

**THE EFFECT OF LEGISLATIVE COMPLIANCE ON
INFRASTRUCTURE SERVICE DELIVERY: THE CASE OF
MATATIELE LOCAL MUNICIPALITY**

BY

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Declaration

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ABSTRACT

South African municipalities are faced with a backlog in infrastructure service delivery. The ineffective delivery of basic services has been blamed on a number of factors, including limited municipal budget, shortage of qualified and experienced personnel, unclear legislation as to which sphere of government is responsible for the delivery of certain services, as well as the on-going effects of the municipal demarcation process. Using the case of Matatiele Local Municipality (MLM) in the Eastern Cape Province, this study investigates the effect of legislative compliance on infrastructure service delivery by municipalities. Data for the study was gathered using a qualitative questionnaire. The results of the study indicate that local municipalities' role is not just the provision of day-to-day services, but they have also been mandated to deliver on universal basic services. Respondents in this study point to a number of issues as affecting infrastructure service delivery, which include, but are not limited to, the following: the limited administrative and technical capacities of municipalities, the effect of national government policy, the financial viability of local municipalities, poor budgeting, poor financial management, poor planning, ineffective cost recovery systems, limited revenue powers, decentralised administrative functions and powers, as well as the effect of municipal demarcation.

Keywords: *municipalities, compliance, infrastructure, service delivery, legislation.*

OPSOMMING

Suid-Afrikaanse munisipaliteite word gekonfronteer met 'n agterstand in infrastruktuur dienslewering. Die oneffektiewe lewering van basiese dienste kan blameer word op die volgende; beperkte munisipale begrotings, tekort aan gekwalifiseerde en ervare personeel, onduidelike wetgewing rakkende watter regeringsfeer is verantwoordelik vir die lewering van sekere dienste, sowel as die voortslepende gevolge van die munisipale afbakening proses. Deur te verwys na Matatiele Plaaslike Munisipaliteit (MPM) in die Oos-Kaap Provinsie, hierdie studie ondersoek die effek van voldoening van wetweging rakende infrastruktuurdiens lewering deur munisipaliteite. Data vir die studie is versamel met behulp van 'n kwalitatiewe vraelys. Die resultate van die studie dui daarop dat die rol van plaaslike munisipaliteite nie net die verskaffing van die dag-tot-dag dienste behels nie, maar hulle het ook 'n mandaat om te lewer op universele basiese dienste. Respondente in hierdie studie dui op 'n aantal kwessies wat infrastruktuur dienslewering insluit beïnvloed, en sluit in -, maar is nie beperk tot die volgende nie naamlik, die beperkte administratiewe en tegniese vermoëns van munisipaliteite, die effek van die nasionale regering se beleid, die finansiële lewensvatbaarheid van plaaslike munisipaliteite, swak begrotings, swak finansiële bestuur, swak beplanning, oneffektiewe kosteverhaling stelsels, beperkte inkomste magte, gedentraliseerde administratiewe funksies en magte, asook die effek van munisipale afbakening.

Sleutelwoorde: *munisipaliteite, nakoming, infrastruktuur dienslewering-, en wetgewing.*

DEDICATION

This thesis is dedicated to my children – you always give me the reason to work hard in life. You inspire me to become a better person every day.

To my family and friends, for the support and help you give me, you have taught me the virtues of hard work. I will always cherish your love.

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To all those who participated in the study, this thesis would not have been successful without your input. Your efforts are highly appreciated.

LIST OF ACRONYMS

ANC:	African National Congress
ANDM:	Alfred Nzo District Municipality
CBOs:	Community-Based Organisations
CDWs:	Community Development Workers
CoGTA:	Department of Cooperative Governance and Traditional Affairs
DBSA:	Development Bank of Southern Africa
DoT:	Department of Transport
DORA:	Division of Revenue Act
DPLG:	Department of Provincial and Local Government
DWAF:	Department of Water Affairs and Forestry
EC:	Eastern Cape
GAMAP:	Generally Accepted Municipal Accounting Practices
GEAR:	Growth, Employment and Redistribution
GNU:	Government of National Unity
HOD:	Head of Department
IDASA:	Institute for a Democratic Alternative for South Africa
IDP:	Integrated Development Plan
IMESA:	Institute for Municipal Engineering of Southern Africa
IT:	Information Technology
KZN:	KwaZulu-Natal
LED:	Local Economic Development
LUMS:	Land Use Management Scheme

MDB:	Municipal Demarcation Board
MEC:	Member of the Executive Council
MFMA:	Municipal Finance Management Act, No.56 of 2003
MIG:	Municipal Infrastructure Grant
MLM:	Matatiele Local Municipality
NCOP:	National Council of Provinces
NGO:	Non-Governmental Organisation
NT:	National Treasury
PPPs:	Public-Private Partnerships
RDP:	Reconstruction and Development Programme
RSA:	The Republic of South Africa
SADC:	Southern African Development Community
SALGA:	South African Local Government Association
SANRAL:	South African National Road Agency Limited
SAPA:	Southern Africa Press Association
SARS:	South African Revenue Service
SASSA:	South African Social Security Agent
SDF:	Spatial Development Framework
SONA:	State of the Nation Address
Stats SA:	Statistics South Africa
WPTPS:	White Paper on Transforming Public Service Delivery
WSDP:	Water Service Development Plan

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CHAPTER 1: GENERAL OVERVIEW

1.1. INTRODUCTION

This chapter introduces the study. It highlights the background information, rationale, and the methodology applied to achieve the study objectives. The conceptual framework of this study is discussed alongside the research questions and objectives. Key terms informing the study are also defined, as well as relevant ethical considerations.

The main responsibility of municipalities is the delivery of services to communities within their jurisdiction. Internationally, some governments financially subsidise municipalities for effective performance; however, in South Africa service delivery is the legal mandate of government at all three levels (national, provincial and local). In order to execute this responsibility, government has set up laws and policies intended to guide and enforce compliance in service delivery. In particular, the Local Government: Municipal Finance Management Act (No. 56 of 2003) is meant to ensure that public funds allocated to municipalities, as well as those collected by municipalities, are effectively utilised in the interest of the general public. That means local government has a central role in democratising communities and at the same time fulfilling their developmental role in the new South Africa.

Against this background, the purpose of the study is to investigate how legislation affects compliance in infrastructure service delivery. Despite guiding and giving directions as to how municipalities should function, it is evident that some constitutional obligations are making it difficult for municipalities to discharge their service delivery responsibilities.

1.2. BACKGROUND INFORMATION

A common scenario in some urban townships is a mass of angry residents demonstrating in the streets against poor or total lack of service delivery in their communities. Over the years, these violent protests have resulted in some people losing their lives while property and infrastructure has also been burnt down in the process. The municipal authorities' lives are sometimes put at stake when violent residents demand their resignation. The violent service delivery protests are ignited by a range of problems ranging from poor sanitation, the slow process of housing delivery and frequent electricity outages, amongst others (Buhlungu, Daniel, Southall & Lutchmann, 2007:55).

On the other end of the spectrum, the Constitution of South Africa (Act 108 of 1996) stipulates the role of local government in addressing the service delivery backlogs resulting from apartheid. In that view, the legislative obligations of local government are clear: local government must be efficient, effective and receptive to the needs of their communities. The administration of municipalities should plan, manage and implement their undertakings. Among other things, local government must endeavour to fulfil the following:

- Ensure sustainable service delivery.
- Enhance socio-economic development.
- Promote a safe and healthy environment.
- Encourage community participation in matters of local governance.

(Constitution of South Africa, Act 108 of 1996)

Local government must strive to adhere to autonomy, in as much as it must be financially self-sufficient. This is the only way to create its own economic development path. However, adhering to autonomy is very difficult, especially from a financial point of view, and also due to the central involvement in local government. It is a fact that many municipalities are facing challenges in their efforts to deliver services (Buhlungu, et al., 2007:55). The Department of Cooperative Governance and Traditional Affairs notes that continual local administrative, political and financial problems, all impact on municipalities' efforts towards sustainable service delivery (CoGTA, 2009:12). Some of these problems include, but are not limited to, the following:

- Poor communication between councillors and their local communities.
- Difficulties in eliminating service delivery backlogs.
- Poor administrative and financial management.
- Mismanagement of municipal resources, corruption and fraud.

(CoGTA, 2009:12)

Another major blow suffered by municipalities is the non-payment for services by local residents (customers), which results in a huge municipal debt. The National Treasury (2011:28) highlights that municipalities do not have a good control and their debt collection methods are also poor, hence the increase in municipal debt. In 2007, the municipal debt (nationally) was around R32 billion, a figure that is estimated to be rising by R3.2 billion every year (National Treasury, 2009/2010). This clearly shows ineffectiveness on the part of municipalities in financial management (CoGTA, 2009:13).

In Matatiele Local Municipality similarities exist as with other municipalities with regards to some of the problems identified above. According to the SABC (Thursday, February 2015 12:24) in February 2015, a major protest erupted in Matatiele (ward 8 Nchodu Village) over water issues in the area and residents demanding tarring of the gravel road between Matatiele and Lesotho. Residents burnt offices and water system equipment of a contractor working in the area, blockading the road between Matatiele and the Lesotho border, rendering access to the towns virtually impossible. The IDP indicates that the main priority needs for the municipality are water, sanitation, access roads, electricity, employment opportunities, and access to social services. It further indicates that poor access to economic-enabling physical infrastructures, such as electricity and roads, impede development in the municipality by inhibiting investments (MLM, IDP Review 2015/16:62).

This section highlighted some of the factors associated with service delivery, as well as the challenges faced by municipalities in their efforts at this delivery. It also described what the Constitution stipulates about the role of local government in service delivery. Given this information, it is worth investigating the effects of such factors on infrastructure service delivery. A case study of the Matatiele Local Municipality (MLM) is used. Detailed information on MLM as the unit of analysis is provided in Chapter 4 of this thesis. With this background information in mind, the problem statement is specified below.

1.3. PROBLEM STATEMENT

As highlighted earlier, community protests by citizens have been caused by alleged poor infrastructure and service delivery. In some cases, citizens have blamed local government for allegedly misappropriating municipal funds at the expense of sustainable service delivery, thus municipalities are blamed for fruitless and wasteful expenditure. On the part of local government, poor service delivery is mainly a result of inadequate resources, such as limited finances, and a lack of qualified and experienced personnel (especially engineers) to build infrastructure. As a result of these and other problems, huge backlogs in service delivery are a common scenario in municipalities.

In view of the above, infrastructure development has been identified as a priority by the South African government (Constitution of South Africa, Act 108 of 1996). This is meant to enhance economic growth, in addition to directly or indirectly creating job opportunities. However, in an effort towards economic development, challenges like a shortage of skilled personnel, insufficient funding, as well as poor routine and planned maintenance of infrastructure are evident everywhere, from the poor housing systems and sanitation to defective road surfaces (Local Government Business Network, 2014:30). In support of this, the Auditor-General (2014) revealed findings of material non-compliance in both the quality of financial statements and the supply chain management of municipal resources. Furthermore, the Auditor-General continues to identify fruitless and wasteful expenditure within local government (Auditor-General, 2014:19). Spending on infrastructure within municipalities, including the MLM, has gained a bigger share of budget and forms a major part of the balance sheet. However, when observing local communities, the aging infrastructure is evidence that infrastructural development is not given the priority it deserves as indicated in the Constitution of South Africa (Act 108 of 1996). This study aims to investigate the effects of legislation on compliance in infrastructure service delivery by municipalities, within the case of MLM.

1.4. AIMS AND OBJECTIVES OF THE STUDY

The main question of this study is thus to what extent MLM is complying with legislation regarding infrastructure service delivery. This research considers how far the municipality is able to fulfil their legal mandate of service delivery. With that in mind, the study has the following objectives.

1.4.1. Research Objectives

Research objectives intend to gain answers to certain questions through the application of scientific procedures. Objectives define the specific aims of the study. The primary objective of this research study is to determine the effect of legislative compliance on infrastructure service delivery in MLM. Below are the sub-objectives that address the principal objective:

- To contextualise the legislative framework in which service delivery takes place in South Africa.
- To explore the effects of compliance on infrastructure service delivery.
- To suggest strategies for promoting and fast-tracking infrastructure service delivery.

1.4.2. Research Questions

The purpose of the research questions is to guide and locate the research. The following research questions are informed by the objectives identified above:

- What is the municipal legislative context in terms of infrastructure service delivery?
- What are the legislative factors affecting infrastructure service delivery by local government?
- What can be done to improve infrastructure service delivery by municipalities?

1.5. SCOPE OF THE STUDY

As indicated in the problem statement, objectives of the study, as well as the research questions, this study is confined to infrastructure service delivery effects in MLM. The study investigates how legislative compliance affects infrastructure service delivery. It aims to show that the service delivery mandate is a challenge and is complicated by several factors, many of which are beyond the control of local government. It also highlights that most of the service delivery challenges emanate from structural, legislative and procedural mechanisms informing local government (Stanton, 2009:20). The study discusses the three spheres of government and the effect thereof on local government autonomy. It is critical to recognise the significance of an Integrated Development Plan (IDP) and how this impacts on service delivery.

The study further considers the service delivery issues affecting local municipalities as opposed to other category municipalities, despite the fact that all categories might experience related service delivery problems. The reason for concentrating on local municipalities is a strong conviction that the service delivery challenges facing these municipalities are underrated. Most studies focus their research on district municipalities, which are viewed as encountering the harshest basic service delivery problems as they are largely located in poor rural areas. It is, however, important to note that most of the local municipalities are also rural in nature. In this case the researcher believes that district municipalities experience wide-ranging service delivery problems, most of which originate from the legislative, structural and procedural systems informing local government.

1.6. CONCEPTUAL FRAMEWORK

In order to achieve the objectives of this study, key elements have to be discussed. These elements underpin the basis of the study. In that view, the following key terms are cornerstones:

Infrastructure service delivery: This refers to the provision of basic infrastructural services, such as water, roads, electricity and sanitation. These public activities are supposed to be accessible to every citizen despite their social or economic status. Basic infrastructural service delivery is meant to enhance the quality of the lives of citizens.

Local government: This term is used interchangeably with that of ‘municipalities’. Local government is a sphere of government that is autonomous from provincial and national. This

sphere is the closest to the people and is mandated to provide basic service delivery to the communities that they serve.

Legislative compliance: This refers to the legislative frameworks that guide local government. As its mandate is to serve the citizens of the country, local government has to comply with some complex procedures and timeframes in order to achieve its service delivery function. Complying with legislation is important to avoid legal action being taken against them. Non-compliance might result in court battles and place the municipality at risk of being put under administration.

This study indicates how legislation affects service delivery in local municipalities. In this view, the legislative conceptual framework will be used. The issue of decentralisation and how it affects service delivery will also be discussed in greater depth. For example, local government is accountable to its residents in terms of service delivery (Constitution of South Africa, Act 108 of 1996). Ironically, particular service delivery tasks are allocated to lower levels of government, whereas financially the municipalities have satisfactory access to local revenue, allowing them to act independently. Local autonomy is whereby municipalities are delegated the power and ability to form and implement administrative, political and financial decisions without influence from national government (Cohen & Peterson, 1999:68). This study will therefore examine the extent to which local municipalities have the autonomy and capacity to implement decisions regarding service delivery. From this viewpoint, the appropriate methodology to achieve the above-mentioned objectives is discussed below.

1.7. METHODOLOGY

Methodology refers to the operational framework within which facts are given meaning. There are two main types of research paradigms: quantitative and qualitative. The former is also referred to as the positivist, traditional and experimental way of doing research, while the latter is the naturalistic, interpretive and constructivist way (Cooper & Schindler, 2011:16). For the purpose of this study, the qualitative approach is identified as the most appropriate method to extract data from the research participants.

Qualitative research is the most appropriate method for obtaining data from people, text and organisations (Cooper & Schindler, 2011:16). For this reason, the study is first and foremost a qualitative one that depends on a range of sources in order to identify and examine the effect

of legislation on infrastructure service delivery. The rationale for choosing the qualitative method is detailed in Chapter 5. The theoretical framework is derived from the literature on legislation (Cooper & Schindler, 2011:16). This means that document and content analysis of relevant literature forms the bulk of sources of information. Interviews in the form of a questionnaire also form part of the methodology.

