy
- setting and oversight responsibilities

Community or public

- The local residents of a municipality are important role players in deciding the levels of municipal expenditure.
- Ideally, a community should make their recommendations as specific as possible if they want to influence the spending priorities of their municipalities.
- Section 74 of the Municipal Structures Act, 1998 a ward committee may make any recommendations on any matter affecting its ward

MECHANISMS AND PROCESSES FOR DECIDING THE OVERALL LEVELS OF EXPENDITURE AT LOCAL LEVEL

- The Municipal Finance Management Act, 2003 especially sections 68-73 directs that the budget must include inter alia draft resolutions of the municipality, a projection of cash flow, particulars of a municipality's investments and allocations.

The following steps are important in deciding the levels of expenditure, namely:

- the Mayor of a municipality must table the annual budget at a Council meeting at least 90 days before the start of a financial year.
- in terms of section 18 of the Municipal Finance Management Act, 2003 an annual budget must: ...

The Act especially sections 18-19 requires that expenditure be funded from realistically anticipated revenues collected or borrowed funds for the capital budget. A municipality can spend money on capital projects only if the following conditions are complied with, namely:

- The Minister responsible for local government must prescribe the form of the annual budget.

In terms of the MFMA, 2003 especially section 20, the Minister is obliged to take steps to ensure that a municipality does not materially and unreasonably prejudice:

- national economic policy on inflation and administered pricing and equity;
- economic activities across the municipal development; and
- the national mobility of goods, services, capital or labour.

- CHALLENGES AND TECHNIQUES IN ACHIEVING SOUND FINANCIAL MANAGEMENT FOR LOCAL GOVERNMENT
- The 1996 Constitution and subsequent legislation add more responsibilities to the municipalities

The following challenges and shortcomings in achieving sound financial management threaten the spirit and concept of sustainable development, namely:

- poor financial management;
- lack of sufficiently trained and capacitated officials and councillors;
- lack of use of efficient and effective administrative and technological systems for cost recovery, revenue generation and savings;
- lack of sufficient revenue collection; and
- poor financial planning and inappropriate budget methods.
- Other challenges: corruption and nepotism

The following risks and challenges also break the backbone of financial management in the municipalities:

- inadequate financial controls and lack of oversight on expenditures by municipal officials who are supposed to do their work in the finance department of the municipality;
- lack of transparent procurement processes, for example, procurement for building and allocation of RDP houses;
- lack of openness about processes for procuring services in the municipality by outside individuals and businesses; and
- abuse of municipal assets. This involves abuse of assets and property such as municipal vehicles, telephones, computers and other equipment and resources.

Financial strategies and techniques for sound financial management

- **Strategic infrastructure plan - IDP**
- **Adherence to good budgeting principles**
- **Team work – MM, Mayor and Council**
- **Budget office - budget reform process**
- **Good management and accounting**
- **Good asset management strategy**
- **Revenue collection techniques**
- **Formal debt collection procedure**
- **Effective management of expenditure**
- **Expenditure on staff benefits, salaries, etc.**
- **Effective credit control**
- **Procurement policy techniques**

Therefore, in terms of section 64, a municipality must maintain a management, accounting and information system, which:

- recognises revenue when it is earned;
- accounts for debtors;
- accounts for receipts of revenue;
- a system of internal control in respect of debtors and revenue;
- charges of interest on arrears except where the Council has granted exemptions;
- all revenue received to be reconciled at least on a weekly basis; and
- payments due by an organ of state for more than 30 days to be brought to the attention of the National Treasury.

In

terms of the Supply Chain Management Regulations, an official
or other role

players involved in the procurement process:

- must treat all providers and potential providers equitably;
- may not use his or her position for private gain;
- must report to the accounting officer any alleged fraud, corruption or unfair conduct etc;
- must declare to the accounting officer details of any reward, gift, favour, hospitality or other benefits promised;
- must declare to the accounting officer details of any private or business interest etc. or to temporarily benefit another person; and
- may not accept any reward, gift, favour, hospitality or other benefits directly or indirectly including to close family member, partner or associate of the person of a value more than **R350,00**.

CASE STUDIES

Case Study 1

- 8.1.1.1. Assuming that you are a municipal manager of TRB local municipality, compare your work experience of budget expenditure with the one of another municipal manager. This may be within your district municipality or you may wish to choose a colleague working in a metropolitan municipality. If possible, choose two municipal managers: one who plans the same project as yours and the other person who has the responsibilities for a different area, for example debt collection management.
- 8.1.1.2. Write down in your notebook any significant techniques of sound financial management between his or her experience and yours, and say how this might inform your future planning of expenditure when working with colleagues. Establish and explain how you would in future avoid wasteful and fruitless expenditure in your municipality.

Case Study 2

- 8.1.2.1. Your municipality has appointed Mr. Daniel Ndlovu as a municipal manager. He has signed the performance agreement. After 3 months, Mr. Ndlovu invited you in his office and informed you that he failed to submit the financial statements and reports to the Auditor-General. The reason he advanced was that he did not possess the relevant acumen on financial management and accounting.
- 8.1.2.2. What strategies and techniques will you recommend to Mr. Ndlovu to improve his performance level and adhere to the principles of good and sound financial management? In what way would you ensure that your colleague, Mr. Ndlovu complies with the legislative requirements for performance of his functions?

Case study 3

- 8.1.3.1. The AAA local municipality built a community hall for the local community of Sedibeng village in its municipal area. The Sedibeng community hall was officially opened by the Mayor of the AAA local municipality on the 14 March 2007. Community leaders and people of Sedibeng village were extremely happy about the new building. They commended the Mayor and the Council of the AAA local municipality for their good work. The municipality bought one thousand chairs and 20 tables for the newly built community hall. These chairs and tables seemed to be more than enough for use by the local residents. After two weeks, Mr Sedimo, a municipal manager of the AAA local municipality entered into a contract of sale with Africa Chair Co. for a further purchase of another one thousand chairs. The Mayor discovered that the purchase of extra one thousand chairs was fruitless and wasteful expenditure. He then reported the alleged expenditure to the Council.
- 8.1.3.2. Do you think that the Mayor and the Council have a valid case of wasteful expenditure against Mr Sedimo of the AAA local municipality? If so, what are the legal or criminal consequences of the actions of Mr Sedimo? Identify the role players involved in deciding the overall levels of such a wasteful expenditure incurred by the AAA local municipality.

Question 1 page 29

- If you look at almost all departments and units of local municipality in your area, endemic corruption, mismanagement and poor performance appear to be the norm. It seems that there is a lack of consciousness within our context about the underlying paradigms and mind sets. A typical response to perceptions of poor and inadequate delivery is to argue that we need a strong and sound financial management. At another level, you might argue that the admittedly low performance is rooted in national fiscal frameworks and policy. The municipalities always struggle to employ sufficiently qualified personnel, given their limited financial resources in the context of shortage of technical and managerial skills.
- In the light of the above, you are required to identify and analyse the challenges, which are inherent in your municipality and demonstrate how they impede service delivery. Choose another municipality in your province and compare a list of your challenges with the one of your chosen municipality.



**Unit Two: Key
Elements in the
Structure of Public-
Policy Making in
South Africa**

Unit Two: Key elements o in the structure of Policy-making in SA

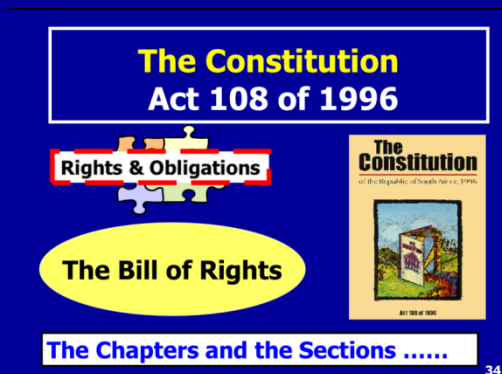
- 1. AIM OF STUDY UNIT
- The aim of this study unit is to introduce learners to the key elements in the structure of public policy making in South Africa and the connections and power relations between them
- 2. LEARNING OBJECTIVES
- 2.1. After studying this unit, a learner should be able to define, identify and describe the following in his or her own words:
- 2.1.1. Different models of constitutional forms
- 2.1.2. The nature of South African Constitution
- 2.1.3. Different stakeholders in public-policy making
- 2.1.4. The role of courts in contractual law matters relating to public policy
- 2.1.5. Structure and working of government outside central government
- 2.1.6. Structure and working of the following organs of central government:
- 2.1.6.1. Parliament
- 2.1.6.2. Cabinet
- 2.1.6.3. National departments