1.7.1. Qualitative Questionnaire

Based on the above, the qualitative questionnaire was developed to gather information on the study. The questionnaire involves a set of questions focusing on a related group of topics, and is distributed to a given number of individuals for the purpose of gaining information on the problem at hand (Van Rensburg, 1994:504). In this study, the questionnaire was distributed for the purpose of obtaining a deeper understanding of the effects of compliance on infrastructure service delivery by municipalities. The questionnaire was distributed to the municipal manager, general manager of infrastructure services, the manager, supply chain, civil and electrical engineers, as well as any other relevant stakeholders within the municipal setup. The people interviewed were in one way or another directly or indirectly involved in dealing with issues of compliance and/or infrastructure service delivery.

1.7.2. Literature Review of Secondary Data

Secondary sources of information were used to explore the role of compliance in service delivery, the effects of compliance, as well as to understand the concept of infrastructure service delivery in local government. The secondary sources included, but were not limited to, the Constitution of the Republic of South Africa, White Paper on Local Government, Municipal Systems Act, Municipal Structures Act, Municipal Finance Management Act, and other legislations covering public administration, such as environmental management legislations that deal with environmental impact assessments; the Construction Industry Development Board legislation and its regulations, which deals with infrastructure construction requirements, as well as academic books, conference papers, official municipal books/annual reports, as well as some relevant websites. An analysis of the status quo of the Matatiele Local Municipality was also conducted by means of analysing the financial statements, budget documents, minutes of the MLM, as well as observing current practices. The credibility of the

IDP was assessed as a service delivery instrument, and as the main strategic document of a municipality.

1.8. ETHICAL CONSIDERATIONS

Ethical issues cannot be ignored in any research. The reason for this is that ethicality is directly linked to the integrity of research (Blumberg, Cooper & Schindler, 2008:54). In studies involving human beings, their dignity must be respected and maintained despite the research outcomes (Salkind, 2009:119). Thus, for the purpose of this study, protection of participants from any kind of harm was ensured, and anonymity and confidentiality of participants was maintained at all times. Moreover, the participants were notified that participation in the study was voluntary and they were free to withdraw at any point. Informed consent was also obtained from the participants prior to conducting the research and the goals of the study were clearly stated in the informed consent form. Permission to carry out the study at MLM was sought from the management of the municipality prior to engaging the participants.

1.9. LIMITATION OF THE STUDY

Issues of compliance in infrastructure service delivery are not just a management issue but involve other stakeholders like the community (through public participation), as well as the national and provincial spheres of government. The results of this study should therefore not be used to evaluate the functions of public administration per se, but rather to realise how to deal with the effects of compliance on service provision within a local government setup. The use of qualitative research in this kind of study is a limitation in itself, as the results of the study cannot be generalised to larger populations (Cooper & Schindler, 2011:72). This is because qualitative data is subjective and also subject to human error in as much as it might have been biased during data collection and interpretation. Thus, this study is to be considered as a roadmap and checkpoint for public administration when dealing with aspects of compliance in infrastructure service delivery.

1.10. THESIS OUTLINE

The research study is presented in the following manner: Chapter 1 is the introductory chapter that provides a brief overview of the specific elements of the study. Chapter 2 gives an overview of what basic infrastructure and service delivery entails, highlighting aspects of service delivery as a prerequisite for local government functioning. Chapter 3 reflects on the literature on legislation and identifies some of its fundamental characteristics in order to create an analytical framework. Chapter 4 is a discussion of the case study of the Matatiele Local Municipality. The choice of this case study is informed by the fact that the researcher is an employee of the institution and it is thus easily accessible. Chapter 5 presents the methodology in detail. Chapter 6 is the data presentation and analysis, while Chapter 7 presents conclusions and recommendations. Following this outline, the following chapter is a discussion of the concepts of infrastructure service delivery. The discussion is important as it provides an understanding of what is meant by these concepts.

CHAPTER 2: LITERATURE REVIEW

2.1. INTRODUCTION

The first chapter gave an overview of the research by highlighting the need for the study, as well as its objectives and aims. Chapter 2 discusses infrastructure service delivery in the context of the main key players, as well as the categories of municipalities. The Bill of Rights (RSA Constitution, Chapter 2, Section 27.1 (a, b, c)) stipulates that access to basic needs, such as infrastructure, is a human right. It is therefore a mandate of government to ensure the provision of basic infrastructure to the citizens of the country. In that view, the government has the task of ensuring a development plan that seeks to alleviate challenges affecting various sectors, including education, health and the labour force. Essentially, it is the responsibility of municipalities to ensure sustainable service delivery of basic aspects like water and sanitation, electricity, transportation and information and communication services, as these services have a bearing on the quality of life of citizens. This chapter therefore indicates that local government has the duty to deliver services to communities because it is the level of government that is closest to the people.

2.2. DEFINING SERVICE DELIVERY

Service delivery is described as “the provision of public activities, benefits or satisfaction” (Nealer, 2007:148). The phrase ‘public activities’ clearly shows that service delivery in this instance is the responsibility of government. Thus, the process of service delivery is conceived as the execution of particular policy objectives in the public sector (Cloete, 2000:9). Cloete further highlights that service delivery has distinctive theoretical elements.

First are the services, which are basically the products or outputs of government policies. This means that the services are an indication of the achievement of policy objectives. The products are visible and can be seen in the form of roads, water, electricity, or the state of education or health, to mention a few. Second, the resources are important aspects that are needed for these services to be realised. These include human resources, capital, time and knowledge. Third are the processes by which those resources are processed into products. These entail the strategic as well as the operational management decisions and activities in the design and implementation of policies (Cloete, 2000:10). Last is the end result of those products. These

four aspects are essential in service delivery because they determine which services are priorities and which are *basic services*, especially in cases where resources are scarce.

A complete and South African-tailored definition of service delivery is provided by the White Paper on Transforming Public Service Delivery (1997):

... An ability of any public institution to deliver services to the communities in an efficient and effective manner. Improving public service delivery means redressing the imbalances of the past and, while maintaining of service to all levels of society, focusing on meeting the needs of 40% of South Africans who are living below the poverty line and those, such as the disabled, the black women living in the rural areas, who have been previously disadvantaged in terms of service delivery.

Based on the above definition, service delivery thus simply entails the ways in which basic services are granted, in as much as it is particularly about improving the efficiency and effectiveness of the manner in which they are disseminated.

The White Paper on Local Government (1998) highlights basic services as those that improve the lives of citizens, while at the same time increases their social and economic prospects by advancing health and security, and facilitating access to education, recreation as well as employment and, eventually, invigorating productive activities (Section 92 of the RDP, 1994). One of the main objectives expressed in this document is the meeting of basic needs, with water and sanitation identified as the critical basic service delivery responsibility of local government in respect of poor families (Section 92 of the RDP, 1994). Introduced as the country's socio-economic policy framework, the prime mission of the RDP is to deal with backlogs in social service delivery (Section 1.4.3 of the RDP, 1994). Accordingly, meeting basic needs entails:

Job creation, land reform, housing, services, water and sanitation, energy, telecommunications, transport, the environment, nutrition, health care, social security and social welfare.

(Section 1.4.3 of the RDP, 1994)

In the above discussion, it is shown that municipalities have a major responsibility to ensure that citizens have access to basic services. It therefore implies a huge commitment on the part of all relevant stakeholders in the delivery of services to communities. Below is a discussion of the main stakeholders and their responsibilities in the delivery of services.

2.3. KEY PLAYERS IN SERVICE DELIVERY

The rules of how the government works are stipulated in the Constitution of South Africa (1996), which describes the three spheres of government as national, provincial and local government (Thornhill, 2012:494; Constitution of South Africa, 1996). The Constitution stipulates that these are the main players in the provision of services. Besides being co-dependent and operating under the policies and laws devised by national parliament, the spheres are supposed to be independent and are not hierarchical in any way (Thornhill, 2012:494). The fact is that service delivery goals cannot be achieved by one sphere of government alone, all must work in corporation. Thus, the Constitution of the Republic of South Africa (Act 108 of 1996) highlights the three basic elements of the three spheres as “distinctive, interdependent and interrelated”. Distinctive means that each sphere must enjoy autonomy. The interdependence element provides for the national and provincial government to control the affairs of local government in various ways that include acts of parliament, monitoring, support and intervention. Thus, a degree of supervision, control and monitoring occurs between the spheres of government, evidenced by the budgets, performance reports and annual reports. Below is a diagrammatic representation of the three spheres of government, followed by a discussion of each.

SPHERE	LEGISLATURE	EXECUTIVE	ADMINISTRATION
National	Parliament	President and cabinet	Director general and departments
National Council of Provinces (NCOP)	Parliament	Chairperson and deputy	Representatives of provincial legislatures and local government

Provincial	Legislature	Premier and executive council	Heads of department and staff
Local	Council	Executive mayor/mayoral committee	Municipal manager, HODs and staff

Figure 2.1: Three spheres of government

2.3.1. National Government

The national government machinery comprises three parts. First are the elected members (legislatures). While representing the public, the legislature has the power to endorse policies and laws as well as monitor the works of the Executive and departments. The Cabinet or the Executive Committee (Executive) is responsible for coordinating policy making and at the same time overseeing the implementation of policies by the respective government departments. The departments' and public servants' main task is to do the work of government by implementing policies in order to achieve national objectives. These are accountable to the Executive. Thornhill (2012:499) adds that, despite being independent from government influences, the judiciary is also part of the national government. Akinboade, Kinfack and Mokwena (2012:185) point to the fact that the autonomy of the judiciary is a keystone of the constitutional democracy and it also certifies the supremacy of the Constitution.

Over and above, the president and his or her cabinet ministers head the national government. Their main responsibility is public service delivery. It is also the duty of the national government to formulate laws regarding human rights, as well as public service delivery (Thornhill, 2012:492). Through the South African Revenue Services (SARS), the national government is mandated to collect tax and revenue from taxpayers and the collected revenue is directed to infrastructure development and maintenance, in addition to services intended to improve the quality of life of citizens, for example the social security grants given to pensioners, children and the disabled (Akinboade, Kinfack & Mokwena, 2012:185).

2.3.2. National Council of Provinces (NCOP)

The Constitution provides for the National Council of Provinces (NCOP), which represents the provinces in parliament. Established in 1997 to replace the senate, the NCOP comprises nine provincial delegates nominated by their provincial legislatures and the delegation from

SALGA (Parnell & Pieterse, 2002:82). The Premier, who is one of the four ‘special’ delegates, heads the delegation of the NCOP. These delegates represent the provincial interests in the national sphere of government. The representation of provincial interest is done through contributing to the national legislative process, providing a national forum for public engagement of issues affecting the provinces (Van Der Waldt, 2006:3). The NCOP is a body aimed at co-operative governance and participatory democracy. The oversight role of the NCOP is to represent provincial and local government concerns at national level (Parnell & Pieterse, 2002:82).

2.3.3. Provincial Government

The Constitution of South Africa (1996) provides for nine provincial governments, each of which is headed by the Premier who is elected by the legislature, the Member of the Executive Council (MEC), as well as the head of department (HOD)(Thornhill, 2012:496). The provincial government encompasses the provincial department, which is headed by the deputy director general or the HOD. Within the department, directors are employed as managers and civil servants (for example, the defence forces, the police, nurses and teachers), who do the work of the government (Van Der Waldt, 2006:3).

The provincial legislature comprises 30-80 members who are elected in provincial elections held together with national elections every five years (Thornhill, 2012:496). The provincial executive council consists of the MECs and the Premier who elect them. The responsibility of the provincial legislature is to endorse the provincial laws, together with drawing the yearly provincial budget (Post, 2001:52). Importantly, these members are responsible for developing the provincial growth and development strategy, which shows the general framework on how service delivery is going to be improved. The coordination and monitoring of municipalities are the responsibilities of the provincial MEC together with the DPLG (Post, 2001:53).

2.3.4. Local Government

This is the sphere of government set up to appropriately respond to the needs, interests, as well as the general expectations, of communities (Parnell & Pieterse, 2002:88). Local government is at the forefront of service delivery. In other words, it is the contact point between

communities and government institutions (Thornhill, 2012:492). The responsibilities of local government are highlighted in Schedule 4, Part B and Schedule 5, Part B of the Constitution of South Africa (1996). Amongst other things, it is clearly stated that municipalities are responsible for managing and governing the public affairs of a particular area. Because of their proximity to the general public, municipalities are responsible for providing important services to communities within their control (Roux, 2005:64).

Decision making for municipalities is done by the council, which also passes the annual budget. The elected council members who influence the development as well as service delivery plans also approve municipal policies and by-laws for a particular area. The coordination of the municipal activities is the responsibility of the mayor (Roux, 2005:66).

Having discussed the three spheres of government, it is also imperative to describe the three main types of municipalities established by the Constitution of South Africa, 1996. However, before that there is a need to further explain local government and service delivery. This discussion aims to recognise the constitutional roles and responsibilities of local government. Just like their mandate, the responsibilities are quite extensive but are not exclusively defined. However, besides providing service delivery, local government is mandated to eliminate backlogs in service delivery.

Perhaps the question that needs to be asked first is who has the right to municipal services? The answer to this is simple. The local community is entitled to obtain basic service delivery from local government. What needs to be explored is the legislative meaning of the phrase 'local community'. Section 16 of the Local Government: Municipal Systems Act (No. 32 of 2000) stipulates that, in relation to a municipality, 'local community' comprises the following:

- The residents of the municipality;
- The ratepayers of the municipality;
- Any civic or non-governmental, private sector or labour organisations or bodies that are involved in local affairs within the municipality; and
- Visitors and other people residing outside the municipality who, because of their presence in the municipality, make use of services or facilities provided by the municipality including, more specifically, the poor and other disadvantaged sections of such persons.

2.4. CATEGORIES OF MUNICIPALITIES

In South Africa, municipalities are classified as metropolitan, district and local. These categories also highlight what each and every category is mandated to do in the provision of services to the members of the public. Below is a discussion of these categories.

2.4.1. Metropolitan Municipalities

Referred to as Category A municipalities, metropolitan municipalities possess the exclusive municipal, executive and legislative authority in their jurisdictions (Pooe, 2013:72). Metropolitan municipalities are found in the eight biggest cities of South Africa: Johannesburg, Cape Town, eThekweni, Tshwane, Mangaung, Nelson Mandela Bay, Buffalo City and Ekurhuleni. The main function of these municipalities is to coordinate service delivery for the whole area (Pooe, 2013:72). The municipalities are divided into wards and residents of each elect the ward councillors.

2.4.2. Local Municipalities

These are Category B municipalities, which share municipal executive and legislative authority with those municipalities in Category C falling in the same area. Matatiele Local Municipality falls under Category B. Situated in the northern part of the Eastern Cape, Matatiele Local Municipality is amongst the four local municipalities forming part of the Alfred Nzo District Municipality, with the other three being Umzimvubu, Mbizana and Ntabankulu local municipalities (Matatiele Municipality, Draft IDP Review, 2014/2015:16).

The municipal area is mainly rural in nature while the settlement pattern comprises sparsely populated settlements surrounded by subsistence farmlands in the previously Transkei region. The town of Matatiele is the main economic hub for the municipality and beyond (Matatiele Municipality, Draft IDP Review, 2014/2015:16).

There are a total of 231 local municipalities in South Africa, and each is divided into wards. The ward councillor represents the residents of their particular ward (Thornhill, 2012:493). Just like in the metropolitan municipalities, half the councillors of local municipalities are elected

through a small representation ballot whereby the electorate vote for a party, while the other half of the councillors (ward councillors) are elected by the residents of the particular ward (Thornhill, 2012:493).

2.4.3. District Municipalities

Falling within Category C, district municipalities share municipal executive and legislative authority in areas that have more than one municipality, for example, Alfred Nzo District Municipality. In other words, district municipalities comprise several local municipalities that are in one district and normally 3-6 local municipalities are combined in a district council (Roux, 2005:66). There are a total of 47 district municipalities in South Africa. The main function of district municipalities is the coordination of development and service delivery in the whole district. Local municipalities do the actual execution of services to communities while district municipalities “oversee” what is being done by local municipalities. Their influence is stronger and recognised, especially in extreme rural areas where local municipalities lack in capacity with regards to development and service delivery (Roux, 2005:66). In short, local and district municipalities allocate and share responsibilities while metropolitan municipalities are responsible for all local service delivery and development in the metropolitan areas. The next section is a detailed description of the roles of municipalities in infrastructure service delivery.

2.5. THE ROLES OF MUNICIPALITIES IN SERVICE DELIVERY

Municipalities worldwide are dealing with the challenge of increased demand for service delivery, as evidenced in South Africa by citizens’ rampant protests in various communities. Some service delivery protests have even become so violent that people have died during them. Thus, the need to improve service delivery has seen some municipalities engaging in public-private partnerships (PPPs), an approach which employs the knowledge, investment and management facilities of the private sector to develop and improve infrastructure for residents (Matibane, 2010:46). Despite the effectiveness of the approach, other sectors of government have been sceptical about the development as it mainly leads to job losses due to privatisation (Post, 2001:53).

South African municipalities are not an exception in this regard. Public services should be delivered to all citizens of the country, hence the RPD's main objective of meeting basic needs. Together with the RDP's objective is Growth, Employment and Redistribution (GEAR), which is the government's macroeconomic strategy aimed at lessening unnecessary government expenditure and putting resources towards fruitful investment, especially in areas where they are most needed, of which service delivery is one (Helmsing, 2000:5). GEAR meant that government sectors had to reorganise themselves so as to enhance optimal access to services by citizens. In this regard, municipalities as government institutions should ensure that communities, especially previously disadvantaged ones, have access to service delivery (Helmsing, 2000:5). As with local government, municipalities are mandated to provide essential service delivery to the local communities and ensure the development of the local environment (Nel, 2001:620).

Despite visible progress in delivering some basic services in urban and semi-urban areas, municipalities still have the huge task of effectively fulfilling their mandate of service delivery, especially in the rural areas (The Report on Study Tour of Municipalities, 2003:3). Racial disparities top the reasons why municipalities have not been able to deliver their obligations. Parnell and Pieterse (2002:80) confirm this contention when they argue that black people suffered under the previous apartheid dispensation and most are still poor because of the intricate web of laws, regulations and tactics aimed at endorsing the principle of territorial segregation. The difficult task of local government in this regard is to dismantle those pillars of racial divide. Therefore, in the South African context, improving service delivery entails restoring the imbalances of the past (Nel, 2001:620). As argued by Gildenhuys (1997:117), the quality of life of citizens is improved when there is an existence of equal opportunities, including the fact that adequate and necessary municipal infrastructure services and facilities of optimal quality are supplied in a sustainable manner (Gildenhuys, 1997:117). This is only feasible if local governments appreciate the need to provide necessary services and the development of the local environment (Nel, 2001:41). It is thus a fact that local government is obliged to offer sustainable service delivery to the citizens, who in turn possess the legislative resort to hold the government responsible if that responsibility is not fulfilled (Bardill, 2000:105). The essential services that should be immediately accessible to all South Africans are electricity, water, roads and sanitation. As such, it is the duty of local government to ensure that these basic services are provided. The following is a sector-by-sector overview of the basic services needed for betterment of the citizens' lives.

2.5.1. Water

The Water Services Act (No. 108 of 1997) stipulates basic water supply as the smallest given measure of water supply services needed for the regular provision of an adequate amount and quality of water to households, so as to sustain life and personal hygiene (Section 1 of the Water Services, Act 108 of 1997). The Department of Water Affairs and Forestry (DWAF) define two levels: at the RDP level, at least 25 litres of potable water should be supplied per person in a day. This should be within 200 metres of a household, with a minimum flow of ten litres per minute in the case of communal water points. Alternatively, 6 000 litres of potable water should be supplied per every formal connection per month, which is in the case of yard or house connections (White Paper on Water Supply and Sanitation Policy, 1994). Below RDP, a household should access infrastructure like a standpipe above 200 metres from a household (White Paper on Water Supply and Sanitation Policy, 1994). Infrastructure is regarded as absent if communities depend on water from dams, rivers or trucking projects, and such an absence represents a water service delivery backlog.

The quality of water is an important thing in the delivery of this service. What affects the quality of the water is usually the water plant, which sometimes breaks down and can take time to repair for satisfactory performance. Poor design and construction, inadequate budgets, operator errors, as well as the lack of regular maintenance are among the major causes of plant breakdown (Gibson, 2004:47). As noted by Gibson (2004):

... Subsequent lack of maintenance coupled with no control over the high levels of informal connections means that the majority of these schemes are no longer capable of providing a consistent daily basic water supply.

Given such a scenario, Gibson further argues that “at least 90%” of municipalities will not be able to effectively provide services to their poor communities without substantial financial support from national government (Gibson, 2004:47). The local and metropolitan municipalities conducted a nationwide ‘self-assessment survey’. The aim of the assessment was to evaluate the municipalities’ compliance with water quality regulations, which is according to the SABS requirements. In the survey, 237 municipalities were polled but only 155 responded. The results of the survey indicated that 43% of the municipalities were

compliant (Mackintosh, de Souza, Wensley & Delpont, 2004:12). Of course, some municipalities are not responsible for water treatment works but others that are seem to be neglecting their duty (Stanton, 2009:99).

2.5.2. Sanitation

Sanitation basically refers to the least recommended system for human, household, water and refuse disposal. The important aspect about sanitation levels is that they should be adequate, inexpensive, hygienic and safe for the users (Department of Water Affairs and Forestry, 2002; White Paper on Water Supply and Sanitation Policy, 1994).

Both household owners and the municipalities are responsible for maintaining sanitation systems, with the former focusing on the on-site sanitation systems while the latter maintains the piped networks and pumping facilities (Stanton, 2009:100). Common problems associated with sanitation systems are usually blockages of the systems accelerated by foreign objects, together with the wear and tear of the networks, which eventually burst due to poor maintenance. Regular servicing of the systems could help minimise such problems.

2.5.3. Electricity

As a basic service, it is the role of municipalities to supply electricity. In addition, municipalities also ensure that the transformers, the cables, as well as the metering systems for the distribution of electricity to be functional. Altogether, municipalities account for 43% of the entire volume of electricity sales, while Eskom provides the rest of the percentage (NER, 2004:9). Main problems associated with electricity distribution include poor routine maintenance of the cables since most distributors only do breakdown maintenance, faulty operating procedures, ageing equipment, as well as overloading. Budget deficits are also a major challenge in the maintenance and distribution of electricity (NER, 2004:9). During 2014/2015, electricity distribution systems in South Africa have been characterised by frequent power outages, the effect of which has been felt in both commercial and residential areas. Routine maintenance and refurbishment have been the major causes of the blackouts (Eskom, 2010:12).

2.5.4. Roads and Storm Water Drainage

Although not considered as basic services, road surfaces are an essential infrastructure for the development of an area. However, due to neglect of routine maintenance, as well as frequent heavy traffic in some areas, many road surfaces have deteriorated and the cost of repairing the damages is great. A survey of the Western Cape's pavement management system indicates that the reconstruction of the deteriorated pavements need a total cost of R750 million, while a total of R500 million is needed for the resurfacing backlog that has accumulated (Western Cape Provincial Government, 2004:16). This simply shows that the longer the delay in repairing the damaged surfaces, the greater the cost. The South African National Roads Agency Ltd. (SANRAL) confirmed this notion when it indicated that:

... A delay in road maintenance of 3 to 5 years increases the required repair costs by between 6 and 18 times. Also, because of the subsequent decrease in riding quality, the vehicle operating cost of roads could easily double, with the associated ripple effect on the economy.

(DoT, 2002:81-82)

It is argued that the major cause of the poor services in roads has been the municipal boundary changes that took place in both 1996 and 2000 (Stanton, 2009:101). The changes resulted in some discontinuities in the trend data that was kept by many municipalities concerning the state of the roads (Stanton, 2009:101).

2.6. MUNICIPALITIES AND INFRASTRUCTURE SERVICE DELIVERY CHALLENGES

It has been noted that many municipalities, especially those that fall under Category B, are presented with the dual challenge of wanting to expand service delivery in the most impoverished rural areas that have been previously disadvantaged, while at the same time they need to upgrade the informal settlements by ensuring basic services to the communities at RDP level (SACities Network, 2007:24). Another major cause of the backlog in service delivery has been the administrative decentralisation process, which has affected Category B municipalities more than others. It is argued that the demarcation process led to the creation of large and difficult to manage Category B municipalities, which encompassed large undeveloped and highly inhabited land, as compared to Category A municipalities whose land was already more developed and had some kind of basic infrastructure (SACities Network, 2007:24). However, despite these challenges there are more deep-seated causes for the ever-increasing failure of many municipalities to improve and provide communities with reliable and sustainable service delivery. Some of these key challenges are highlighted below.

2.6.1. Inadequate Budgets

Most municipalities are either financially distressed or the budgets allocated to them for infrastructure maintenance are insufficient, which eventually makes it difficult for them to institute a turnaround strategy in terms of infrastructure maintenance. Another aspect is the operational debt involving some municipalities, which makes it difficult for them to deal with the current maintenance backlogs and refurbish sustainable operations (Cloete, 2002:287). Other challenges with financial implications include situations whereby municipalities have to cope with revenue loss when they provide basic services free of charge, deal with non-payment for services by some citizens, as well as experience a loss of surplus on electricity supply (Cloete, 2002:287). These situations put municipalities in a dilemma as regards service delivery. In that view, it has been argued that failure to increase municipal budgets might:

... Result in lower service level standards or municipalities having to incur excessive cost to replace/upgrade infrastructure and equipment ... The importance of preventive maintenance of infrastructure cannot be over-emphasised, as failure in this regard can

result in municipalities incurring significant expenditure in future to replace assets not well maintained.

(SALGA, 2003:5-6)

Further on the allocation of budgets, many municipalities do not realise the importance of setting aside enough of the budget for infrastructure maintenance. The tendency is usually to focus on constructing and commissioning new infrastructure, while ignoring the already existing infrastructure that needs regular maintenance (Department of Provincial and Local Government, 2004:19). This scenario could be blamed on the municipal representatives who might otherwise undervalue the magnitude of infrastructure maintenance. DWAF notes that:

Local authorities are reluctant to prioritise sanitation and related issues, which have an impact on water quality; with the result that failed sewage pump stations [for example] often remain inoperative for weeks before money and resources are allocated.

(DWAF, 2005:23)

From what is highlighted above, it is important to suggest that municipalities could consider prioritising basic services for the benefit of the public, considering the importance of infrastructure like water and sanitation services. It implies that those being mandated to do so need to improve their operations to ensure the safety of the public because lack of such facilities could put the public at risk in terms of health issues. On that note, below is a discussion of another important aspect of service delivery.

2.6.2. Dearth of Key Personnel

Qualified and highly skilled personnel are essential intellectual assets for every organisation. Within many municipalities, the loss of such human resources causes problems in the maintenance of infrastructure. This is summarised by the following phrase:

Most infrastructure technical disciplines in South Africa are experiencing a steady depletion of skills and ageing of resources. The distribution sector is no exception. It is

estimated that local distributors are faced with staff shortages of up to 60%. Some distributors are not appropriately staffed to comply with Occupational Health and Safety (OHS) requirements. Significant difficulties exist in obtaining and retaining competent engineers, technicians and artisans.

(NER, 2004:5)

There have been reports of high turnover of skilled and experienced personnel, with these either not being replaced or being replaced by less qualified and experienced staff that does not have the necessary qualifications to perform the required jobs (Cloete, 2002:287). This crisis of skills shortage normally leads to service delivery breakdown. The crisis has also led to the appointment of non-technical personnel to higher management posts, which require technical experience (Cloete, 2002:287). What this means is that the appointed personnel will not be able to execute the jobs satisfactorily, hence posing a negative effect on the process of service delivery. In such cases, municipalities might need to engage training and development programmes necessary to equip the under-skilled personnel so as to capacitate them in their skills development. In order to achieve their goals, another important consideration for municipalities is the need to endeavour to retain the current skilled and experienced personnel and avoid high employee turnover. Employee retention can be easily achieved if human resources are guaranteed good working conditions and an attractive career path, as well as good salary scales that commensurate with their contributions to the organisation.

It has been noted that the country's capacity and skills development needs in the area of civil engineering is very low, as revealed by a census of all local and district municipalities (Gibson, 2004:47). The research showed that out of a total of 278 municipalities, 83 had no civil engineers or technicians, while 44 had only one engineering technician (Gibson, 2004:47). Again, 13 out of 47 district municipalities (28%), and 42 out of 231 local municipalities (18%) had members of IMESA (Institution of Municipal Engineering of Southern Africa) amongst their senior management (Gibson, 2004:47). This is a clear indication that the fundamental skills and expertise of municipal engineers is close to non-existent in many municipalities.

2.6.3. Inadequate Legislation

It appears some municipalities do not realise the need for proper infrastructure maintenance. Municipalities have a set of legislations, which guide them towards good governance. However, it seems the legislations are inadequate to govern certain actions of municipalities or, if they are adequate, then they are not satisfactorily imposed or some municipalities simply choose not to comply with them (Cloete, 2002:288). In this case, realistic, proper and authoritative standards and guidelines would be essential for better performance of municipalities.

The Municipal Systems Act presents a legislative constitution for integrated infrastructure plans and capital investment frameworks, which are part of the Integrated Development Plan (IDP) processes (Matatiele Local Municipality IDP Review, 2014/2015:25). For effective planning processes, the legislation needs to be enforced and ensure that municipalities are complying. A highly detrimental shortfall in legislation lies in the financial provisioning for the long run maintenance of infrastructure (Cloete, 2002:288). The funds assigned to municipalities by the National Treasury for works needs to integrate terms and conditions, forcing municipalities to reserve some funds for the progressive operations and maintenance (Cloete, 2002:288).

In terms of strategic planning, asset management and the general financial provisions for infrastructure improvement, South African municipalities do not match international standards (Stanton, 2009:203). Again, the South African legislation does not sufficiently address various issues essential for sustainable infrastructure asset management. These include, but are not limited to, asset records, defining value, depreciation practice, as well as budgeting and monitoring expenditure for strategic maintenance (Stanton, 2009:203). It is a requirement of the Generally Accepted Municipal Accounting Practices (GAMAP) that municipalities should depreciate assets (although there is no depreciation model), the process of which could help with funding with future liabilities for renewing infrastructure (Stanton, 2009:203). South African legislation could adopt the same strategy. It would be more manageable to make it obligatory for public institutions to have proper multi-year infrastructure asset management plans.

2.6.4. Dearth of Proper Guidelines

Guidelines are the basis for achieving any task. Without proper guidelines, tasks are performed haphazardly and during the process important aspects could be missed. In the same way, the municipal fraternity seems to lack the proper practice guidelines as to effectively maintain municipal infrastructure. This is evidenced by the absence of published norms as regards the required resources to afford sustainable maintenance of infrastructure (Disoloane, 2012:47). Guidelines should exist that clearly state the budget for maintenance purposes and these should be detailed to include aspects like the nature of the infrastructure to be maintained, as well as its maintenance history. In the first place, a clear definition of ‘maintenance’ is necessary since the maintenance occurs in ways that appear similar but are different. This is important because at the end of the day planned maintenance, refurbishment, repair and renewal are all forms of maintenance, but the kind of expertise and costs related to each could be different (Disoloane, 2012:48). This should be clear in terms of budget purposes. Another important aspect to be included in the guidelines is the magnitude of expertise or competence needed for the particular infrastructure maintenance.

It is thus clear that the importance of guidelines cannot be over-emphasised. Guidelines should highlight what constitutes good and bad practices. This is essential so as to make the information available to municipalities for reference purposes. In cases where better-positioned municipalities (in terms of resources) are enjoying good maintenance practices, the information needs to be shared with those municipalities that are underperforming (Disoloane, 2012:48).

2.7. CONCLUSION

This chapter has given an overview of the general infrastructure service delivery issues in South Africa. This was given by discussing what service delivery entails and what it should entail. The challenges inhibiting sustainable service delivery have also been discussed. Amongst other things, budgets, legislation and human resource aspects have been identified as critically inhibitive of proper infrastructure maintenance, thus putting much infrastructure at risk. The challenges identified in this chapter seem to be evident in MLM, thereby reducing the efforts of the local municipality in providing services to its communities. The three spheres of government have also been discussed, as these are the key players in the service delivery function. It has been argued that despite being distinctive, interdependent and interrelated, the

three spheres of government should work together in achieving service delivery goals, hence the element of co-operative governance. The general observation from the literature is that many municipalities are faced with the challenge of service delivery backlogs. Mandated with the challenging responsibility to ensure basic service delivery, local governments are generally lacking the capacity, resources, as well as expertise to do so. Besides the shortage of experienced personnel, most municipalities are ill equipped, such that it is next to impossible to alleviate the apartheid-created backlogs (Deegan, 2001:116). It is thus clear that many municipalities might not be able to develop their maintenance policies and practices without guidance and support from national government. Having discussed basic service delivery, the next chapter provides the legislative framework in which municipalities are working, and how they are affecting infrastructure service delivery.