3. KEY CONCEPTS

- 3.1.1.1. Public policy
- 3.1.1.2. Constitution
- 3.1.1.3. National Department
- 3.1.1.4. Parliament
- 3.1.1.5. Central Government
- 3.1.1.6. Cabinet

DIFFERENT MODELS OF CONSTITUTIONAL FORMS

- **Written and unwritten**
- **The Constitution as ...**
 - the supreme law
 - an “ordinary” piece of legislation
 - as statutory source of constitutional law



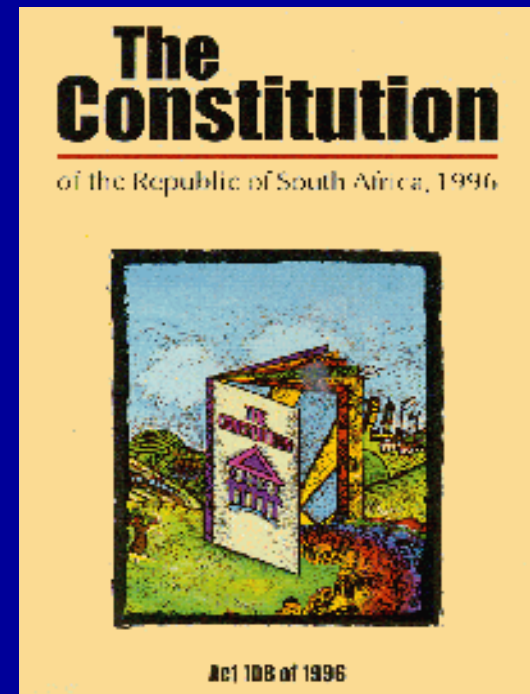
The Constitution

Act 108 of 1996



Rights & Obligations

The Bill of Rights



The Chapters and the Sections

- Section 1 of the 1996 Constitution provides inter alia that the Republic of South Africa is one sovereign democratic state founded inter alia on the values of the human dignity, the achievement of equality, supremacy of the Constitution and the rule of law.

- 6.2. THE NATURE OF SOUTH AFRICAN CONSTITUTION AND THE ROLE PLAYED BY DIFFERENT STAKEHOLDERS IN PUBLIC-POLICY MAKING
- **Officially, the Constitution is known as the Constitution of the Republic of South Africa Act 108 of 1996.**
- If a municipal by-law is inconsistent with the Constitution, it is declared to be invalid.

Constitutional supremacy

- Page 37
- On 27 April 1994, the Constitution of the Republic of South Africa Act 200 of 1993 (herein referred to as the Interim Constitution) came into operation. Apart from its constitutional implications and political ramifications on the municipalities, it also changed and replaced the principle of parliamentary sovereignty with that of constitutional supremacy.

Separation of powers

- Page 37
- The separation of powers is the most significant constitutional device for limitations of state power. The principle of separation of powers is regarded as the fundamental feature of the South African Constitution and distinctively contributes to the doctrine of constitutionalism.

Bill of rights

- Page 37
- Chapter 2 of the Bill of Rights of the South African Constitution provides a means of limiting and restricting state power. In essence, the Bill of Rights introduces substantive standards according to which acts of government could be tested

Judicial review

- Page 38
- The power of the courts to enforce South Africa's Constitution is referred to as judicial review.

Financial provisions

- Page 38
- This constitutional function relates to the supervision of the national, provincial and local governments budgets, revenue and expenditure.

Different stakeholders in public-policy making

- The following stakeholders play a pivotal role in policymaking processes, namely:
public or community;
municipal Council
provincial legislature
cabinet;
parliament;
minmec; and
departmental clusters.

- A municipality exercises its legislative and executive authority in various ways and more particularly by developing and adopting policies, plans, strategies and programmes including certain targets for delivery:
- passing by-laws and taking decisions;
- adopting policies on promoting and undertaking development; and
- doing anything else within its legislative and executive competence.

NCOP

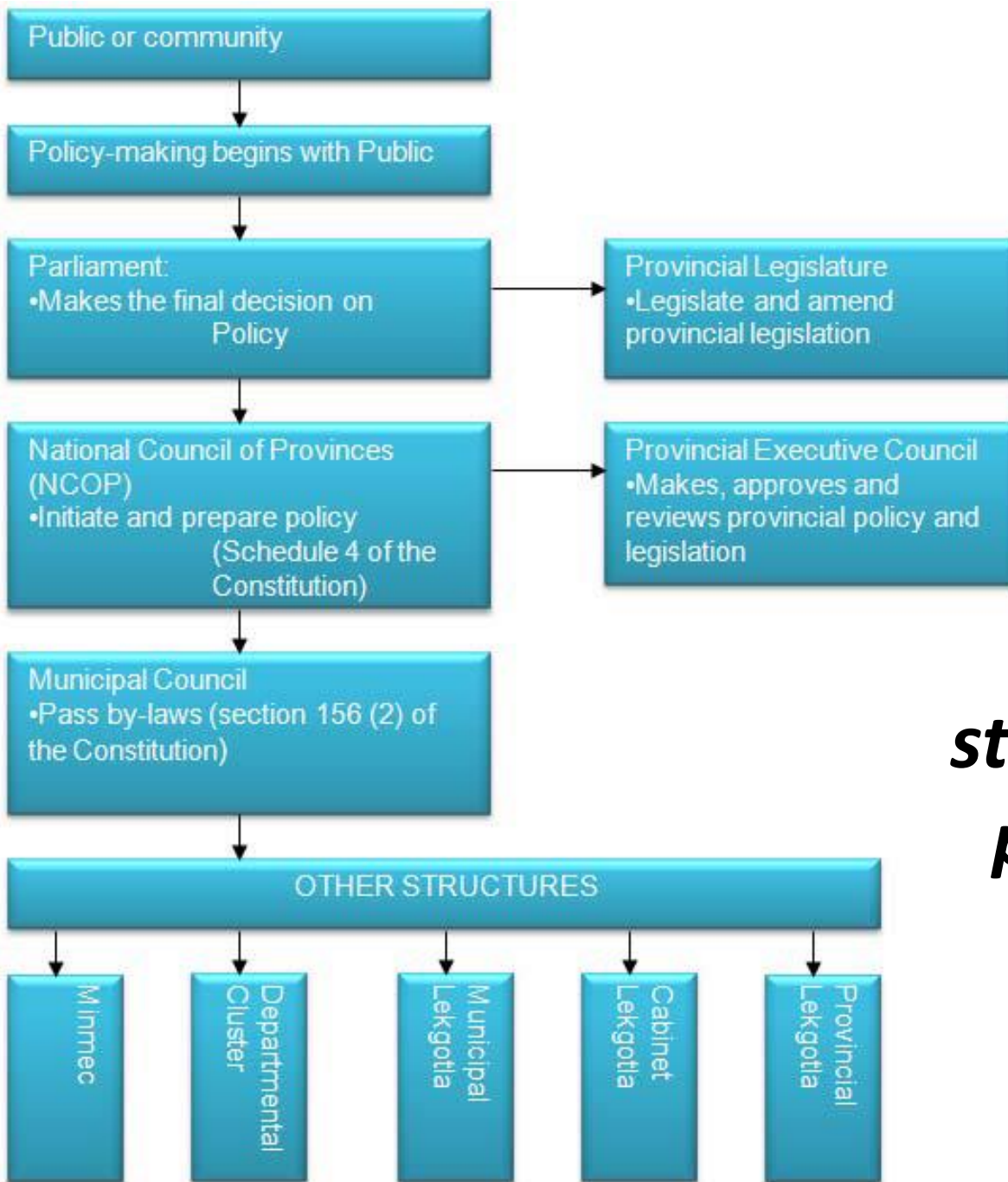
The National Council of Provinces is composed of a single delegation from each province consisting of ten delegates, four special delegates consisting of the Premier of the province, three other special delegates and six permanent delegates. The role of the NCOP in the policy-making process is that this body can initiate or prepare policy which falls within a functional area listed in Schedule 4 (for example, agriculture, education, housing, etc.) or any policy or legislation referred to in section 76 (3) of the Constitution of the Republic of South Africa, 1996. For instance, when the National Assembly passes a Bill, the Bill is referred to the NCOP. The NCOP must pass the Bill, pass an amendment Bill or reject the Bill. The NCOP also has powers to make recommendations about the proposed policy to the parliament.

NCOP

6.2.2.13. Section 72 of the Constitution directs the NCOP to facilitate public involvement in its policy-making processes and those of its Committees and to conduct its business in an open manner.

Minmec

- The Minmec is a standing intergovernmental body consisting of at least cabinet minister and members of the Provincial Executive Council.