CHAPTER 3: THEORETICAL FRAMEWORK

3.1. INTRODUCTION

The previous chapter gave an overview of service delivery in South Africa. The focus of this chapter is the legislative framework for service delivery in municipalities. The chapter highlights service delivery as the main responsibility of local government. However, municipalities are governed by several aspects in their efforts to provide services to the masses, including the imperatives of other spheres of government, which constantly compromise local government's responsibility.

3.2. OVERVIEW

The importance of legislation need not be over-emphasised. Aside from providing guidelines and decision-making processes for municipal managers, legislation safeguards the rights of people in as much as it enhances the democratic values of freedom, equality and human dignity (Van Niekerk, Van Der Walddt & Jonker, 2001:68). The objective of legislative control is thus to encourage good governance. The availability of legislation implies that people have to comply. This chapter thus discusses the relevant laws pertaining to local government, which is set up in terms of the Constitution. The reason for highlighting the legislation is to assess the extent to which MLM is complying with the legislation guiding infrastructure service delivery.

Before getting into detail on the legislative aspect of service delivery by local government, it is important to provide a recap of the state of affairs with regards to service delivery. This is important as it indicates the extent to which local government is complying with the legislations determining service delivery in the country. It is a fact that poor or total lack of service delivery is evident in many municipalities, evidenced by the on-going service delivery protests throughout the country. The reasons for the protests are numerous, and include allegations of corruption on the part of municipal officials. Another cause of the protests has been communication breakdown between officials and communities, with lack of information leading people to formulate their own personal interpretations. If communities are not up to date with what is happening in their wards regarding socio-economic activities they rely on the grapevine, which is destructive. Lack of information for communities implies that community

participation is not given priority and it should be remembered that it is the right of the general public and other relevant stakeholders to be engaged in discussions of matters that concern them.

Commenting on the nature of service delivery protests taking place in the municipalities, Botes, Lenka, Marais, Matebesi and Sigenu (2007:64) argue that few citizens participate in official discussions, despite the many protests they engage in. This means that citizens want to communicate with the government in their own unique ways. The implication is that government should find ways of listening to the citizens, in lieu of depending on the laws and policies that determine how communities ought to communicate. It also suggests a need for government to revise legislation and policies regarding service delivery, especially those on public participation and consultation (Botes, et al., 2007:64).

The following section discusses the legislative foundations of service delivery. This legislative framework is important for a study of this nature because it serves as a guideline as well as a measuring tool to assess the extent to which legislations are being complied. It is important to reiterate that this study seeks to highlight the aspect of compliance by local municipalities with regards to service delivery, which hinges on legislation. The context of service delivery can be viewed from a historical, political or legislative perspective. Since all legislation draws from the Constitution of the country, it is essential to discuss the constitutional mandate of service delivery.

3.3. CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA (ACT 108 OF 1996)

The preface of the Constitution of the Republic of South Africa (Act 108 of 1996) makes provisions for setting foundations for a democratic society in which the government is dependent on the will of the people, and where all citizens are equal. Sections of the Act stipulate that the mandate of local government is, amongst other things, “to provide democratic and accountable government for local communities and to encourage the involvement of communities and community organisations in the matters of local government”. The above phrase highlights the need for municipalities to work with the public by mobilising participation commitment, as well as instituting constructive and effective participatory processes.

Section 195 of the Constitution provides for good governance through a number of public administration guidelines, and it is the responsibility of municipal managers and political leadership that these principles are instilled in the workforce. These include the following:

- Promotion and maintenance of high standards of professional ethics.
- Promotion of economic, efficient and effective use of resources.
- Public administration that is development oriented.
- Fair, equitable and impartial service provision.
- Being responsive to people's needs and including the public in policymaking decisions.
- Accountability in public administration.

(Section 195 of the Constitution)

3.3.1. The Constitutional Mandate of Local Government

To facilitate service delivery in the country, the government has put in place some legislative and policy frameworks. These are meant to guide how the service delivery process should occur, despite some impediments in the process that might hinder the implementation of the legislations. The policies and legislation include the Constitution of the Republic of South Africa (Act 108 of 1996); Reconstruction and Development Programme (RDP) of the African National Congress (ANC, 1994); White Paper on Local Government (RSA, 1998); White Paper on Transforming Public Service Delivery (1997); Local Government: Municipal Systems Act (2000) and the White Paper on Housing (RSA, 1994), amongst others not mentioned here. Those listed are discussed below.

Service delivery provision is a constitutional requirement placed upon all municipalities in terms of the Constitution. The acknowledgment of local government as a sphere of government has improved the significance of developmental local government as a whole and of municipalities in particular, and has afforded them a fresh vibrant role as agents of service delivery (Stanton, 2009:61).

As an officially established and constitutionally confined sphere of government, local government has the sovereignty to “govern, on its own initiative, the local government affairs

of its community, subject to national and provincial legislation, as provided for in the Constitution” (Section 151(3) of the Constitution). In this regard, the national or provincial government may not compromise the municipality’s right to exercise its powers. The powers and responsibilities of local government are stipulated in the Constitution as follows:

- The provision of democratic and accountable government for communities;
- Ensuring the sustainable provision of services to communities;
- Promotion of social and economic development;
- Promotion of a safe and healthy environment; and
- Encouraging community participation in matters of local government.

Local government has been assigned substantial administrative autonomy regarding local democratic governance, service delivery and local economic development. In addition to the above, it is the responsibility of every municipality to organise and manage its own administration, and to administer its budgeting and planning procedures, which give preference to providing the service needs of the community, thereby enhancing the community’s socio-economic development (Section 153(a) of the Constitution). The local government’s second constitutional responsibility entails ensuring sustainable basic service delivery. Although it sounds achievable, the main challenge faced by local government is the overriding national and provincial influence over, and delegation of, responsibilities to local government (Van Niekerk, Van Der Waldt & Jonker, 2001:68).

From the preceding arguments, it is clear that the Constitution has set a concrete basis for the formation of developmental local government, mandated to provide services in a democratic, equitable and transparent manner. Moreover, the White Paper on Local Government, 1998, concedes that local government is the sphere of government that is closest to the general public and is therefore trusted with service delivery provision to citizens. The local government is also entrusted with ensuring growth and development of communities in a way that promotes public participation and accountability. The key legislation emanating from the White Paper on Local Government of 1998 and that has a bearing on service delivery is the Local Government: Municipal Systems Act No. 32 of 2000, discussed later in the chapter. Section

23(1) of the Municipal Systems Act 32 of 2000, stipulates that a municipality should embark on developmentally oriented planning so that it endeavours to accomplish the objectives of local government, as mentioned in Section 152 of the Constitution.

In order to carry out the mandate of service delivery, there is a need to adopt an appropriate development strategy that is also suited to the developmental needs of the communities (Nel, 1998:19). This is because development is a multifaceted notion that must be comprehended in a holistic sense as not entailing only economic growth, but also the quest of gratifying the material as well as the psychological needs of citizens (Nel, 1998:19).

The proximity of local government to communities implies that municipalities are strategically positioned to execute their mandate of service delivery provision as the first step towards community development. As such, one can argue that service delivery is a way of eliminating poverty within the framework of community development. Therefore, as part of their developmental function, municipalities are anticipated to forge partnerships with their communities so as to achieve sustainable service delivery. It is a fact that communities are more knowledgeable about the issues that affect them; therefore engaging them would yield positive results (Tsatsire, 2008:321). Thus, public participation is critical for the successful working of local government.

3.3.2. White Paper on Transforming Public Service Delivery (Batho Pele)(1459 of 1997)

The White Paper on Transforming Public Service Delivery (1997) presents the eight transformation priorities. Published by the Ministry for the Public Service and Administration, the White Paper served as the basis of state policy during the transformation period (WPTPS, 1995:2). When the Government of National Unity (GNU) entered into power, society was characterised by socio-economic inequalities, in addition to racial divisions (WPTPS, 1995:2). Hence, the main target of government institutions was public service transformation. The transformation of service delivery was also a key area. Effective service delivery was deemed necessary so as to enhance the livelihood of the populace by meeting their basic needs. Among other things, Chapter 11 of the WPTPS (1995) focused on identifying the following:

- Service standards, defined outputs and targets, and performance indicators, benchmarked against comparable international standards;

- Potential partnerships with the private sector, non-governmental organisations (NGOs) and community-based organisations (CBOs), which will provide more effective forms of service delivery; and
- The development of a culture of customer care and with an approach to service delivery that is sensitive to issues of race, gender and disability.

The aspects highlighted above are particularly service delivery oriented and it is clear that the main goal of service delivery thus includes wellbeing, fairness and effectiveness (WPTPS, 1995:3). The Batho Pele principles are founded on the essential keystones of legislation and convey the actual operation thereof, nearer to the people that it is supposed to serve. Knowing their rights implies that citizens will be granted the services that they deserve. The Batho Pele principle of “*We belong, We care, We Serve*” highlights the importance of the presence of those who work in the public service to serve the public.

3.3.3. White Paper on Local Government, 1998 (Section B 3.1.)

The White Paper on Local Government does not only deal with sectoral policy, but covers the whole sphere of government. The basis of this legislation is that it identifies the local government as the main hub with regards to interactions with the communities. This means that local government is mandated to ensure the wellbeing of the public by providing basic services and infrastructure. It is also responsible for the growth and development of communities in ways that encourage community participation and accountability.

Therefore, this provision institutes a foundation for developmental local government, whereby the “local government is 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”. This provision basically indicates a paradigm shift regarding how municipalities should incorporate development planning with community-based goals. It also presents references for the redeployment of income, as well as prospects favouring the poor and marginalised while at the same time democratising development. Importantly, the legislation further promotes public participation in decision and policy-making processes, from formulation to evaluation. This shows the importance of participation as a way to improve

people's quality of life. The White Paper also draws attention to the legal concepts of human rights, dignity and democracy as essential elements to development, as people have the right to continuously contribute to local politics (Du Plessis, 2013:22).

3.3.4. Municipal Structures Act (No. 117 of 1998)

Chapter 4, sections 73-78 of the Municipal Structures Act stipulates that municipalities should have ward committees as a specialised entity so as to promote participatory democracy in local governance. Participatory governance is meant to harmonise formal representative local government and is not supposed to intercept the municipal council's responsibility to rule. The ward committees' role in this is to help the council and its administration in the fulfilment of the local government's objectives of service delivery. Ward committees mediate between officials and communities in municipal operations. Section 16(4) of this Act calls for community participation in municipal processes like the planning, implementation and review of the IDP. The Act also points to the importance of reviewing community needs and priorities, as well as the organisational and delivery means for meeting those needs. In other words, the Act advocates for openness and transparency in the public participation process. Given this, it is therefore important to establish the extent to which MLM is complying with this legislation in relation to participatory democracy in local governance.

3.3.5. Municipal Systems Act (No. 32 of 2000)

The focus of this Act is primarily the provision of the vital principles, systems and processes essential for municipalities to move gradually towards the socio-economic upliftment of communities, ensuring universal access to affordable basic services. The Act further indicates that municipalities must promote and make conditions conducive for community participation. The Act calls for municipalities to develop:

Section 16(1): A culture of municipal governance that complements formal representative government with a system of participatory governance ... encourage and create conditions for the community to participate in the affairs of the municipality, including in preparation, implementation and review of the IDP, contribute to building

the capacity of the community to participate in the affairs of the municipality and councillors and staff to forge community participation.

Section 42: A municipality, through appropriate mechanisms, processes and procedures established in Chapter 4 must involve the local community in the development, implementation and review of the municipality's performance management system, and in particular, allow the community to participate in the setting of appropriate key performance targets of the municipality.

Section 29(b): The local community to be consulted on its development needs and priorities and the local community to participate in the drafting of the IDP.

In other words, the Act basically provides for public participation so as to enable involvement, transparency, accountability and responsibility, all of which are the building blocks of community empowerment.

3.3.6. Municipal Electoral Act (No. 27 of 2000)

This Act provides guiding principles determining municipal elections, the organisation of voting stations, and relocations and demarcations of voting stations for local government elections. The Act provides for citizens' rights to elect their local council through standard, competitive local elections. It also highlights the election processes for municipal councils, together with the requirements for parties and ward contestants to compete in the elections. The importance of this Act is that it has to ensure that municipal officials are democratically elected and therefore should strive to help communities in the delivery of services. Unfortunately, the alleged corruption rampant in local government has seen some officials occupying office undemocratically and this can cause service delivery protests by community members who complain of corruption and nepotism in local government.

3.3.7. Municipal Finance Management Act (No. 56 of 2003)

This is one of the most essential parts of local government legislation, as it deals with financial matters. The Act is aimed at safeguarding sound and sustainable management of the financial affairs of municipalities. Amongst other things, these financial matters include, but are not limited to, the management of municipal bank accounts, budget processes, debt disclosures and auditing requirements. The objective of the Act is to ensure transparency, accountability and responsibility in the financial affairs of municipalities. It also concerns the management of expenditure, revenues, assets and liabilities, supply chain management, and other financial matters. Importantly, the Act provides for the publication of the approved municipal budget, a process that affords transparency in the financial affairs of municipalities. It also highlights the important point that the budget preparation process is consultative in nature and in compliance with the legislative provisions (Section 21 of the Act). The Act provides strict guidelines on irregular and wasteful expenditure by municipal staff and stipulates that anyone who is found guilty of misusing municipal funds will be dealt with accordingly.

3.3.8. National Policy Framework for Community Development Workers (CDWS) in South Africa (2004)

In his State of the Nation Address (SONA) 2003, then President Thabo Mbeki noted that:

Government will create a public service echelon of multi-skilled community development workers who will maintain direct contact with the people where these masses live. We are determined to ensure that government goes to the people so that we sharply improve the quality of the outcomes of public expenditures intended to raise the standards of living of our people.

It is the role of the CDWs to bring government to the people while at the same time encouraging public participation at local government level. CDWs are individuals recruited from the wards in which they live and therefore the assumption is that they have a better knowledge of the communities from which they come and, hence, will be able to assist the government in identifying the needs of their communities.

3.3.9. Promotion of Administrative Justice Act (No. 3 of 2000)

The Promotion of Administrative Justice Act (No. 3 of 2000) stipulates that administrative decisions must be procedural, fair, lawful and reasonable. When decisions are made, the public has the right to be notified of the decisions taken by officials and given explanation where necessary. The public has the right to question whatever decisions have been made. Essentially, including the public in important decision-making processes will make decisions easier for both officials and the public.

3.3.10. The Municipal Demarcation Act (No. 27 of 1998)

This Act states the conditions and processes for determining municipal boundaries. It also establishes and controls the autonomous Municipal Demarcation Board and gives authority to this board to institute and/or make changes to the local municipal boundaries, a process that should be favourable to representative and participatory democracy.

The legislations described above indicate the vastness of the body of legislation aimed at affording good governance in the country. The above list of legislations is not conclusive, with only those relevant to this particular study being considered. With the legislations on paper, the main challenge is in the implementation of the laws.

3.3.11. Municipal Development and Transformation

Every organisation should have the institutional capacity to realise its objectives. Looking at local government level, it is safe to argue that local municipalities have been affected by structural changes regarding the demarcation process; even changes regarding the wider role played by municipalities in society. This means that municipalities have to assume the extended functions in an environment of transformation, the process of which is challenging given the development and service delivery needs of the people of South Africa. The White Paper on Local Government (Section F, 1998) calls for an administrative constitution that is geared towards the new responsibilities of local government. The CoGTA stipulates that municipalities need the following administrative capacities so as to enhance developmental local government:

- Strategic capacity to evaluate, plan and develop groundbreaking programmes to meet the needs of the people. This entails considering already available resources and their levels. It also means that while efforts are geared towards addressing the current needs, long-term objectives should be realised together with the strategies for achieving those objectives.
- Incorporating capacity so as to synchronise inputs that are both internal and external to municipalities. In this regard, capacity building and sensible resource utilisation should be determined by the results of collaborating with the national and provincial government.
- A community orientation to drive a user-friendly and quality-driven approach to local government service delivery. Service delivery incorporates promoting satisfactory quality standards, and keenness on the part of municipal officials to remedy poor service quality. This implies that municipalities need to be staffed by persons who appreciate the significance of building trust and goodwill with customers in order to realise the local government objectives.

The above set of capacities is critical for the attainment of the developmental local government model. In that view, IDASA (2010:4) notes, “the developmental local government model is premised on recognition of the primacy of linkages between development, service delivery and citizen participation, defined as the organised effort to increase control over resources.” This highlights the need to integrate the general community in terms of exercising control over the allocation and distribution of resources, instead of limiting the control to municipal authorities alone. It thus calls for the municipal leadership to create platforms for community involvement. Leftwich (2010:103) notes that triumphant and sustainable development is determined by the leadership’s capacity to shape inclusive developmental coalitions that institute locally suitable, lawful, and realistic organisational arrangements to facilitate socio-economic growth and development.

It is therefore very important that rational and goal-oriented work units, which are supposed to be staffed by well-qualified and capable human resources, are visible in all municipalities to ensure sustainable service delivery and development (Du Plessis, 2005:69). The advantage of work units is their ability to improve work performance and, in the case of local government,

this means improved service delivery and development results (Meiring & Parsons, 1994:102). Therefore, if municipal objectives are to be realised, municipal structures that are aligned with the roles of a single municipality should be created.

3.4. INTEGRATED DEVELOPMENT PLANNING (IDP) IN LOCAL GOVERNMENT

The IDP is a description of a comprehensive and strategic plan that directs and informs decision-making processes pertaining to municipal management and development (Municipal Systems Act No. 32 of 2000). In other words, the IDP lays out municipal plans and objectives for the future development of municipalities. It is important to stress that the IDP processes involve both municipal authorities and the broader municipal community, both of which discuss the long-term development goals.

IDP processes comprise planning, implementation and evaluation of the development aspects. The process involves considering the existing resources, existing problems and their causes, as well as the means to solve the particular problems. The information on these issues is obtainable through public meetings with the relevant stakeholders of the municipality, hence the importance of public participation (Municipal Systems Act 32 of 2000). Community members need to be consulted and allowed to partake in issues that directly or indirectly affect them. This also implies that the IDP should mirror the needs and priorities of communities and, therefore, the authorities will be able to implement and monitor the relevant programmes that have been put in place to deal with those needs.

The main goal of the IDP is to reduce poverty levels, and this is the reason why it is most relevant for previously marginalised societies. The IDP aims to improve the livelihood of people. In order to achieve that there is a need to look at the existing conditions in terms of the socio-economic development aspects of the municipal area. What follows is a framework of the required infrastructure services and how these should be established without damaging the environment. The municipal authorities, the community and other relevant stakeholders partake in the preparation and implementation of the development plan. Netswera (2005:36) argues that local government should undertake to afford adequate and essential municipal infrastructure, services and facilities of optimum quality. In addition to delivering the right

service to the right people of the right quantity and quality, access to these services should also be improved (Netswera, 2005:36).

In the service delivery process, councillors are responsible for classifying and prioritising the community's needs, and developing schemes and programmes best suited for addressing these needs, taking into consideration the economic and financial implications of the proposed services. That means the delivering of the services is determined together with the performance evaluation criteria (Municipal Structures Act 117 of 1998). Providing satisfaction is the main objective of service provision. As such, the quality and value of the service are good indicators of the level of service delivery (Fox & Meyer, 1995:45).

In line with its long-term plan, the MLM has indicated its high and medium priority projects. High priority projects include proper running water, sanitation and the maintenance of all access roads, with the municipality being the possible funder (MLM Ward-Based Plans, 2014). The construction of RDP houses has also been planned, and will be funded by the Department of Human Settlements, while rural electrification's funding is envisaged as by Eskom.

3.5. POLITICS AND SERVICE DELIVERY IN SOUTH AFRICA

As an experienced employee in local government, the researcher would argue that South Africa's service delivery is occurring in a turbulent political environment. The significance of politics in determining who gets what services, where, when and how, should not be underestimated. In simple terms, politics is a scenario whereby power and influence are exercised. The influence affects decision-making processes, the use of resources, and the way of bringing about balance in various aspects of social life (Thornhill & Hanekom, 1993:52). Kotze and Van Wyk (1986:130) define politics as a process whereby rules and values are commandingly allocated and imposed for a specific purpose.

It has been observed that service delivery in the country is highly politicised since it embodies some of the contradictions of the shift from apartheid to democracy (Mc Lennan & Munslow, 2009:19). On one hand, it is an on-going crisis because the destructive effects of apartheid interrupt the government's capacity to expand the economy, participate globally and fulfil local demands (Mc Lennan & Munslow, 2009:19). On the other hand, it is a channel for development for previously disadvantaged citizens. This inconsistency captures the dilemma of constructing a developmental nation that will secure a "better life for all, in a country that no longer contains

within it and represents much that is ugly and repulsive inhuman society” on an extremely uneven apartheid foundation (Mbeki in SONA, 2007).

The service delivery triangle comprises the politicians (the elected representatives), the public officials and the residents of a community (Flynn, 2007:166). As representatives of their constituencies, politicians decide on the nature of services to be provided (Flynn, 2007:166). Public officials give professional and technical advice to politicians so that they can make informed decisions based on facts and figures. The officials then implement the decisions made. Communities are there to give input into the political and administrative processes through their representatives or through public participation routes.

In a political organisation like local government, management needs to be politically sensitive and aware, in as much as it needs to possess an understanding of political purpose (Stewart, 1988:12). Poor service delivery is often blamed on apartheid and its legacy and associated with the politics of distribution, determined to afford access to services that were previously in scarcity. The assumption here is that intensifying the delivery process will enhance access, while managing the delivery process would be about placing the correct components in position in precise combinations. In this regard, service delivery is many-sided and highly political. Ignoring the politics of service delivery could hinder the goals for the developmental dream of government. In order to understand and manage the politics of service delivery there is a need to explore the roles of the government and other relevant stakeholders, such as civil society, communities, markets, as well as businesses in service delivery provision (Stewart, 1988:12).

Service delivery is a function of government and other public or private organisations that is provided to those who need services. In South Africa, service delivery is, however, also related to the broader aspects of social justice, redistribution, poverty elimination and economic growth (Stewart, 1988:13). The process of service delivery is thus linked to development, while on the other hand the developmental state is linked to the ability to present social justice (Hemson & Owusu-Ampomah, 2005:512). This means that service delivery in South Africa has a much broader meaning, thus its definition should be more inclusive, and not only comprising the propensity to provide services needed but also a sense of restoration (Hemson & Owusu-Ampomah, 2005:512). In other words, the services should endeavour to improve the livelihoods of many and validate their citizenship in the new South Africa. In a society characterised by inequality and uneven distribution of resources, service delivery should be

viewed as a mechanism for jumping over the contradictions and guaranteeing socio-economic justice.

The service delivery protests witnessed around the country are evident of how some communities are reclaiming the fruits of democracy, using the protests as mechanisms to secure resources to fulfil their needs (Mc Lennan & Munslow, 2009:21). The protesting communities have come to believe that peaceful demonstrations are ineffective for drawing the attention of the government to their plights; hence they sometimes turn to violence. What needs to be noted is that the dangers of non-service delivery are politically high, since service delivery is linked to development. Non-delivery puts the government's authority at stake, together with the democratic process (Cloete, 1991:56). It is therefore true that service delivery takes place in political environments and, since politics is all about influence and power, violence tends to surface when political conflict emerges. Service delivery processes are state-driven and therefore political, since they determine power dynamics between the government, the general public and the economy (Mc Lennan & Munslow, 2009:22). This is so because those processes influence who is supposed to get what, when, why and how. It is thus clear that defining access that was limited during apartheid is essential to the service delivery process, as is the case in violent service delivery protests.

In highly political societies like South Africa, service delivery should be more than just redistributing available resources. It is anticipated that service delivery will also change the existing poverty and deprivation (Mc Lennan & Munslow, 2009:22). In that view, the shift from apartheid to democracy has witnessed many strategies being brought forward so as to enhance service delivery. However, it should be noted that democratic popularity does not enhance delivery. Instead, this can be achieved by an unwavering and capable leadership with a moral vision that moves beyond policy and planning to implementation (Mc Lennan & Munslow, 2009:42). In this regard, the public service needs to become trustworthy by openly engaging and making available information to citizens so that they are able to make informed decisions. It should also be noted that service delivery cannot take place when there is paralysis and confusion at the centre of the administration, so political leaders should set a good example for the populace as they determine the direction and standards for the general public. Municipalities' main objective is service delivery. Therefore, the actions of the administrators should be focused on implementing policies without discrimination, malice or delay, and in accordance with the goals of government (Hanekom, 1992:56). Stewart (1988:24) notes that the administration processes of local government are located in a political management system,

hence management must be able to support the rightful political processes of the authority (Stewart, 1988:24).

The preceding discussion revealed that public officials, due to the political nature of service delivery processes, need to keep abreast of the ever-changing environment so that they can constantly furnish their political leaders with expert and informed advice regarding service delivery. Again, the participation of communities in municipal activities as development stakeholders cannot be underestimated.

3.6. CONCLUSION

This chapter aimed to provide a detailed analysis of an essential aspect of local governance: legislation. While emphasising the important role of community participation in local governance, the constitutional and legislative requirements for community participation were referred to. It is, however, evident that despite the regulatory measures many challenges still exist with regards to practically achieving sustainable service delivery and constructive community participation.

The chapter also highlighted the important role of institutional development and transformation in ensuring that local governments accomplish their extended role in society. The discussion indicated that local government needs a distinctive kind of leadership so as to ensure that the objectives of municipalities are achieved and that operationally efficient administrative structures are produced to facilitate the implementation of those objectives.

CHAPTER 4: AN OVERVIEW OF THE MATATIELE LOCAL MUNICIPALITY

4.1. INTRODUCTION

The town of Matatiele became a municipality in 1904 (Municipal Demarcation Board (MDB), 2008). Formerly a municipality under the Sisonke District of the KwaZulu-Natal (KZN) province, the Matatiele Local Municipality (MLM) was, in 2005, re-demarcated to the Eastern Cape province following the Twelfth Amendment of the Constitution (MDB, 2008). However, the move from KZN to EC was considered invalid by the Constitutional Court in 2006, the reason being that there was inadequate consultation (MDB, 2008).

After resolving this matter the municipality was confirmed as falling under the Eastern Cape (EC) province. Incorporating the Matatiele, Cedarville and Maluti towns, MLM is within the jurisdiction of the Alfred Nzo District Municipality (ANDM), one of the six district municipalities in the EC province. Lesotho is to the north of the municipality, KZN to the north east, Elundini Municipality to the south west and Umzimvubu Local Municipality to the south of MLM. Comprising 26 wards, MLM covers 4 352 km² (the largest geographical size in ANDM) and constitutes 58% of the ANDM area size (IDP Review, 2014-2015:24). Established on 1 March 2006, the municipal area underwent several amendments with regards to provincial municipal and ward demarcation, which heavily affected planning issues in the area (ANDM Water Services Development Plan, 2010). MLM is 91% rural and 9% urban (ANDM Water Services Development Plan, 2010:37).

4.2. DEMOGRAPHIC AND SOCIO-ECONOMIC PROFILE

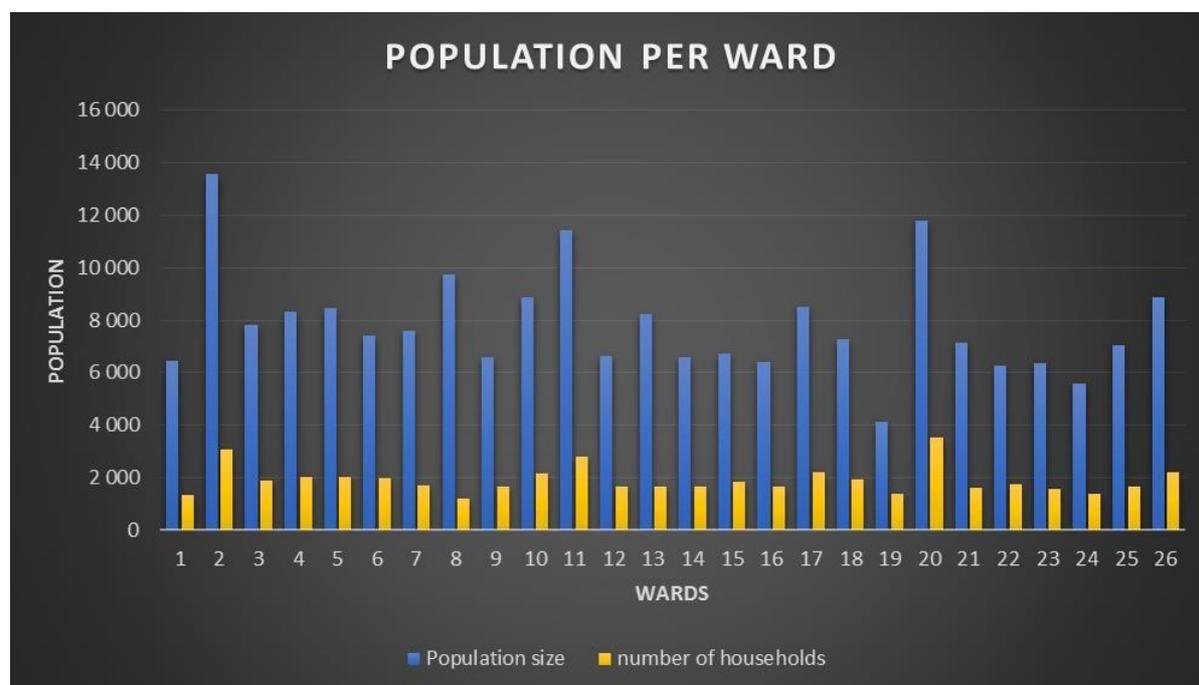
Below is a discussion of the demographic profile of the communities of MLM.

4.2.1. Population

The total population of MLM is estimated to be of 203 843 people, with a household number of 49 527 (Stats SA Census, 2011). It comprises 41% of the district population (Stats SA Census, 2011). Approximately 98% of the population is African, the majority of which resides in rural villages as well as formal townships around the three towns of Maluti, Cedarville and

Matatiele (IDP Review, 2015-2016:24). The population of the municipality has increased slightly over the past ten years. A comparison between the 2001 and 2011 census indicates a 0.43% growth in population size (Stats SA Census, 2011).

The population is unevenly distributed across 26 wards, which vary in geographical size, population size and geographic location. Some areas are remote while others are located in or near the towns. The average household size in MLM is 3.8.



Source: 2015/16 IDP review document. Population size per ward and the number of households per ward in MLM

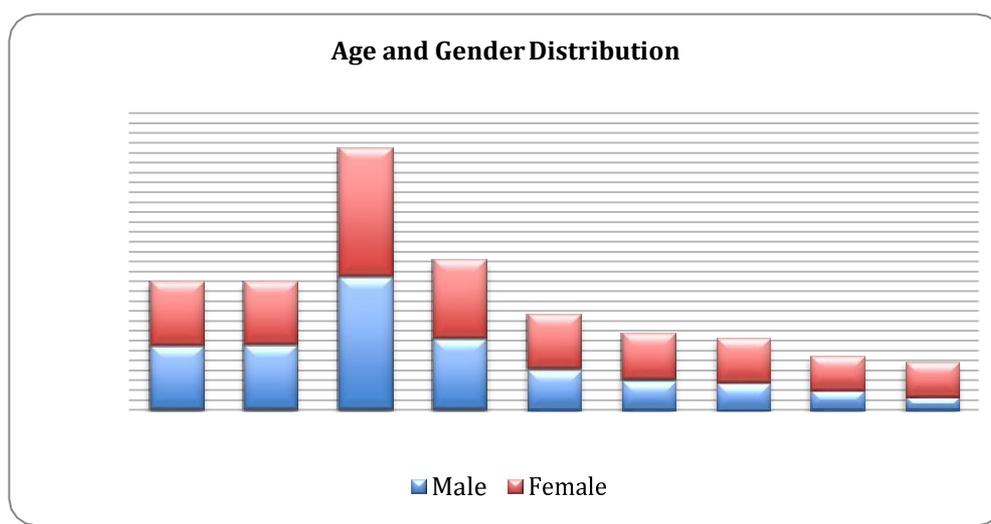
Figure 4.1: The population size per ward

Figure 4.1 shows the population size and households per ward. Ward 2 has the largest population (11 421) within the municipality, while ward 19 has the least (4 124). One interesting factor to observe is the number of households within each ward. For instance, ward 20 has the largest number of households, and ward 8 has the least. This is indicative of the uneven distribution of the population; hence some areas are densely populated while others are not.

4.2.2. Gender Differentiation

MLM demonstrates a similar trend to the rest of the country in terms of gender differentiation, having more females than males. Females constitute 54% of the population, that is 110 167, while their male counterparts amount to 46% (93 675)(IDP Review, 2015-2016:25). This disparity could be attributed to the fact that most males migrate to urban areas in search of employment while the females usually remain in the rural areas to take care of the day-to-day running of households.