Different stakeholders in public-policy making

Role played by the courts in contractual law matters as they relate to public policy

- **Enforce the terms and obligations imposed by the social contract between the government (including the municipalities) and the people**
- **Protect and enforce legal duties or human rights of the people**

6.4. THE STRUCTURE AND WORKING OF GOVERNMENT OUTSIDE CENTRAL GOVERNMENT

- The following structures are responsible for the co-ordination of the activities and functions of government outside the central government, namely:
 - the municipalities;
 - the provincial government; and
 - other institutions:
 - Forum for South African Directors-General (FOSAD)
 - South African Local Government Association (SALGA)

The Premier of the province chairs the Premier's Forum. This Forum consists of:

- the Premier of the province;
- the MEC who is responsible for local government in the province;
- any other MEC nominated by the Premier;
- the mayors of district and metropolitan municipalities in the province;
- the administrator of any municipality under intervention in terms of section 139 of the Constitution; and
- municipal councillors designated by organised local government in the province.

- The Premier's Forum was established for two reasons. Firstly, its establishment could be seen as a reaction to what was perceived to be the dominance of the national government over intergovernmental relations. Secondly, the need for Premiers to co-ordinate their activities. The Premier's Forum is probably the most of all informal intergovernmental relations structures.

Generally, the Premier's Forum working in association with the Organised Local Government in the province is responsible for the following functions, namely to:

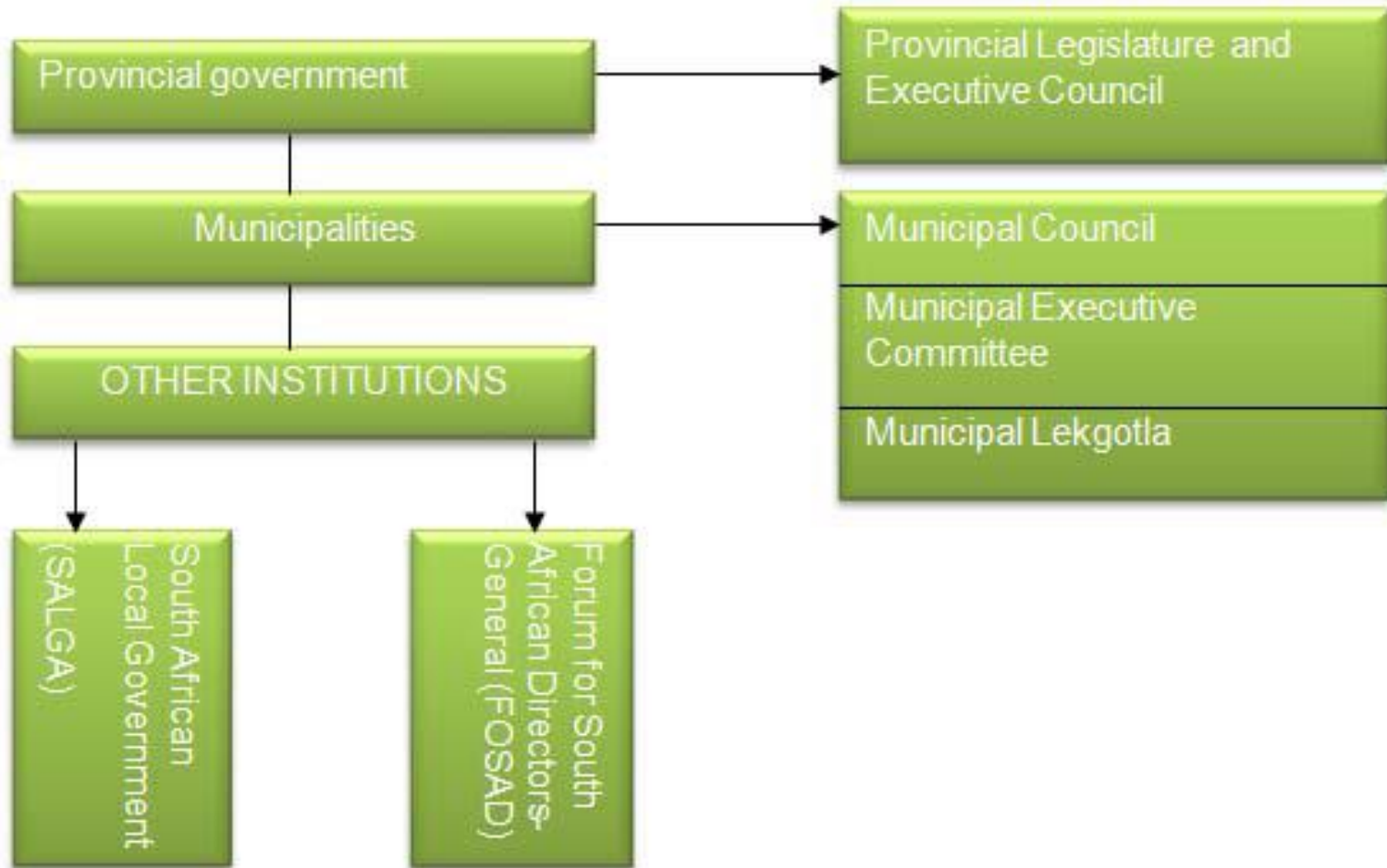
- represent and protect the interests of the municipalities in respect of:
- service delivery;
- support of the municipalities;
- promotion of sustainable development; and
- enhancement of capacity building.
- implementation of national policy affecting local government; and
- development of provincial policy affecting local government etc.

The Forum for South African Directors-General (FOSAD)

co-ordinate and implement national policy;
to provide a regular opportunity to Directors-General of the province and national governments to share experiences around policy and implementation; and
exchange ideas and assist each other in the professional development and management of their departments.

The other structure is the South African Local Government Association (SALGA).

Structures working outside central government



6.5. THE STRUCTURE AND WORKING OF THE PARLIAMENT, CABINET AND NATIONAL DEPARTMENTS

- Parliament consist of
- National assembly and NCOP
- Pages 54-56

Cabinet

- Page 56
- The National Assembly consists of 454 members. Members are elected for a term of five years. Members of the National Assembly have to comply with certain qualifications.-----

- The National Assembly has inter alia the power to:
- amend the Constitution;
- to pass, amend and repeal legislation with regard to any matter;
- to assign any of its legislative powers except the power to amend the Constitution; and
- confers on the National Council of Provinces the power to:
- participate in amending the Constitution;
- to pass legislation with regard to any matter listed in Schedule 4 and any other matter required by the Constitution to be passed;
- consider any proposed legislation to be passed.