In Matatiele Local Municipality, 55.3% of the households in MLM are female-headed (Stats SA Census, 2011). The 2011 census shows that 71% of the population in MLM is 35 years and below, while 7% of the total population is over 65 years of age. The figures above are important to local government for planning and policy purposes. In this case, a larger percentage of the budget can be allocated to socio-economic development initiatives so as to cater for the needs of the youth, such as education, skills development and creation of job opportunities. Figure 4.2 shows the gender and age differentiation for Matatiele Local Municipality.



Source: 2015/16 IDP review document. Age and gender differentiation in Matatiele Local Municipality

Figure 4.2: Age and gender distribution

4.2.3. Employment and Economic Sector Analysis

Unemployment is one of the biggest challenges in the municipality. In the economically active population of 112 338 people; 38.2% of these are unemployed (2014/15 IDP). The unemployment rate in the municipality has continued to increase over the years, along with the growing population. For instance, the number of unemployed increased from 6 642 in 1996 to 11 089 in 2001. In 2008 the number rose to 12 124 (DBSA, 2010) and this presently stands at about 42 913. In 2008, formal sector employment accounted for 81% (6 680) while the informal sector accounted for just 19% (1 569) of total employment in the municipality. Although the informal sector has continued to grow over the years, the formal sector is greater. In 2012, the share of the community services sector of the local municipality's economy was the highest when compared to other economic sectors at that time. The trade sector has consistently become the second largest value contributor to the region's economy, contributing 50 336 (IDP review, 2014-2015:45).

4.2.4. Poverty and Income Distribution

It has been revealed that 60% of the total population of MLM is living in poverty (Stats SA Census, 2011). The community services sector is the main provider of employment in the municipality with 46.7% (IDP Review, 2014-2015:43). Another important socio-economic feature of the MLM population is a comparatively high rate of income inequality. It is estimated that 25 358 households in Matatiele Local Municipality live on an average monthly income on which a family with an average size of 3.8 is supposed to live. This has created a large number of people with a high dependency on social assistance in the form of grants. According to SASSA, approximately 59 000 people in MLM are benefiting from social grants (2015/16 IDP Review, 29). It also indicates the scarcity of well-paying employment opportunities and investment in the region.

Essentially, municipal planning should concentrate on poverty alleviation mechanisms. Low levels of employment, poor income and high poverty levels all negatively affect municipality in terms of revenue collection, as only a small percentage of the population is able to pay for municipal services. There is also a high number of indigent households in the municipality, in the 2014/15 financial year 12 613 households were beneficiaries of indigent support in the form of electricity, water, alternative fuel and waste removal (2015/16 IDP Review, 29).

4.2.5. Education and Literacy Levels

Education and literacy levels are generally low amongst the community but have improved over the last decade, as indicated by the declining percentage of non-scholars from 23.2% in 2001 to 9.4% in 2011. In 2007, about 6.37% of the population that was at least five years old was illiterate¹. Presently, 52.9% of the population has some primary education while 7.6% has completed primary school. Only 0.4% has attained some form of higher education.

The reason for this could be attributed to poor financial backgrounds, in that most students after matric do not have the financial means to further their studies (IDP Review, 2015- 2016:28). This suggests the need for more efforts to educate the residents of the municipality, because the pivotal role of education on community development cannot be underestimated. Moreover, the South African Constitution highlights the right to education for every citizen, hence the need to address the educational concerns of the MLM.

4.2.6. HIV and AIDS

The HIV prevalence in MLM is estimated at 11.5% of the population. With the prevalence rate among those aged 15-19 estimated at 6.5% (IDP Review, 2015-2016:31). The municipality has an HIV/AIDS strategy aligned to the provincial strategy that considers intervention programmes and, together with the stakeholders, focuses on measures to reduce the rate of new infections, and reduce the impact of HIV/AIDS on individuals, families, communities and broader society by ensuring improving access to treatment, care, support and service delivery targeting the infected and affected.

4.3. BASIC SERVICES DELIVERY

Basic service delivery is the main responsibility of the local government. In that view, below is an overview of the state of basic service delivery in MLM. The section also discusses the challenges being faced by the municipality in its efforts towards service delivery.

¹Where fully literate means one has completed primary school.

4.3.1. Housing

The housing backlog in MLM is a big challenge. The backlog is evident in the traditional areas and informal housing settlements surrounding the towns. It is estimated that 21 410 households are living in traditional dwellings made of traditional materials (Stats SA Census, 2011). The high rate of rural-urban migration has also aggravated the situation. The delivery of housing infrastructure is delayed by the “red tape bureaucracy in accessing funds and there is a lack in the variety of alternatives when it comes to housing projects within housing policies” (IDP Review, 2014-2015:40). Moreover, the rate at which houses are being built is comparably slow. Delivering the materials for the housing construction is expensive due to the geographical location of the construction sites. Other issues affecting housing include land invasion as well as non-conformity to approval standards (IDP Review, 2014-2015:41).

The challenge of housing within the municipality is not only limited to rural housing. During the development of the housing needs register for the municipality in 2014, it was revealed that there are people requiring middle-income housing as well. The provision of houses in the municipality is progressing at a slow pace, and this was one of the issues revealed by the customer satisfaction survey conducted by the municipality in 2015. The Housing Sector Plan (2011-2016) for the municipality also points out issues that affect the progress on the provision of housing in the municipality as, amongst others, urbanisation, unresolved land claims and issues of land ownership, missing beneficiaries, limited supply of materials and building supplies in the area, and poor capacity of local contractors and suppliers. The backlog in housing is currently sitting at about 77% (IDP Review, 2015-2016:39).

In Matatiele, development is evident in urban areas, while the rural and communal areas are still lagging behind with regards to housing development. As a result, rural housing delivery has been prioritised. However, in the efforts towards housing delivery, the following challenges are imminent:

- Difficulties in locating missing beneficiaries, delaying the housing projects.
- Delays in the payment of contractors.
- Delays in the finalising of rectification projects.
- Lack of proof of ownership of sites in rural areas.

- Beneficiaries often decide on re-location after being approved for a particular project.

Over the past four years (2012-2014), more than 2 100 low-income houses have been built (IDP Review, 2015-2016:38).

4.3.2. Water

There are many communities without water access at RDP standard in MLM (ANDM Water Services Development Plan, 2007), while only 49% of the population has access to clean water (Stats SA Census, 2011). The backlog of RDP standard water provision in the municipality presently stands at 51%, a slight decrease from 64% in 2007. Most residents are still fetching water from undeveloped water sources. The September 2014 IDP Community Outreach conducted by MLM in all the wards showed that a large number of people do not have access to clean drinking water, as in some villages people still draw water from springs and dams (IDP Review, 2014-2015:63). In other villages, people must walk kilometres to fetch water. According to the ANDM Water Services Development Plan, an estimated budget of R260 814 000 was needed to address the water backlog in 2007. The district municipality has also commissioned an investigation into the implementation of a rural bulk raw water supply scheme for the municipal area.

4.3.3. Sanitation

An approximate figure of 24 387 households do not have access to proper sanitation infrastructure within MLM. The backlog of RDP standard sanitation is 64%, with 6 187 households having no form of toilet facilities. Only 36% of the households in MLM have access to hygienic toilets (IDP Review, 2014-2015:33). Waterborne sanitation is only accessible in urban areas, while in rural areas people use the VIP latrines that have been provided by the district municipality (IDP Review, 2011).

4.3.4. Electricity

Electricity is still one of the challenges in the municipality. Nine out of twenty-six wards in MLM have no electricity at all. This is a cause for concern on the part of the communities as well as the service providers. It is therefore essential to establish the reasons behind the delays in the provision of such a basic service.

The 2013 IDP Community Outreach revealed that electricity is a priority in MLM. Eskom supplies the larger part of the municipal area, while MLM supplies the Matatiele town. About 22 223 households in the municipality have access to electricity for lighting while 20 139 use candles (Stats SA Census, 2011). The provision of electricity is taking place at a slow pace, mainly due to national demand exceeding available supply. The slow rate is aggravated by the financial and power capacity constraints. This has forced the community to adopt alternative energy sources for lighting and heating. The municipality has also resorted to alternative sources of energy for rural dwellers. The temporary solution is the provision of solar energy, stoves and gels to the rural residents.

Over the past four years, 4 143 households have been electrified in the municipality (IDP Review, 2015-2016:41). The municipality has made its own efforts to electrify a number of households; however, the municipality's capacity in this regard is limited since Eskom has the mandate to electrify its rural areas. Over all there remains a huge backlog in electricity, currently sitting at 23 161 households.

4.3.5. Solid Waste

A small percentage (about 10%) of MLM has access to the weekly refuse removal service; these areas are the towns of Matatiele, Maluti and Cedarville. The majority of households dispose their refuse in their own refuse dumps. This suggests high levels of haphazard dumping and little regard for the environment. Waste removal backlog is at 86%. However, a disposal site has been operational since 2008 and is expected to accommodate waste for 15 years (IDP Review, 2014-2015:34).

4.3.6. Public Transport Services

The MLM's road system is well established. The main provincial R56 road links KZN and EC through Matatiele. The district roads link various settlements and provide access to public facilities. The provincial roads department maintains provincial roads, while the district municipality maintains district roads. MLM provides construction and maintenance of access roads linking village to village. In 2013 the estimated access road backlog was 52% (IDP Review, 2013-2014:62).

4.3.7. Health

MLM is serviced by three hospitals, nineteen clinics and two mobile clinics. The planning standards indicate that the area needs to be serviced by five hospitals and forty-three clinics, implying a backlog of two hospitals and seventeen clinics (IDP Review, 2015-2016:32). Access to health services is still a challenge in some of the remote villages. Other areas are inaccessible by vehicle due to poor road conditions. The mobile clinics are not numerous enough to service areas without clinics.

4.3.8. Schools, Sports and Recreational Facilities

Despite the absence of tertiary education facilities in the area, a total of 229 schools (both primary and secondary) are found in the municipal area, including 52 pre-schools (IDP Review, 2015-2016:34). The high percentage of youthful population in the area is an indication of the need for the development of sport and recreation facilities. The area currently boasts three sports stadiums with few facilities. In rural areas, sports fields are still needed. There are limited recreation centres in these areas; hence it is believed that the high level of crime, including theft, robberies and break-ins could be attributed to such conditions, in addition to other social factors such as unemployment.

4.4. CHALLENGES TO INFRASTRUCTURE SERVICE DELIVERY

Similar to most municipalities in the country, MLM has its own challenges concerning infrastructure service delivery. These challenges are reflected in the municipality's IDP

(2014/15) and include the following:

- Limited access to social facilities, such as police stations; health, sports and recreation areas; and banks are inadequate in the area. Educational facilities in the form of public schools and technical skills centres are also limited.
- The backlog in infrastructure maintenance and aging infrastructure hampers service delivery in the area. Investment in providing adequate infrastructure in the form of roads, buildings, electricity, water and sanitation is crucial.
- The high rates of unemployment prevail in the municipality, especially amongst the youth. While the current sectors in the local economy do not provide enough employment opportunities, a focus on skills development and encouraging entrepreneurship may provide opportunities for people to earn an income.
- The poor skills base in the area has resulted in the underutilisation of resources, hence the need to attract private sector investment. The geographical location of MLM offers many opportunities for the area; for instance tourism (heritage), the potential of which is not being fully harnessed. The poor skills base in the area has resulted in underutilisation and poor management of resources.
- Encroachment of settlements onto high potential agricultural land affects the significantly limited land capability of the Matatiele Local Municipality. Only an estimated 30% of the total land area of the municipality features minor limitations to agricultural production. The remaining 70% is either not arable or has severe limitations to agriculture (IDP Review, 2015-2016:9).

4.5. PROGRESS ON SERVICE DELIVERY: CONSTRUCTION OF ACCESS

ROADS: 2012 TO 2017

With regards to service delivery, MLM has been trying to meet targets. However, various challenges have seen the municipality struggling to achieve its objectives of improving services for the communities. Below is an illustration of what has been achieved so far, and an analysis follows.

Table 4.1: Progress on the construction of access roads

IDP PRIORITIES: 2012-2017	PLANNED KMs	PROGRESS 2011/12		PROGRESS 2012/13		PROGRESS 2013/14		PROGRESS 2014/15	
		Actual km done	Status	Actual km done	Status	Actual km done	Status	Actual km done	Status
2011/2012 PRIORITIES									
Thabaneng Access Road	3.0 km	3.0 km	Complete						
Felleng Access Road	3.0 km	3.0 km	Complete						
Moliko Access Road	3.0 km	3.0 km	Complete						
Sehlabeng Access Road	5.0 km	5.0 km	Complete						
Berdivalle to Mahlehleng	6.5 km	6.5 km	Complete						
Ngcwengane-Esifolweni Access Road	8.5 km	8.5 km	Complete						
Moqhobi Access Road	4.5 km	4.5 km	Complete						
Rantsiki Access Road	6 km	6 km	Complete						
Moiketsi Access Road	3.8 km	3.8 km	Complete						
Tsita-Mabua Access Road	5 km	5 km	Complete						
T69- Khoapha Access Road	5 km	5 km	Complete						
2012/2013 PRIORITIES									

Zingeka Madlangeni Access Road	6.6 km	1.6 km	Under construction	5 km	Complete			
Fiva Access Road	8.5 km			8.5 km	Complete			
Nyanzela Access Road	5.6 km				2.9 km	Under construction	2.7 km	Complete
Kuyasa Poultry Project Access Road	3 km			3 km	Complete			
Ntlola Access Road	4 km				4 km	Complete		
Lukholweni Access Road	10 km			10 km	Complete			
Cross to St John Access road	7.4 km				2.4 km	Under construction	5.4 km	Complete
Maluti Internal Streets -Phase 2	4.5 km					4.5 km	Complete	
Mnqayi Access Road	4.5 km				4.5 km	Complete		
2013/2014 PRIORITIES								
Paballong Access Road	6 km					2 km	Complete	4 km Under construction
Mzongwana to Vimba Access Road	5.1 km						5.1 km	Retention
Nkululekweni Access Road	4 km					4 km	Complete	
Lunda Access Road	5.8 km			5.8 km	Complete			

Manzi Access Road	5.2 km			5.2 km	Complete
Mzongwana–Vimba Access Road	5 km			5.1	Retention
Zingcuka–Madlangeni Access Road	5 km	5.4 km	Complete		
Ntlola Access Road	4 km	4.0 km	Complete		
Sekutlong Access Road	6.5 km			6.5 km	Retention
Thotaneng Access Road	4 km			5.0 km	Complete
Masopha Access Road	3.7 km			3.7 km	Construction stage
Cedarville Internal Streets – Phase 2	3.0 km			3.0 km	Construction stage
Matatiele Internal Streets – Phase 1 – Harry Gwala	4.5 km			4.5 km	Construction stage
Matatiele Internal Streets – Phase 1 (CBD)	3 km			3 km	Construction stage
Maluti Internal Streets –Phase 2	4 km		4 km	Retention	

Summary of progress

Access roads are one of the major concerns regarding infrastructure service delivery backlogs in Matatiele Local Municipality. Within the 26 wards in the municipality, there are more than 240 villages. Access roads link such villages and in some areas link one ward to another. The table above indicates the progress that has been made in the provision of access roads within the municipality:

- During the second review in the 2012-2017 IDP, which was for the 2013/2014 financial year, additional roads were prioritised through consultative processes. In total, seventy-eight (78) access roads were prioritised for the period. The table above indicates the progress on thirty-five (35) access roads, which have thus far been constructed from the total amount that were prioritised.
- Matatiele Local Municipality is a rural municipality and as such almost all the wards are rural. The types of access roads constructed are gravel; however, in certain areas of wards 1 (Maluti), 19 (Matatiele), 20 (Harry Gwala) and 26 (Cedarville), tarred roads (in the form of internal streets) are constructed.
- 131.2 km of access roads have been completed thus far, 20.2 km of access roads are on retention and 18.2 km are under construction.
- The need for the construction of these roads differs per financial year, and the construction of certain roads spans two financial years. The reasons for delays and other limitations can be attributed to factors such as weather patterns and access to materials, amongst other factors.

Challenges affecting the progress

- There have been unprecedented changes in weather patterns in the municipality. In the past few years, natural disasters, such as floods, heavy snow falls and heavy rains have hindered the progress of construction. In some cases, roads are washed away or damaged and serious intervention is needed. This affects not only the timeframe (delays) of completing the projects, but also has financial implications and affects the allocation of resources (re-prioritisation).

- Limitations on the supply of materials. In other wards materials needed in the construction of roads, such as gravel and water, are not available within the area in the quantities required. Hence, there is a need to acquire such materials in other wards and even outside the municipal area.
- Limitations on financial viability of local contractors. There is usually a challenge with a trade-off between awarding contracts to emerging local contractors and contracting well-established contractors who may not necessarily be local. It has been observed that emerging local contractors tend not to have stable financials to ensure the suitability of the business in completing the projects awarded to them. When contractors run out of funds during the implementation of the project, it affects the schedule of the project, thus resulting in delays.
- Another challenge is associated with environmental assessments. In Matatiele there are sensitive areas, such as vast wetlands, as well as protected areas. Therefore, when embarking on projects to construct roads, thorough environmental assessments are a necessity and these usually take a long period to complete, often affecting the schedule of the projects, especially their starting time.



Figure 4.3:The number of access roads prioritised for 2012-2017 and the progress thus far

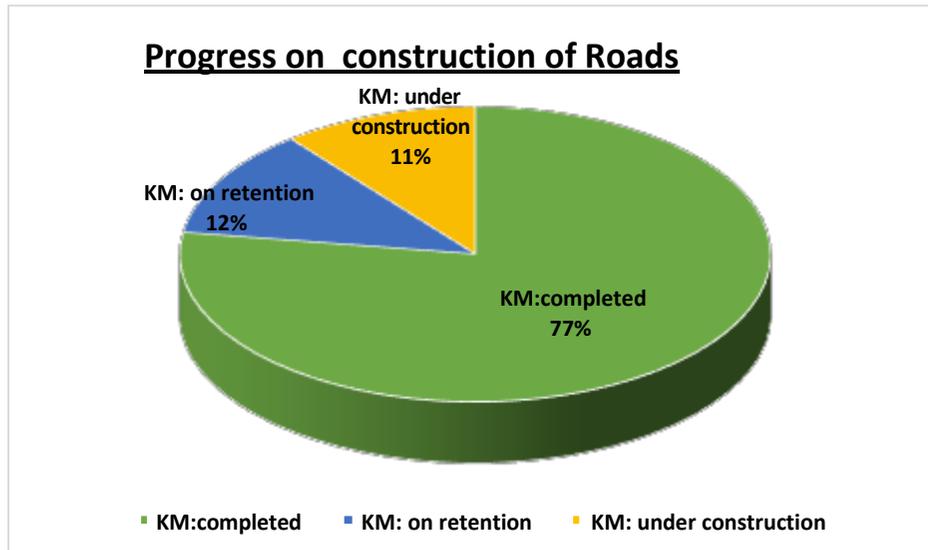


Figure 4.4: The progress on the 35 access roads constructed within the municipality since 2011/2012

4.6. CONCLUSION

The overview of the MLM indicates that the municipality is making efforts to improve the lives of ordinary people. It is evident that local government is prioritising the provision of basic services, even though there are some challenges impeding the progress. As a result, progress is visible in terms of development but is taking place at a slow rate. The municipality thus endeavours to improve on the current challenges, which include the service delivery backlog, high levels of unemployment and local economic development.

CHAPTER 5: METHODOLOGY

5.1. INTRODUCTION

The preceding chapters discussed the theoretical and conceptual framework in which service delivery is located. This chapter contains a discussion of the methodology that was applied in the study. It therefore describes aspects of the research design and why these particular methods were chosen. With the objective of this research in mind, the results of the study will aim to help municipalities in decision making with regards to service delivery. Before detailing the method applied in this study, it is first important to discuss the concept of methodology.

5.2. RESEARCH METHODOLOGY

Methodology refers to the operational framework within which facts are given meaning. There are two main types of research paradigms: quantitative and qualitative methods. The former is also referred to as the positivist, traditional and experimental way of doing research, while the latter is the naturalistic, interpretive and constructivist way (Leedy, 1993:91). Quantitative methods produce findings through statistical processes while qualitative methods seek to qualify human behaviour through words, pictures and/or observations (Neuman, 2007:7). Grounded in the positivist social sciences paradigm, quantitative methods are concerned with testing assumptions while qualitative methods are exploratory in nature, as they aim to discover, understand and describe phenomena that have been identified but are not fully interpreted (Neuman, 2007:7). For the purpose of this study, the qualitative approach was identified as the most appropriate to extract data from the research participants. Therefore, the next section will briefly discuss the subjects.

5.2.1. Qualitative Research

Qualitative research entails sampling extensive information from research participants for the purpose of gaining a deeper meaning, as well as to identify relevant information that will be analysed during the data analysis phase of the research (Creswell, 1998:16). The purpose of qualitative research is to discover depth and not breadth of information. Qualitative methodology thus focuses on subjective data created by research participants and recorded by the principal investigator in the form of themes and patterns. In the same manner,

q u a l i t a t i v e methods were used to collect data for this particular research, with the purpose of a greater understanding of the compliance and service delivery issues in the MLM. In order to achieve the objectives of the study, open-ended and semi-structured questionnaires were used to solicit data from the participants. This was in order to reveal their feelings, attitudes and opinions with regard to service delivery in MLM. The description above indicates that qualitative methodology illustrates a kind of conversation during which the researcher determines the direction of the conversation by the questions that he or she asks the interviewees (Babbie & Mouton, 2001:289). Qualitative research relies on four main types of data sources, namely participant observation, interviews, audio-visual material and documents (Creswell, 1998:16). In an effort to obtain as much data as possible on the subject matter, the researcher employed three of the above methods, excluding audio-visual material.

5.3. RESEARCH DESIGN

In line with Bogdanand Biklen's (1998:35) account, the study embodied an observational case study; that is, participant observation complemented by qualitative interviews in the form of a questionnaire, as well as documents focusing on legislative compliance in the local municipality. The study was conducted in a local municipality located in South Africa's Eastern Cape Province. The local municipality was established in terms of Section 12 of the Municipal Structures Act by Notice 141, which was published in *Provincial Gazette Extraordinary*, dated 1 October 2000 (as amended).

Research participants were carefully considered. As such, it was envisioned that, by interviewing the chosen individuals who have substantive experience in one way or the other in this area, rich content would be produced to discover how to ensure the best possible service delivery by local municipalities. The municipal manager and other relevant stakeholders were approached and permission to carry out research was granted by the municipal manager (permission letter appended). A copy of the questionnaire was given to the manager to enable him to understand what the research was about.

5.3.1. Population Sample

In research, population entails the specific aggregation of study elements (Babbie, 1989:169). A sample is an element of the statistical population whose properties are analysed to obtain information about the whole (Babbie, 1989:169). It is also defined as a chosen set of elements drawn from the broader elements, which in this case is the population (Baker, 1988:144). Cooper and Schindler (2001:163) note that the unit of analysis is a population component, from which it is drawn. In that view, the units of study for this particular study include several officials and selected community members of the MLM, as depicted in the table below:

Table 5.1: Respondent group and sample size

DESIGNATION	No. of people	Received/not received
Mayor	1	
Municipal Public Accounts Chairperson	1	-
Infrastructure Standing Committee Chair	1	-
Audit Committee Chair	1	-
Community Members	3	
Accountant: Cash and Investments	1	
Accountant: Budget and Reporting	1	
Ward Councillors	3	(2/3)
Manager Supply Chain Management	1	
Supply Chain Management Practitioner	1	
Bid Evaluation Committee Members	2	(1/2)
Construction Contractors	2	
Civil Engineers	2	(1/2)
Electrical Engineers	2	(1/2)
Municipal Manager	1	
IDP Official	1	
Internal Audit Manager	1	

Infrastructure General Manager	1	
Project Management Unit Manager	1	
Manager Human Settlement and Building Control	1	
Senior Manager Provincial Treasury Eastern Cape	1	
Operations and Maintenance Manager	1	
Bid Adjudication Committee Member	1	-
Manager Community Services and Environmental Management	1	
Customer Liaison Officer	1	
Local Media	1	
Internal Audit Expert	1	

5.3.2. Rationale for Choosing the Above Respondents

The reason why the above-mentioned personnel were chosen for the survey is because they are the appointed officials who are either directly or indirectly responsible for the administrative functions regarding service delivery. As evident in the table above, the chosen officials are political office bearers who are highly knowledgeable about the service delivery concerns in the chosen area, from the budget to the legislations governing service delivery. Therefore, these officials were deemed as the respondents for the survey. Their experience with the real issues on the ground regarding service delivery made them the best people to provide the required information for the study. Community members and ward councillors were randomly selected from their respective groups, with the full knowledge that they can represent their counterparts. The reason for including ward councillors as respondents was very simple: these are the first point of contact between local government and community. Ward councillors present the community's concerns to the municipal structures and systems. In other words, they are the frontline people tasked to deal with service delivery issues between the local community and the officials. Thus, their understanding of service delivery issues within the municipality was considered essential. For that reason, questionnaires were distributed to each and every one of the above-mentioned office bearers.

5.4. RESEARCH INSTRUMENTS

Research instruments are the tools used to gather data for the study. To achieve the objectives of this study, the qualitative questionnaire was the main tool used. In addition, participant observation as well as document analysis was employed as the researcher deemed necessary. These are explained below.

5.4.1. The Qualitative Questionnaire

The questionnaire involves a set of questions focusing on a related group of topics, distributed to a given number of individuals for the purpose of gathering information on the problem at hand (Van Rensburg, 1994:504). Prior to distributing the fully-fledged questionnaire, a pilot study was done so as to determine any ambiguous questions. The questionnaire was then refined based on this feedback. Following Salkind (2001:138), the questionnaire was structured in the simplest format so as to ensure that each question referred to one issue and the required answer. The questionnaire was also designed in a ‘funnel’ structure, which means it began with general questions that eventually led to the main ones intended to answer the greater research questions.

When properly administered, a questionnaire has the capacity to obtain a broader spectrum of information (Cooper, 1989:39). For that reason, the questionnaire was distributed leaving ample time for the respondents to answer at their own convenience. A total of 35 questionnaires were emailed to the participants who comprised 25 males and 10 females. No time limit was set as to when the questionnaire should be returned but whoever felt they were ‘done’ with it was free to return it. This was done to increase the response rate. A total of 27 responses were received, while eight participants did not return the questionnaires. Of the responses, eight were from females, while 19 were from males, giving the percentage of 30 and 70 respectively. The response rate was approximately 77%.

5.4.2. Participant Observation

It has been argued that, “Qualitative researchers try to interact with their subjects in a natural, unobtrusive, and non-threatening manner” (Bogdan & Biklen, 1998:35). As indicated earlier in this chapter, the researcher, as the Chief Financial Officer of the institution, had opportunities

to interact with most of the research participants in their habitat or natural settings on a frequent basis. Moreover, the researcher's knowledge of the organisation's culture was an added advantage. Being part of the management team allowed the researcher to evaluate research discoveries within their own personal day-to-day activities in the local municipality. This twofold role had the additional benefit that the research participants could honestly and openly share their opinions, given the researcher's prior knowledge and existing rapport, which increased trust. Therefore, the tough role of participant observer was adopted, whereby the person observing is also a member of the group but is observing all other members from a researcher's perspective (Babbie & Mouton, 1999:293).

In this regard, there were long periods of social interaction with the subjects and, after every important interaction with any one of the participants regarding service delivery, notes were recorded in a diary. Being part of the organisation gave the advantage of an insider understanding of the dynamics of the institution. Having inside information and knowing the internal processes of the municipality meant that the researcher knew where to get relevant information for the study. At the same time, Burden's (2005:91) realisation, that participants might change their behaviour when they know that they are being studied, was considered. This was, however, not a problem in this study because 'behaviour' as such was not observed, rather how they dealt with the issue of compliance and service delivery. Therefore, most of the relevant information was obtained when, for example, decisions were made concerning the budget or any other discussions to do with service delivery.

5.4.3. Document Analysis

The study frequently made use of unsolicited documents, which includes media reports, press statements, official files and reports. These sources of information were used to explore the role of compliance in service delivery, the effects of compliance, as well as to understand the concept of infrastructure service delivery in local government. The documents included, but were not limited to, the Constitution of the Republic of South Africa, White Paper on Local Government, Municipal Systems Act, Municipal Structures Act, Municipal Finance Management Act, other legislations covering public administration (like the environmental management legislations that deal with environmental impact assessments), the Construction Industry Development Board legislation and its regulations that deal with infrastructure construction requirements, academic books, conference papers and official municipal

books/annual reports as well as some relevant websites. A literature review of relevant material, including municipal and government documents, was essential to give insights when analysing the status quo of the MLM. There were prolonged periods of analysis of the financial statements, budget documents, minutes of the MLM, as well as assessment of the credibility of the IDP as a service delivery instrument and as the main strategic document of the municipality.

5.5. DATA ANALYSIS AND INTERPRETATION

The large amounts of gathered data were carefully stored for ease of access. All the notes were typed after observations or conversations. Qualitative data analysis entails the inductive process of placing data into categories so as to be able to identify themes, patterns and relationships between categories (Lindlof & Taylor, 2002:195). In the same way, data in this study was categorised in order to identify emerging themes and patterns from the participants' responses.

Having collected the data, the next step was to code it, the process of which was done using ATLAS.ti, a software used to qualitatively analyse large amounts of textual, video, audio and graphical data. The software does not, however, do the actual analysis of data – it only helps in systemising this data. The open coding, which is the act of breaking down and conceptualising data, brought themes to the surface (Strauss & Corbin, 1990:96; Holloway & Wheeler, 2002:75; Neuman, 2003:443). Using ATLAS.ti made it easier to retrieve the coded interviews and the codes were appended to each and every different topic. This omitted the need for tedious manual coding. However, the codes attached to the topics still required manual verification, as Schwandt (2007:95) notes that using a computer-generated data analysis system can sometimes detach the researcher from his or her data. The coding by ATLAS.ti enabled the researcher to arrange the data into distinctive units of meaning. All the questionnaires were analysed in this way until recurring patterns were detected. The codes with similar meaning were then grouped together. Nell (2005:68) suggests that, when this starts to happen, it shows how the process of abstraction moves the interpretation from just describing what was happening to linking related concepts. After analysing the views of the participants, the analysis was double-checked. The participants' excerpts were then used to validate the identified trends and to describe the analysis patterns in the study.

5.6. LIMITATIONS OF THE STUDY

Despite the investigation looking at the 283 South African municipalities and beyond, this study was limited to examining the effect of compliance with infrastructure service delivery in MLM. In other words, the results of this study should not be used to evaluate the functions of public administration per se, but rather to realise how to deal with the effects of compliance on service provision within a local government setup. Therefore, the results of the study cannot be generalised to a larger population (Cooper & Schindler, 2011:78). This is because qualitative data is subjective and is also subject to human error, in as much as it may be biased during data collection and interpretation.

5.7. RELIABILITY AND VALIDITY

Issues of reliability and validity are associated with ‘trustworthiness’, together with the related aspects of credibility and dependability (Guba & Lincoln, 1994:243). More specifically, reliability entails the extent to which different researchers would yield the same results (Meriam, 1998:206). In other words, reliability concerns the evenness with which a measuring tool performs. It has to do with the consistency of the investigator’s style of data capturing, analysis and interpretation. In order to preserve reliability in this study, participants were only asked for relevant information to which they (the participants) were likely to have access.

Validity entails the extent to which an empirical measure sufficiently mirrors the actual meaning of a concept in question (Babbie & Mouton, 2001:122). It refers to the quality of the measuring tool in doing what it is meant to do (Salkind, 2001:113). In other words, validity is the product of a test. There are various forms of validity, including content validity, criterion validity, construct, and internal and external validity, to mention but a few (Parasuraman, Grewal & Krishnan, 2004:294). For the purpose of this research, construct validity was considered, which refers to how well the results of the study complement the theories on which it was built (Green, Tull & Albaum, 1993:253).

5.8. ETHICAL CONSIDERATIONS

Ethical issues cannot be ignored in every research. The reason is that ethicality is directly linked to the integrity of research (Blumberg, Cooper & Schindler, 2008:92). In studies involving human beings, their dignity must be respected and maintained despite the research outcomes (Salkind, 2001:113). Ethical considerations involve conforming to acceptable professional standards (Bailey, 1994:4) and entail a lot of things, including getting informed consent from the participants, not causing harm to them and explaining the purpose of the research to them. Thus, in research, caution must be taken to protect participants from any kind of unethical action (Bless & Higson-Smith, 1997:67). The researcher had these ethical concerns in mind during the course of the study.