NCOP

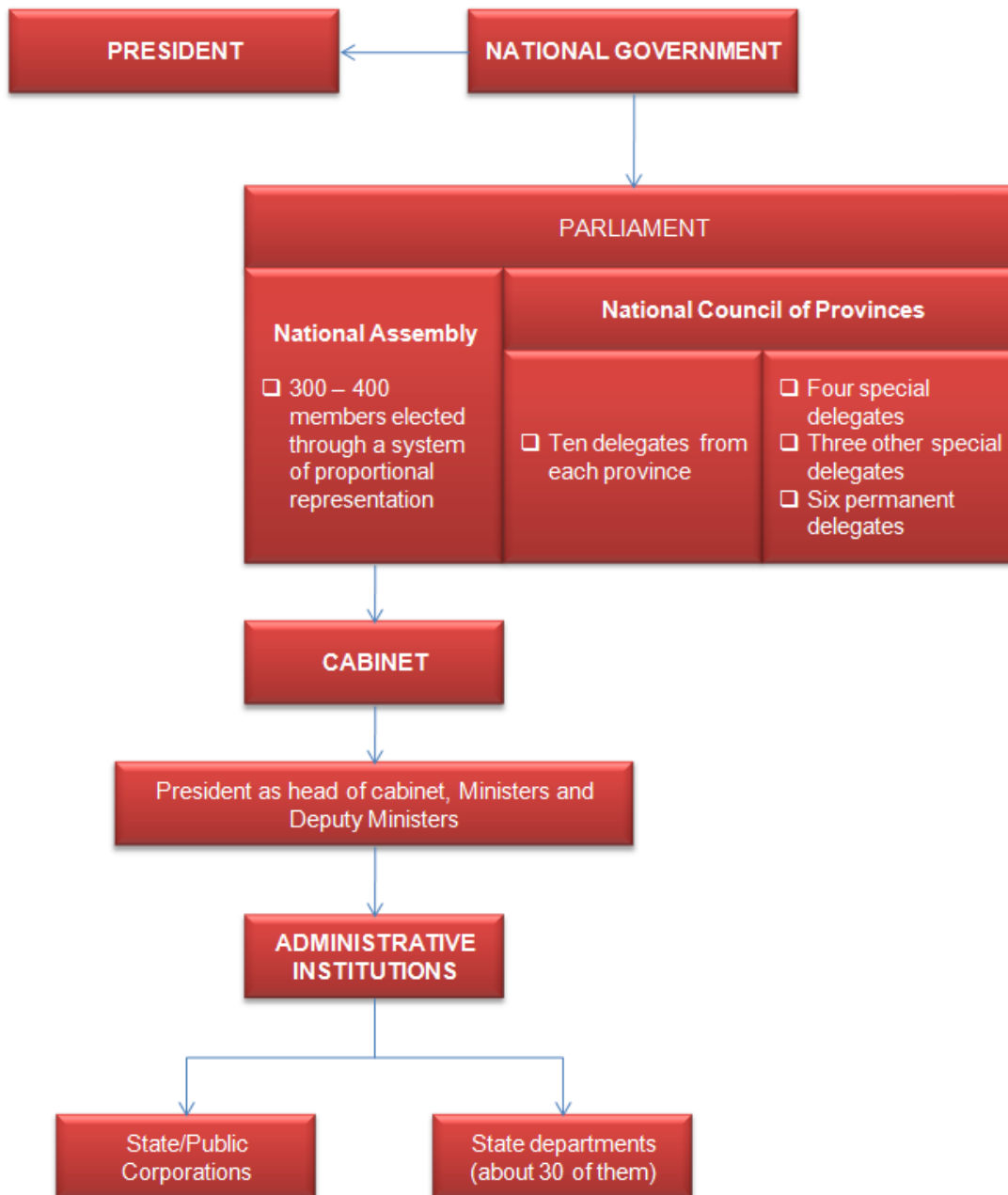
- In terms of section 60 of the Constitution, the National Council of Provinces is composed of a single delegation from each province.
- In exercising its legislative power, the National Council of Province may:
 - consider, pass, amend and propose amendments to or reject any legislation before the Council; and
 - initiate or prepare legislation falling within a functional area listed in Schedule 4 but may not initiate or prepare money bills.

Cabinet

- In terms of Section 91 of the Constitution, the cabinet consists of the President (as head of the Cabinet), a Deputy President, Ministers and Deputy Ministers.
- The President appoints the Deputy President and Ministers, assign their powers and functions. The President may dismiss them. The President must also:

National Departments

- Page 57
- There are various departments of the national government. For example, Departments of Finance, Transport, Trade and Industry and Provincial and Local Government etc.



LEARNING TASKS AND ACTIVITIES

Case Studies 1 and 2

Page 60+

CASE STUDIES

- **Case Study 1**
- 7.1.1.1. You are a newly appointed municipal manager of DRZ local municipality. The Mayor encourages you to enrol and pursue a Certificate in Finance Management with the University of South Africa (UNISA). One of the modules of your studies deals with the features and the provisions of the 1996 and 1961 Constitutions of the Republic of South Africa. As part of your studies on constitutional law, you evaluated the South Africa Constitution regarding the political, social and economic rights. Your conclusion was that there is a great difference between the 1996 and 1961 Constitutions of South Africa.
- 7.1.1.2. In your view, do you think that the 1996 Constitution of South Africa is invested with higher status than other laws and 1961 Constitution? If so, give a concise and specific description of the unique features of the 1996 Constitution and explain how it defines government authority and powers.

Case Study 2

- 7.1.2.1. The idea of the social contract is that when individuals come together to form a society, they accept obligations to each other and agree to respect the authority of the state, which has the task of enforcing those obligations. Social contract theory holds that the state's power is only legitimate to the extent that it derives from the consent of the governed.
- 7.1.2.2. You are the Executive Mayor of the Kenyatta municipality and what follows is that you are politically elected representative, how will you apply the idea of social contract to promote development in your municipal area. What measures will you consider to ensure a progressive realisation of the socio-economic rights of your local people enshrined in social contract and the Constitution? In your answer, explain how the court will enforce these rights against the Kenyatta municipality in a case it violates these rights.

Questions for Practice

- **Critically discuss the role of the national and provincial governments in the financial matters of the municipalities ...**
- **How will you comply with the Constitutional financial provisions to ensure sound financial management ...?**
- **Critically discuss the role of parliament, cabinet and national departments, and discuss the role of a municipality in promoting sustainable development ...**

Questions for Practice

... endemic corruption, mismanagement and poor performance ... perceptions of poor and inadequate delivery ... need strong and sound financial management ... municipalities struggle to employ sufficiently qualified personnel

- Identify and analyse the challenges, which are inherent in your municipality and demonstrate how they impede service delivery.

Question 1

The three spheres of government of South Africa are creatures of the Constitution and other national legislation. Local government are subdivisions of the state for the operation of only those functions delegated to them by the Constitution and legislation. The national government can withdraw, change and adapt the functions and power of municipalities at will.

Local authorities can even be dissolved or disestablished by the national or provincial governments and new ones instituted if they could not fulfil their obligations. As far as financial matters are concerned, both the provincial and the central government may intervene in the affairs of the municipalities. The municipalities are therefore not totally free to determine their own fiscal policies to fit the exceptional local circumstances of their communities.

In the light of the above, critically discuss the role of the national and provincial governments in the financial matters of the municipalities. In your answer, highlight the roles of the Premier's Forum, the Municipal Council, the South African Local Government Association and the Forum of the South African Directors-General. Indicate how these structures co-ordinate the intergovernmental activities of the municipalities.

Question 2

The Constitution of the Republic of South Africa contains financial provisions in Chapter 13. This Chapter deals with the general financial matters: National Revenue Fund, equitable share and allocations of revenue, national, provincial and municipal budgets, treasury control, procurement, borrowings etc.

- Assuming that you are a municipal manager in your municipality, how will you comply with these constitutional financial provisions to ensure sound financial management? How will you use the Constitution as a guiding document to ensure that the socio-economic rights of the local communities are progressively realised by your municipality.

Question 3

- Government of the Republic of South Africa is structured at national, provincial and local levels. The powers of the legislators, executive and the courts are separate from one another. The courts determine whether or not actions by the government are in accordance with the constitutional provisions.
- In the light of the above, critically discuss the role of parliament, cabinet and national departments. In your answer, discuss the role of a municipality in promoting sustainable development.



**Unit Three: Initiatives
Taken Through Pieces
of Legislation
Intended to Promote
Sound Financial
Management in Local
Government**

Unit Three: Initiatives Taken Through Pieces of Legislation Intended to Promote Sound Financial Management in Local Government

- Learning objectives:
- Notion of developmental local government
- Link between outputs, outcomes and measurable objectives
- Principles of efficiency, economy and effectiveness
- Good quality and timely information
- Role of performance-based financial management
- Capacity requirements of municipalities in relation to compliance with legislation

- **KEY CONCEPTS**
- **3.1. Outputs**
- **3.2. Outcomes**
- **3.3. Measurable objectives**
- **3.4. Good quality**
- **3.5. Timely information**
- **3.6. Performance management**

THE NOTION OF DEVELOPMENTAL GOVERNMENT IN SOUTH AFRICA

- Chapter 10 of the Constitution calls for the public administration, including the municipalities to be development-oriented.
- One of the critical constitutional features of local government in South Africa is its developmental orientation. Developmental local government requires public participation in the decision-making of local authorities.

The White Paper on Local Government (1998)

- Defines the new type of local government as the local government committed to working with citizens and groups within the community to find sustainable ways to meet the social, economic and material needs and improve the quality of their lives.

- The White Paper on Local Government (1998) further states that developmental local government has four inter-related characteristics, namely:
 - 6.1.5.1. maximising social development and economic development;
 - 6.1.5.2. integrating and co-ordinating;
 - 6.1.5.3. democratising development; and
 - 6.1.5.4. leading and learning.

- The following are crucial for developmental local government:
- 6.1.6.1. a municipality should be cost effective;
- 6.1.6.2. a municipality should not tolerate mediocrity in respect of service delivery;
- 6.1.6.3. corruption and nepotism must not be tolerated;
- 6.1.6.4. a municipality must avoid a flawed tendering process; and
- 6.1.6.5. a municipality must promote sound procurement processes.

THE LINK BETWEEN OUTPUTS, OUTCOMES AND MEASURABLE OBJECTIVES IN MUNICIPAL FINANCIAL ENVIRONMENT

- Outputs, outcomes and measurable objectives are key elements of indicators for proper performance management system. Indicators are measures, which inform municipal managers, administrators, the Mayor and councillors whether they are making progress towards achieving their objectives.

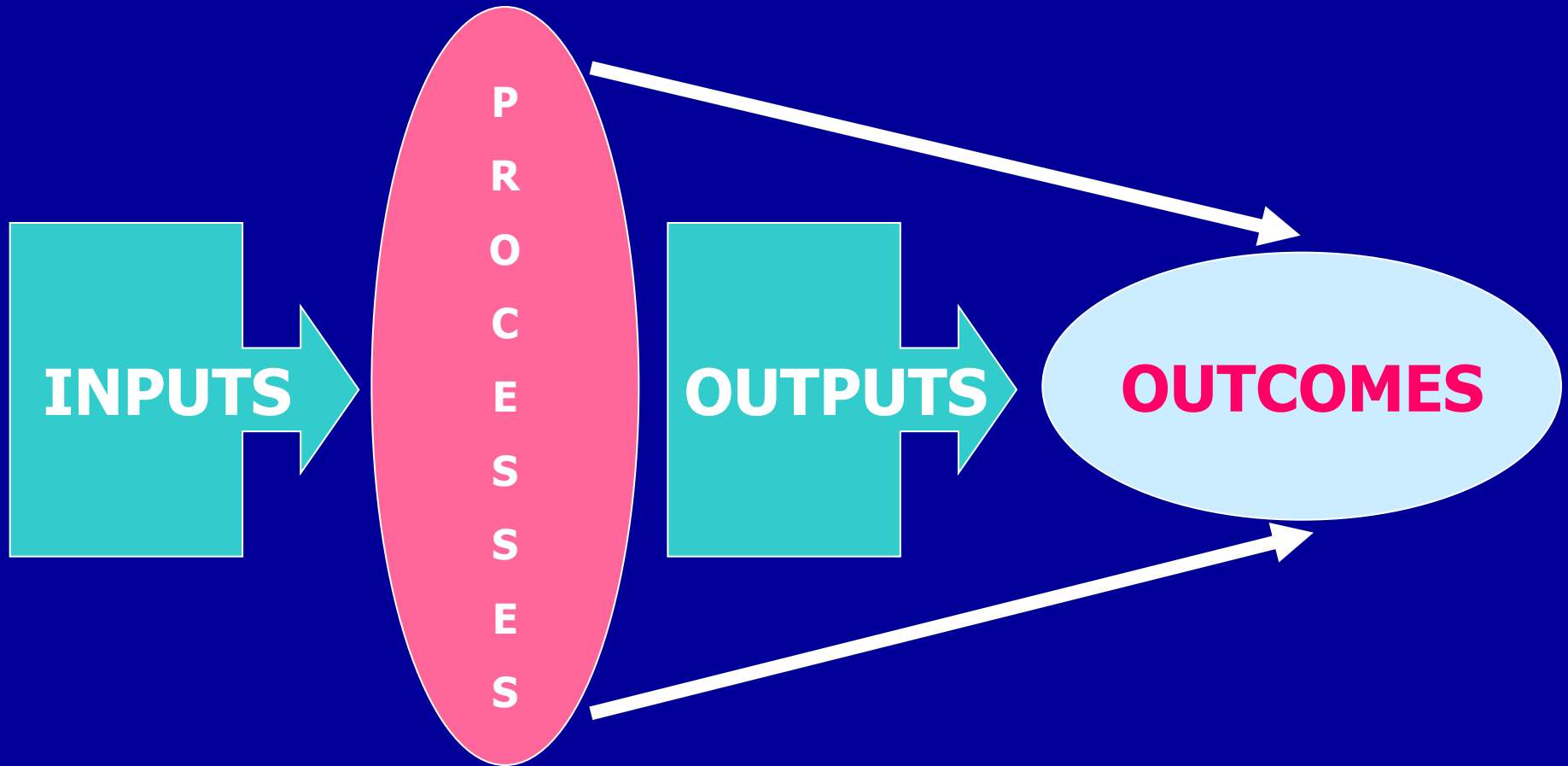
Municipal Finance Management Act, 2003

- 6.2.2.1. It is important to note that the Municipal Finance:
- Contains various important provisions related to municipal performance management. For example, section 69.....SDBIP

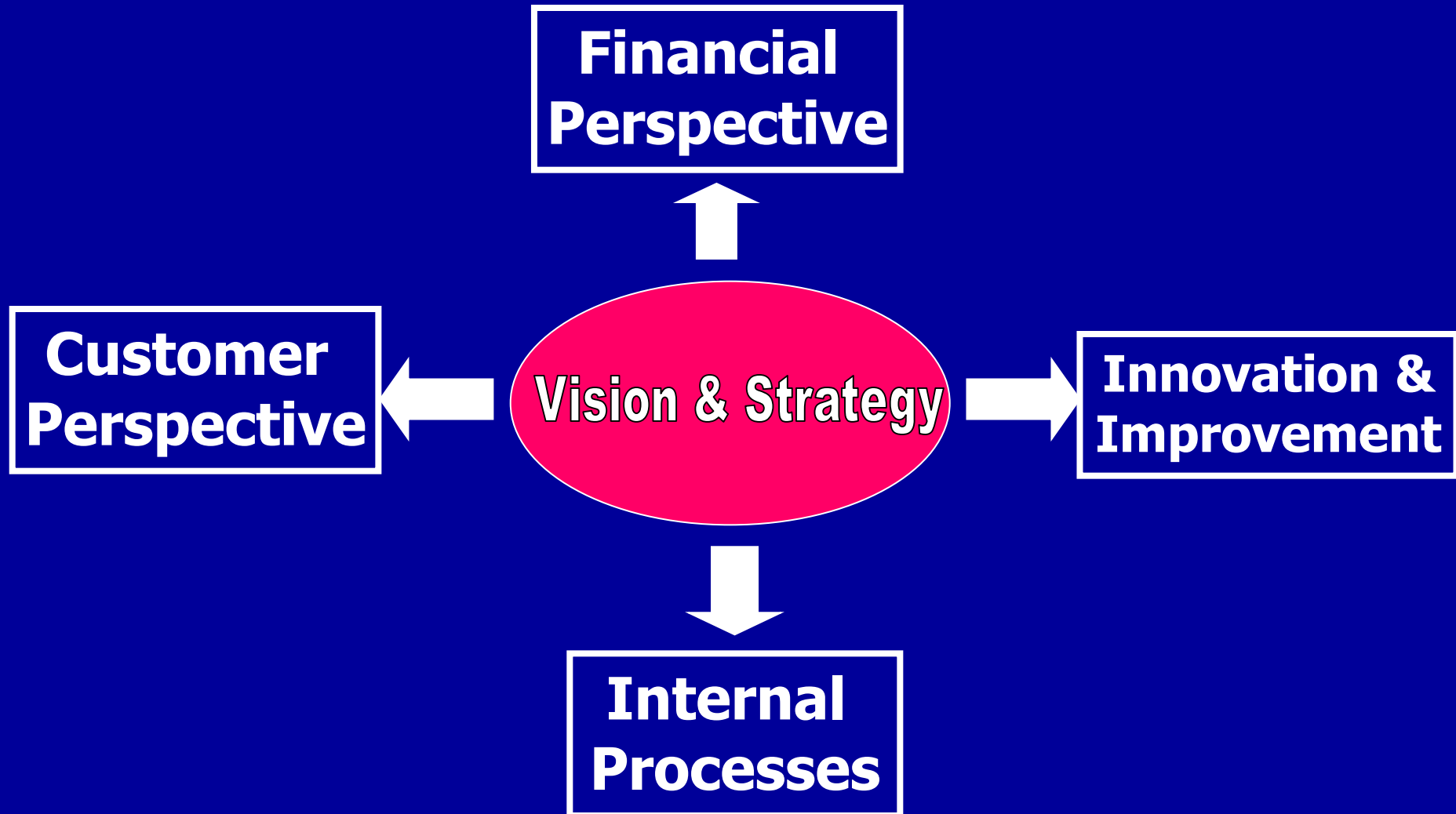
Municipal Scorecard

- For purposes of clarity let us choose the Municipal Scorecard (MS) as our preferred performance management model. In terms of the MS model, all indicators are grouped together into three perspectives as depicted in the figure below.

Link – Outputs, Outcomes and Objectives

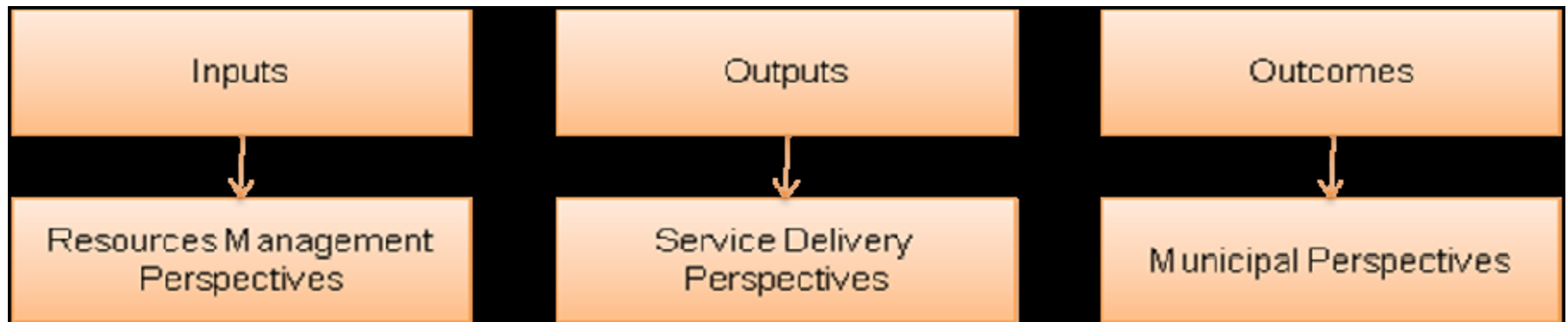


The Balanced Scorecard



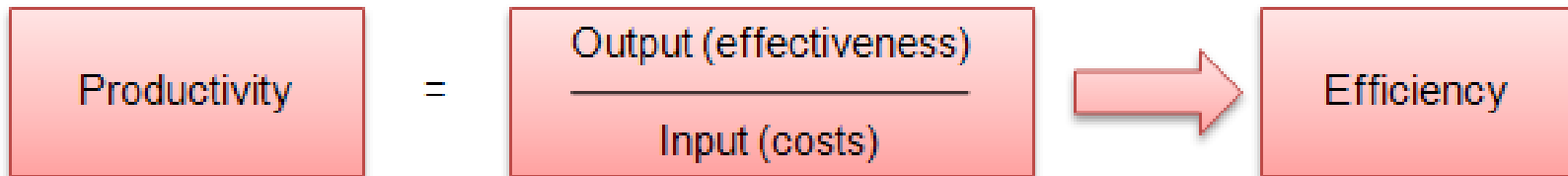
Municipal Finance Management Act, 2003

Municipal Scorecard



THE PRINCIPLES OF EFFICIENCY, ECONOMY AND EFFECTIVENESS IN THE CONTEXT OF MUNICIPAL FINANCE MANAGEMENT

- *Connection between productivity and efficiency*



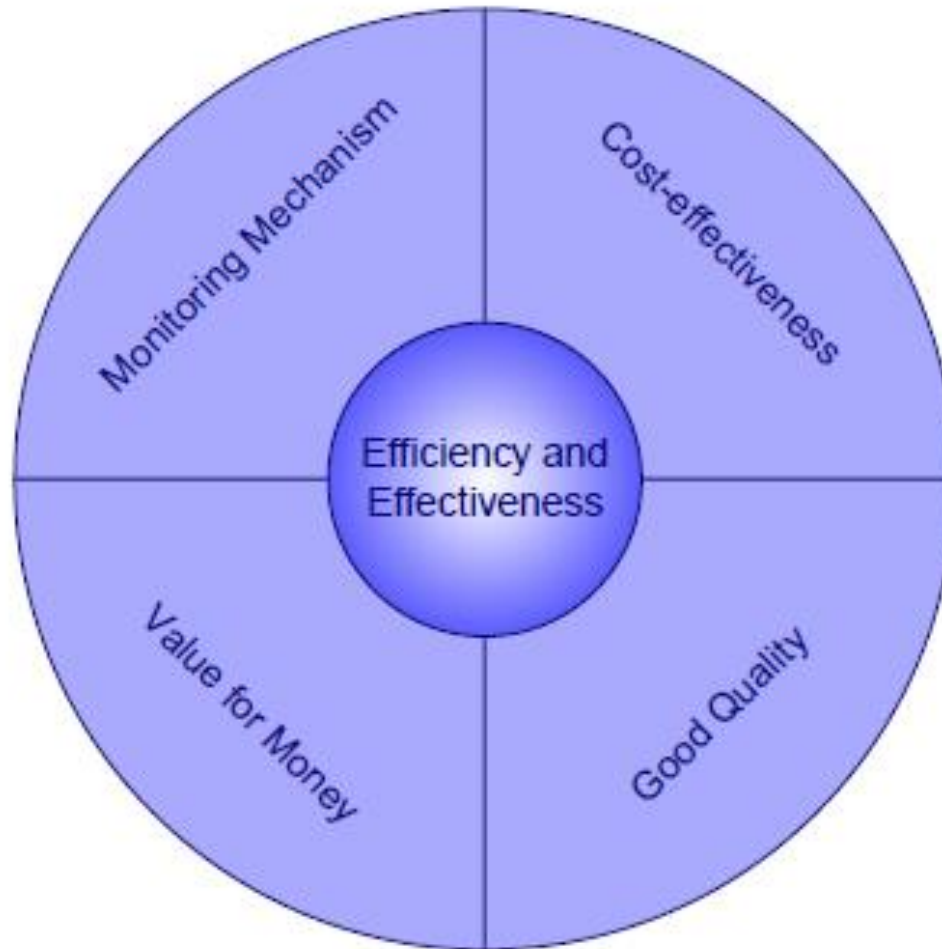
Maintenance of efficiency

- Page 71
- 6.3.2.1. Maintenance of public efficiency of the municipal finance management is concerned with effectiveness of activities in relation to the use of **funds, human resources, materials** and the fact that governmental activities on any sphere should not be financed from an inexhaustible source of funds.

Economy and Effectiveness

- Page 72
- Chapter 10 of the Constitution contains basic values and principles governing public administration. These principles provide inter alia that **efficient, economic and effective use of resources** must be promoted. The Municipal Finance Management Act, 2003 especially section 62 compels the accounting officer of a municipal to take all reasonable steps to ensure that the resources of a municipality are used effectively, efficiently and economically.

Maintenance of efficiency and effectiveness



Good quality and timely information in terms of sound financial management

- **Good Quality**
- 6.4.1.1. The principles of good quality in the municipalities are connected with the following qualities of a sound financial management:
 - sustainability;
 - reliability;
 - cost-effectiveness; and
 - affordability.

Timely information

6.4.2.1. With regards to timely information, a primary strategy that may raise the quality of the service delivery in the local government is the creation of effective communication structures.

This would among many others, introduce the appropriate channels and protocols among the role players in the conduct of the affairs of the municipality. It means timeous flow of material, information, perceptions and understanding between various parts and members of the organisation.

The role of performance-based financial management in maximising capacity of municipalities

- **Policies and legislative framework for performance management (77)**
- **Strategies for improvement of performance:**
 - training and knowledge enhancement
 - revenue raising strategies
 - effective monitoring mechanisms and credit ratings
 - information technology and zero-based budgeting
 - valuation roll
 - capital investment framework for development programme

Policies and Legislative Framework for Performance Management

- The framework for performance management is informed by the following policies and legislation on performance:
- 1996 Constitution;
- Batho Pele White Paper 1998;
- White Paper on Local Government 1998;
- Municipal Planning and Performance Management Resolutions 2001;
- Regulations for Municipal Managers and Managers Reporting Directly to Municipal Managers 1 August 2006;
- Local Government: Municipal Structures Act, 1998; and
- Local Government: Municipal Finance Management Act, 2003.

- Sections 39-41 of the Municipal Systems Act, 2000 state that a municipality must amongst others:
- develop a performance management system;
- set targets, monitor and review performance based on indicators linked to their Integrated Development Programmes (IDP), etc.

- Section 38 of the Municipal Systems Act, 2000 requires a municipality to establish a performance management system that commensurate with its resources

- 6.5.4.5. Therefore, the Mayor and Executive Committee must consistently monitor and exercise an oversight function over his or her tasks and activities.
- 6.5.4.6. Section 47 of the Municipal Systems Act, 2000 further extends the issues of monitoring the affairs of a municipality to the MEC responsible for local government.

- The Local Government: Municipal Planning and Performance Management Regulations, 2001 requires that the municipality in developing its performance management system must ensure that the system:
- complies with all the requirements set out in the Municipal Systems Act;
- demonstrates how it should operate and be managed from the planning stage up to stages of performance review and reporting; and
- determines the frequency of reporting and the lines of accountability for performance.

- 6.5.4.9. The Municipal Finance Management Act, 2003 especially section 2 contains various important provisions related to municipal performance management. The Municipal Finance Management Act, 2003, aims to help municipalities establish a new performance-based management culture.

The Strategies for Improvement of Performance

- *Training and knowledge enhancement*
- *Revenue raising strategies*
- *Effective monitoring mechanisms and credit rating*
- *Information Technology and Zero-Based Budgeting*
- *Valuation Roll*
- *Capital Investment Framework for Development Programmes*

Capacity requirements of municipalities in relation to compliance with legislation ...

- **Apply Constitution and legislation**
- **IDP's and LEDP's**
- **Capacity of municipalities**
- **Human resource and career development**
- **Funding – national and provincial**
- **Code of Conduct**

LEARNING TASKS AND ACTIVITIES

Case Studies 1 and 2 and 3 and 4

Page 86+

7.1.1. Case Study 1

7.1.1.1. The ABC local municipality received its annual shares and conditional grants from the national government. During a sitting of a Municipal Council, the Mayor of ABC municipality expressed his gratitude to the national department and informed the Council that services could improve the living conditions of the local residents only if funds were available. At the end of the financial year, the office of the Auditor-General in line with its constitutional obligations audited the financial statements of the ABC municipality. In its report, the office of the Auditor-General noted abnormalities such as non-compliance with applicable legislation and policies, material changes made to the annual financial statements, issues on matters of governance, value for money and internal control. The Auditor-General report implied that millions of rand belonging to the ABC municipality could not be accounted for, which left the ABC municipality open to public criticisms especially questionable financial management style, poor financial management, lack of financial skills, education and contravention of the Municipal Finance Management Act, 2003.

- 7.1.1.2. You are a Mayor of the ABC local municipality and believe strongly in the principles of the Batho Pele (the People First) and values of sound financial management.
- Do you rule out the public perception (PPP) of possible corrupt activities?
- What strategies will you propose to the Council of the ABC local municipality to improve its performance to ensure sound financial management?
- To what extent do you think that a lack of financial education and acumen cause under-performance? What remedial measures are appropriate to capacitate the municipal officials of the ABC municipality?

7.1.2. Case Study 2

7.1.2.1. The AAZ local municipality is courageous to bring back decent service in housing system because majority of the members of its local communities reside in shacks under deplorable living conditions. To achieve this, the Council of AAZ local municipality announced that it is vital that a municipality mobilise positive energies of all those who provide services in this sector, including the municipal Mayor, chief financial officer and officials of Supply Chain Management Unit.

7.1.2.2. Assuming that you are the municipal manager of the AAZ local municipality, how will you together with your chief financial officer mobilise your positive energy to: improve and enhance good quality of the proposed housing system; assist AAZ local municipality to improve its information and communication on progress of service delivery of the housing project and community expectations; and
☐ ensure that the capacity of your municipality is improved to procure good quality of the envisaged houses.

7.1.3. Case Study 3

- 7.1.3.1. The Ndisoro local municipality appointed you as the municipal manager. On your appointment, you discovered that the overall financial management of the Ndisoro local municipality is fragmented and characterised by poor financial controls, documentation and reconciling accounts. As an expert in finance management, you discovered that the Ndisoro local municipality's problems emanated from low performance levels, lack of skills and expertise among the municipal officials particularly the chief financial officer and his professional assistants.
- 7.1.3.2. What measures will you put in place to improve the competencies and performance levels of your colleagues as outlined in the Local Government: Municipal Planning and Performance Management Resolutions, 2001. Furthermore, how will you ensure efficiency, economy and effectiveness in the Ndisoro local municipality particularly in the context of financial management?

Case Study 4

- 7.1.4.1. You are a respected municipal manager of the Nkuruma local municipality. The Nkuruma municipality arranged a workshop on Municipal Finance Management. One of the workshop training materials read as follows:
- 7.1.4.2. “Developmental local government is local government committed to working with citizens and groups within the community to find sustainable ways to meet their social, economic and material needs and improve the quality of their lives.”
- 7.1.4.3. How will you involve the local community in the financial affairs of the Nkuruma local municipality to promote developmental local government. Furthermore, explain how you will apply the notion of good communication to promote the principle of developmental local government and provision of service delivery in Nkuruma local municipality.



**Unit Four: Factors
Impinging on
Policy-Making
Environment**

Unit Four: Factors Impinging on Policy-Making Environment

- **LEARNING OBJECTIVES**
- **AFTER STUDYING THIS UNIT, A LEARNER SHOULD BE ABLE TO EXPLAIN AND ANALYSE THE FOLLOWING IN HIS OR HER OWN WORDS:**
- the possible impact of general macro-economic principles on public-policy making
- socio-economic impact and certain policy choices

- **KEY CONCEPTS**
- **3.1. Macro-economic principles**
- **3.2. Policy-making**
- **3.3. Policy choices**
- **3.4. Socio-economic impact**

UNIT CONTENT

THE IMPACT OF THE MACRO-ECONOMIC PRINCIPLES ON PUBLIC-POLICY MAKING

The following macro-economic principles have a tremendous impact on public-policy making, namely:

- full employment;
- economic growth;
- price stability;
- balance of payments (or external stability); and
- equitable distribution of resources.

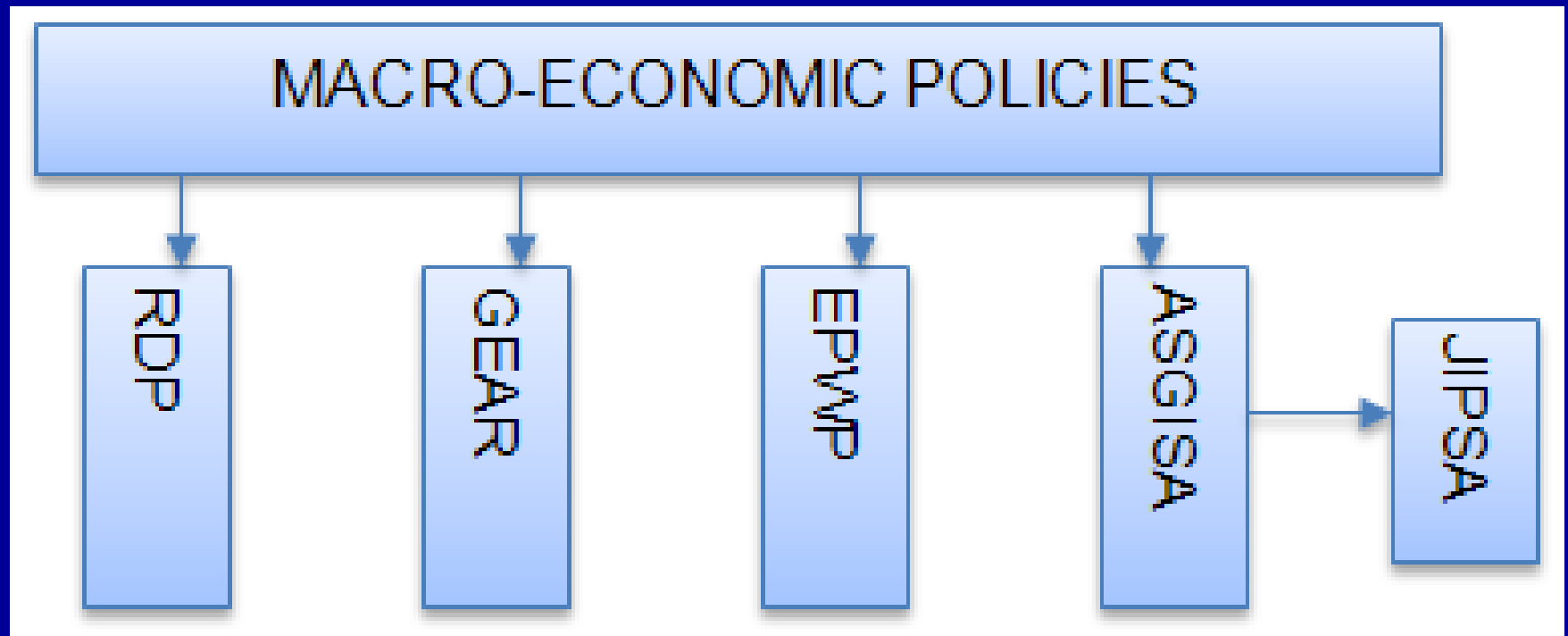
- **Full employment**, in [macroeconomics](#), is the level of employment rates when there is no [cyclical unemployment](#).
- Lowest level of unemployment – 25% unemployment-full employment by 2030
- Wikipedia

SOCIO-ECONOMIC IMPACT AND CERTAIN POLICY CHOICE

- Policy choice is informed by the economic status of the country. South Africa is a developing country and its economy is characterised by various problems of unemployment, poverty and low economic growth.
- RDP, GEAR, ASGISA
- JIPSA

- The Expanded Public Works Programme (EPWP) is also one of the government's national initiatives or strategies aimed at drawing a significant number of the unemployed into productive work.

Socio-economic impact and certain policy choice



- **Municipalities – IDP's and LED's**

LEARNING TASKS AND ACTIVITIES

Case Study 1

Page 98

CASE STUDIES

- **Case study 1**
- **7.1.1.1. The ALB local municipality adopted a policy in its meeting, which focused too much on faith in a private sector investment for a market friendly environment characterised by income tax relief and reduction of corporate tax rates. A member of the Orange Liberal Party (opposition party) argued in the Council meeting that the policy would have little substance in the economic policy package to address the dire poverty in a municipal area of the ALB local municipality and the country as a whole.**

- 7.1.1.2. Assuming that you are a Mayor of the ALB local municipality and strongly feel that the Council policy is in no way of little importance to improve service delivery to the poor.
- 7.1.1.3. What kind of a policy choice would you propose to the Council to deal with a question of poverty alleviation in your municipal area?
- 7.1.1.4. What lessons do you think can be learned by your municipality from both the GEAR and RDP policies to improve the provision of service delivery to the poor?



**Unit Five: Policy
Governance and
Ethical
Behaviour within a
Municipal
Environment**

Unit Five : Policy Governance and Ethical Behaviour within a Municipal Environment

- After studying this unit, a learner should be able to define and explain the following in his or her own words:
- political and managerial accountability
- separation of responsibilities within a municipal environment
- notion of accountability, transparency and integrity within a municipal context
- participatory governance within a municipal context

- **KEY CONCEPTS**
- **Accountability**
- **Transparency**
- **Managerial accountability**
- **Political accountability**
- **Integrity**

UNIT CONTENT

- 6.1. POLITICAL AND MANAGERIAL ACCOUNTABILITY
- Political accountability P102
- Managerial accountability P 104

Political accountability

- **Individually, collectively and directly accountable to the public**
- **Explicitly accountable for municipal funds:**
 - **knowledgeable about the local government**
 - **personally aware of the objectives ...**
 - **endowed with the authority to take final and binding decisions on financial matters**

Managerial accountability

- **Expectations of fairness, responsiveness and honesty**
- **Flexibility and independence, but holding accountable**

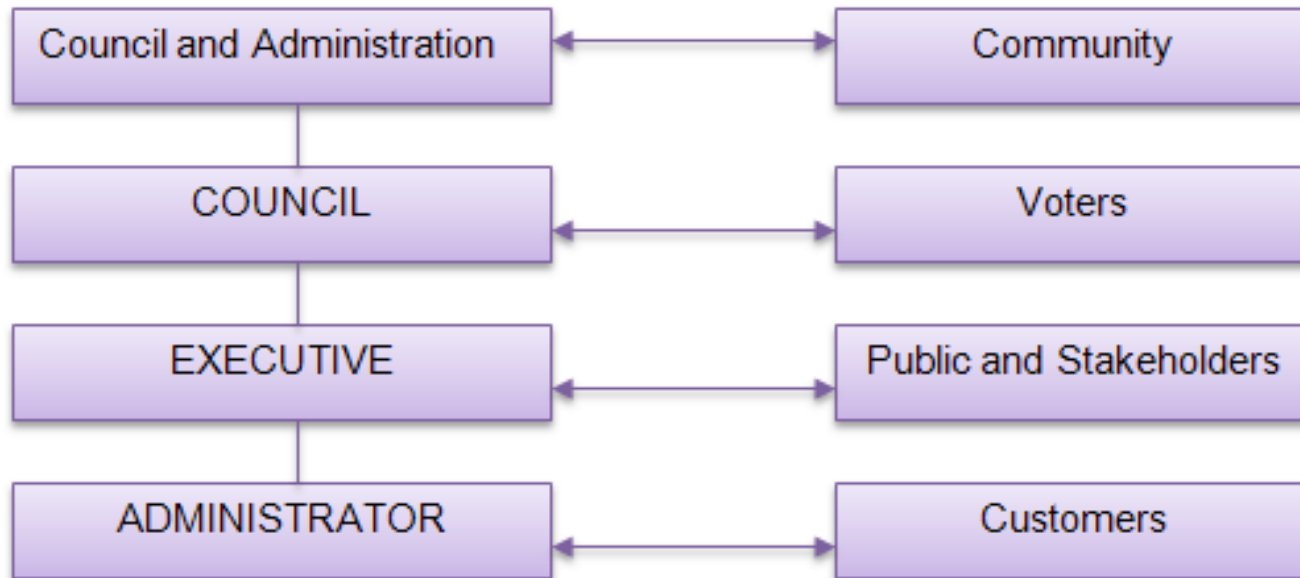
Separation of responsibilities in a municipal environment

- **Separation between legislative and executive powers and administrative functions**
- **Clear distinction between the Council, the Mayor and the municipal officials**
- **Clear distinction of rules between policy-makers and policy implementers**
- **Appropriate delegation, authority and responsibility for efficient and effective municipal administration**
- **Clear and unambiguous accountability**
- **Codes of conduct for political office bearers and officials**

The notions of accountability, transparency and integrity ...

- **Accountability** - explain and justify their decisions
- **Transparency** - comprehensive, accurate, timely and useful information
- **Integrity** - democratic values and principles

An overview of the paths of accountability



Transparency

- P110
- The notion of transparency in municipal environment implies the public availability of comprehensive, accurate, timely and useful information on local government's activities with implications for its finances.

Integrity

- P110
- Chapter 10 of the Constitution of South Africa captures the issue pertaining to the maintenance of integrity. According to section 195 (1) of the Constitution of the Republic of South Africa, public administration must be governed by the democratic values and principles.

6.4. PARTICIPATORY GOVERNANCE WITHIN A MUNICIPAL CONTEXT

- Participatory governance in the financial affairs of the municipality is crucial and very important. In terms of section 152 of the Constitution, municipalities are required to encourage the involvement of communities and community organisations in the matters of local government.

Stakeholders

- the community;
- the relevant district and all other local municipalities within the area of district;
- the relevant provincial treasury and local government department;
- national treasury;
- national and provincial sector departments; and
- provider's of bulk resources.

LEARNING TASKS AND ACTIVITIES

Case Studies 1 and 2

Page 114+

CASE STUDIES

- **Case Study 1**
- 7.1.1.1. A drive around the township of BBB local municipality revealed grinding poverty and a total lack of service delivery. Heaps of rubbish were piled high at every street corner. On the 20 March 2008, residents staged a protest march against the BBB local municipality. Residents said their protest was against poor service delivery, financial maladministration, under-development, lack of housing, free water and electricity and unemployment. They further argued that they had forwarded their complaints to the municipality on the 10 February 2008 but nothing had been done.

7.1.1.2. Assuming that you are the Mayor of the BBB local municipality, how will you involve the residents of your municipality in the affairs of a municipality to avert future protests? How will you ensure participation of the said residents in the process of service delivery of BBB local municipality? What is the best way of holding municipal staff particularly the municipal manager accountable to local community of the BBB local municipality?

7.1.2. Case Study 2

7.1.2.1. You are a newly appointed municipal manager of BBZ local municipality. In terms of the contract of employment, your duties include among many other things, the administration of finance and fiscal management. You also serve as the accounting officer of the BBZ local municipality. Mr. Dimane, the Mayor of the BBZ local municipality is also in charge of the financial administrative component of the municipality. This arrangement creates confusion and duplication of services. As a result, you advised Mr. Dimane in a meeting of the Executive Council that his role is political in nature and not necessarily administrative. Mr. Dimane requested you to address the Council on this matter and clarify the roles of the Mayor and the municipal manager.

7.1.2.2. Explain and advise the Council about the notion of separation of responsibilities within a municipal environment as articulated in the Municipal Finance Management Act, 2003. In your deliberation, state the underlying significance of separation of responsibilities in the administration of the BBZ local municipality.

Questions for practice

It is imperative that local government introduces programmes that give practical expression to the constitutional principle of public participation. Our experience through the Imbizo programme has highlighted the power of interaction between government and its citizens. We are therefore committed to enhancing the Imbizo approach, developing and implementing broader programmes that focus on public participation.

Questions for Practice

- **In what way would you assist your municipality to promote the constitutional principles of participatory governance and transparency?**
- **What role do you think your municipality should play to promote integrity and political accountability to ensure local development and sound financial management?**

The Exam