Participants were guaranteed of confidentiality and anonymity. They were also informed of their rights and asked to sign consent forms as a sign of their willingness to voluntarily participate in the study. It was clearly explained to them that they were free to withdraw from the research at any given point without adverse consequences. Importantly, it was ensured that the researcher's personal feelings and beliefs did not influence the results of the research as this implies bias. This aspect of ethical agreement was ensured in the construction of the questionnaire, which did not include questions that might have intentionally led to bias.

5.9. CONCLUSION

This chapter discussed how the research methods were carried out in order to answer the research objectives. The underlying methodology was discussed so as to justify the procedures. The sampling method was described, together with the rationale for the chosen participants. Issues of reliability and validity, together with ethical considerations were also discussed. The next chapter focuses on data presentation and analysis.

CHAPTER 6: PRESENTATION AND ANALYSIS OF RESEARCH FINDINGS

6.1. INTRODUCTION

The purpose of the previous chapters was to lay the foundation of the study. This was achieved by giving background information to the study and why it was necessary. The next phase entailed the literature review of the study area, followed by the methodology. In all these stages, the objectives of the study took centre stage. This chapter aims to discuss the findings of the study, based on the methodology that was applied. The data analysis stage entails providing order, meaning and structure to the collected information. The reasoning behind doing so is to break the complex whole of information into comprehensible sections by classifying and interpreting the data. In other words, data analysis is about making sense of the collected information.

It is important to reiterate that the study sought to establish the effect of compliance on infrastructure service delivery. Thus, the distributed questionnaire aimed to collect data on infrastructure service development, the financial viability and institutional capacity of the municipality, as well as the challenges inhibiting infrastructure development in the Matatiele Local Municipality (MLM). The following is a detailed analysis of the data collected, starting with an overview of the respondent profile. Before this, it is important to mention that some of the themes noted in the data tend to overlap and are therefore discussed concurrently and might be repeated in some instances.

6.2. THE PARTICIPANTS

Data for the study was collected from relevant people who were knowledgeable about the subject matter. The participants included the executive mayor, the municipal manager and other managers from different departments. Other people who formed part of the participants included representatives from the Audit Committee, Performance Management Committee, the supply chain manager and Oversight Committee. Detailed information on the participants has been provided in the methodology chapter. The reason for choosing these participants was informed by the fact that these people are involved, in one way or another, in the day-to-day

running of the municipality, and more especially in the rendering of infrastructural services to the communities. These are the people who have been entrusted with decision-making powers regarding infrastructure service development and, hence, are knowledgeable about the municipal functions. They are the people who make up the highest decision-making committee in the administrative element.

For example, the Audit Committee and the Performance Audit Committee have the important role of advising the municipal council regarding the financial information, performance management and evaluation (Sections 165(1) and 166 of the MFMA, 2003). Looking at the composition of the participants, it is clear that the focus of this study was the administrative and political leadership of the municipality. The South African legislation highlights that a municipality consists of the council, administration, as well as community, which is represented by delegates like ward committees in some instances where the community cannot represent itself.

Therefore, getting information from these relevant people was informed by the fact that they are those mandated to execute policies and strategies, in addition to giving technical advice to the council that holds the political oversight. Below are some of the main themes that emerged from the collected data. However, before discussing these themes it is important to reiterate the service delivery mandate of the MLM. This is important as it gives a picture of the extent to which infrastructural service objectives have been met through various municipal strategies.

6.3. THE INFRASTRUCTURE SERVICE DELIVERY MANDATE OF MLM

The 2014-2015 IDP Review of the MLM clearly states in its development strategy that it seeks to respond to the development needs of the municipal area (IDP Review, 2014-2015:11). In that view, the development goals of MLM are as follows:

- Social development, which includes promoting access to social services, addressing vulnerability, discrimination and poverty, and broadening access to the assets base for the poor.
- Economic development geared towards creating opportunities for employment and sustainable livelihoods.

- Infrastructure development as a means to address service backlogs and create opportunities for economic development.
- Institutional transformation focusing mainly on democratisation, and a shift from control to governance.
- Establishment of legal and financial management systems as a means to enable efficient allocation of scarce resources.
- Integrated development and concern with sustainability issues serves as supporting and guiding principles for the implementation of the development strategy and the IDP in general.

(IDP Review, 2014-2015:11)

Taking the above objectives as the starting point, and based on the responses from the participants, this chapter aims to assess the extent to which these objectives have been met or are being met, considering how legislative compliance is impacting on the attainment of the above-mentioned objectives. It is important to mention that the MLM IDP is legislative compliant. However, even if the IDP complies with the legislation, some participants have highlighted a “lack of capacity to plan for the long term and efficient project implementation” as a major challenge. It has been indicated by some respondents that the municipality “often employs external consultants for the tasks of project planning and management, in a way demoting the responsible managers to coordinate and monitor the projects”. The approach has been criticised by officials, who feel like the external service providers are trusted more than the officials themselves, who are supposed to be doing the planning and management of the projects.

6.4. LOCAL GOVERNMENT CRISIS

As far as infrastructure service delivery is concerned, the general consensus amongst the respondents was that the process is taking place, though at a slow pace. This view is indicated in the discussions that follow. Almost all of the responses alluded to the fact that there is a huge backlog in service delivery in the municipal area. One of the respondents put it this way:

It is difficult to keep pace with the service delivery mandate because, already, the backlog has been carried over since 1994. A lot of people have been promised RDP houses but up to now the list is just growing and yet little is being done to ensure proper housing for everyone.

Amongst other things, the backlog has had several effects on the development agenda of the municipality. One of the participants indicated that:

Poor infrastructure inhibits LED in the sense that potential investors are most likely disregarding the municipal area due to poor roads and lack of access to electricity. If the place does not attract investors, which means development goals also become difficult to achieve.

Participants also highlighted that the existing infrastructure is in a bad state and needs upgrading but, due to financial and other factors, the infrastructure deteriorates beyond repair. One participant pointed to the fact that “some of the infrastructure services were installed many years ago when the municipal area was still small, but due to growth and expansion of the area, the services can no longer cater for the current population”, meaning that they need to be renovated. Again, another participant blamed the backlog problem on allocation of funds, which he said is done “on the basis of the population size of the area and not on the basis of the extent of the backlog”.

On the topic of ‘backlogs’, respondents pointed to the following:

The infrastructure of electricity and water and sewerage services are old and not maintained on a regular basis. We do not have the necessary qualified people to provide the services and we lack the resources as well (Respondent 1).

Service delivery in the municipality is moving at a slow pace. There are huge backlogs on infrastructure especially roads, electricity, water and sanitation. There are areas that are not easily accessible because of poor roads. Nine out of twenty-six wards are completely not electrified. Many households still do not have access to portable water (Respondent 2).

There is a huge backlog in the municipality. This is due to the fact that the municipality has a limited budget. Government grants like the Municipal Infrastructure Grant are allocated based on population not on backlog (Respondent 3).

Overall, participants in this study indicated that one major cause of poor service delivery is the crisis inherent in local government. The challenges range from personnel problems, whereby most significant posts remain vacant for longer periods of time resulting in the appointment of ‘acting’ personnel. One respondent pointed out that the municipality struggles to recruit qualified and experienced personnel, which “sometimes causes many instances of nepotism” in local government. Most of the respondents argued that service delivery in the municipal area is completely ineffective and in some areas it is non-existent. Reasons for this status quo include poor maintenance of infrastructure, also a result of inadequate maintenance budget probably caused by the limited tax base. It has been noted that, in most cases, infrastructure becomes dysfunctional due to lack of basic and preventative maintenance. One respondent said that the result is “premature asset failure”. On this topic, another respondent had the following to say:

Too little monies are spent on maintaining old infrastructure and assets. Storm water is collapsing. Our main sewage lines, especially at our hospital, are constantly blocking. Matatiele town is regularly without water, [the] water plant is not big enough.

With regards to infrastructure and service delivery problems, below are some of the responses from the participants that cannot be ignored:

i. Duplication of services

Where both provincial and local governments are responsible for a functional area, both governments may provide the same service. While there is not yet evidence of such duplication occurring in practice, it may occur as a result of competition for resources or political advantage. Duplication would then, of course, be a waste of scarce resources. The converse side of duplication of services is that service delivery follows a value chain in which each organ of state being party to the delivery of services adds value to it and therefore enhances and optimises service delivery.

ii. Ineffective services

Where both the provincial and local government must render services in a participatory manner, confusion with regards to the respective mandates and responsibilities, poor coordination and ineffective communication may result in a poor service being rendered to the end user.

iii. No service delivery

The worst scenario is where the lack of clarity on roles and responsibilities results in no service being delivered. Where consumers complain about the lack of services, one government may blame the other for the service failure. This is not an unlikely scenario in the area of road maintenance. It is reported that where there is no certainty about which sphere of government is responsible for a particular road, the inevitable result is that both the provincial and local government hold back on maintaining that road.

iv. Unfunded services

A lack of certainty with regards to responsibilities over functional areas may lead to the so-called unfunded mandates. In Matatiele, the local municipality complained that they performed functions on behalf of the district municipality, i.e. water and sewers. While the extent of the 'unfunded mandates' is contested, it nevertheless indicates that where uncertainty prevails, a municipality may easily find itself in a situation where it provides a much-needed service that, legally speaking, does not fall in its domain. Without sufficient funds, an inadequate service may be the result. Municipalities have, of course, attempted to resist unfunded mandates.

v. Lack of accountability

Where there is no certainty which sphere of government is responsible for what service, it stands to reason that the consumers of services, the citizens, do not know who to hold accountable for a service failure. As noted above, blame can easily be shifted from one government to the other. The municipal manager gave the following examples:

While the national Department of Housing remains responsible for the provision of houses through their provincial departments, the local municipalities remain

responsible for providing reasons for the lack of delivery of houses. The responsibility for the provision of basic health services belongs to the province while the municipality has the responsibility of explaining why there are no local doctors and why there are no medicines in the clinic.

If there is no certainty of responsibility, the legislative and municipal oversight structures are compromised. Elected representatives might find the integrity of their oversight questioned if they do not know which party to hold accountable. A duly charged elected representative cannot exercise effective oversight if the mandate for delivery is not clear from the start. This, then, has an impact on democracy and good governance.

There are three main issues emanating from the above responses from different participants. The first one is the issue of municipal demarcation, which saw the expansion of Category B municipalities into some undeveloped and highly populated areas. Even though the municipal boundaries of Category A municipalities increased, the land was more developed in terms of infrastructure (SACities Network, 2007:12). Number two is the issue of the two-tiered configuration, which put local municipalities (Category B) in a hierarchically submissive relationship with Category C municipalities. Finally, the most difficult and challenging aspect for local government has been the ever-increasing assignment and reassignment of service delivery functions between the two categories. These will be discussed later in this chapter.

6.5. LEGISLATIVE COMPLIANCE

This has been noted as a challenge affecting service delivery. When probed as to whether they think legislation improves service delivery, participants expressed mixed reactions, with some saying it does improve service delivery while others arguing that it delays the process:

The Constitution is clear that we must take service delivery to the people but during the process of assessment on municipal performance, more focus is put on how they complied than what they delivered. Separation of powers and functions does not assist because the sphere closest to the people is the municipality and this is where there should be more powers and more funds (Respondent 1).

They have both a negative and positive impact, to deliver infrastructure services is a

constitutional requirement that legislation and acts enforce positively. Then comes, there are legislation of funds allocation, DORA, MIG which makes the municipality better in terms of financial viability and those who are previously disadvantaged to be more disadvantaged. Yes, an environmental act can have positive and negative impact, I think the problem is prolonging (long process and delays service delivery), but again it is important that we don't build our infrastructure maybe on wetland then after some while it collapses and causes disaster (Respondent 2).

... The legislations are put in place in order for the services to be rendered effectively and efficiently. These policies and legislations ensure that the recipients (communities) get quality services and the money is spent where it was supposed to be spent. They have a positive effect. As stated above, these will create a viable environment for investors to plough their money. In Matatiele all areas will be accessible freely, making it easy for projects like Thusong Service Centres to be constructed in rural areas and this will minimise the influx of people to Matatiele town (Respondent 3).

From the above responses, it is clear that legislation is a complicated aspect of governance, which has its own upsides and downsides. The discussion below will highlight some of the challenges that come with legislation and how it affects the delivery of infrastructure and services to the communities.

6.6. THE LOCAL, PROVINCIAL AND NATIONAL GOVERNMENT CONFLICT

An important aspect raised by participants was that service delivery is highly affected by the conflict inherent in the local, provincial and national government. Some participants pointed to the unclear legislation regarding who is responsible for what. One participant had this to say:

Yes, I think that there is conflict between local, provincial and national governments on infrastructure service delivery. The functional areas of the powers and functions of provincial, national and local government are different. There is a considerable overlap between provincial and local government functional areas. This leads, in practice, to concurrency of powers and functions. Due to this overlap or concurrency, there is a degree of confusion about who does what. A lack of clarity about role definition may prejudice service delivery and cause conflict over resources and

authority. With regard to municipal by-laws, the basic rule is that a by-law in conflict with valid national or provincial legislation is invalid. However, in some instances, a by-law may trump a provincial or national law. A national or provincial law will not prevail over a by-law if it “compromises or impedes a municipality’s ability or right to exercise its powers or perform its functions”. This may be interpreted to mean that the national and provincial governments may not use their legislative powers in an unduly intrusive or too prescriptive manner. The lack of clarity on definitions of powers and functions may be an irritant for government, but the issue becomes critical when definitional problems hamper service delivery. This may occur in a number of areas (Respondent 1).

Yes there is conflict, as much as there is clear separation of powers and functions from local, provincial and national sphere. The planning in terms of the IDP remains the power and custody of the municipality as the sphere closest to the people, but at some stage province or national is able to impose a project which does not form part of the IDP, or change the plan, which may cause people to fight against the municipality (Respondent 2).

The above sentiments are very important as they point to an important aspect of the distribution of functions and powers within the local, provincial and national government. This is an issue of administrative decentralisation, an aspect that is evident in the South African legislative framework. The Constitution and the ensuing local government policies like the White Paper on Local Government (1998), the Municipal Structures Act (1998) and the Municipal Systems Act (2000), all present the basis for the decentralisation of powers and functions of local government.

Detailed in the previous chapters, this regulatory framework highlights the constitutional responsibilities of the local government. The previous chapters have indicated that the service delivery mandate of the local government is broad and extensive but also not clearly defined, as argued by the participant quoted above. Broad and extensive in the sense that the local government is supposed to ensure basic service provision, while at the same time deal with the existing backlogs in the service delivery.

Despite all South African municipalities facing the same challenges with regards to service delivery, the focus of this discussion is an analysis of the problems associated with service

delivery in Category B municipalities. As shown from the onset, the focus of this study is an administrative issue, and it is thus important to explore the administrative effect of the two-tiered local government system, the demarcation issue, as well as the progressive ambiguity with regards to service delivery functions between Category B and C municipalities, considering the long-term unclear relationship between these two categories.

The problems between the two categories are attributed to the unclear legislation regarding the specific functions and powers mandated to each tier. The major argument has been that the other spheres of government often hamper the responsibility of the local government to deliver services. For instance, even though it is the responsibility of local government to plan, execute and manage their development programmes and administration (Section 152 and 153 of the Constitution of South Africa, Act 108 of 1996), the invisible hand of the national government in this regard is evident. This confirms what one participant noted about municipal projects being ‘hijacked’ or changed by provincial or national government.

The constitutional mandate of local government was discussed in detail in Chapter 3. Based on the participants’ responses, there is a need to expand on the local government’s constitutional obligation of service provision in a sustainable way. It has been argued before that the service delivery role of the local government is made more difficult by the national and provincial control and imperatives. The responsibilities for service provision is distributed across the three spheres of government and, amongst other things, local government is responsible for water supply, electricity supply, sewage and refuse collection, as well as municipal health services.

The Constitution acknowledges that local government may not be fully resourced to execute these duties and, in that regard, should strive within its financial and administrative means to fulfil the objective of service provision using the little available resources (Section 27(2) of the Constitution of South Africa, Act 108 of 1996). However, with the scarce resources and capacity, what constitutes basic services becomes problematic. The Constitution does not clarify what a basic service entails. Instead, the White Paper refers to basic services as those that improve citizens’ quality of life, as well as those that increase their socio-economic opportunities by promoting access to safety, health, education and recreation (Section 92 of the Reconstruction and Development Programme, 1994).

The principal vision of the RDP was poverty alleviation and the eradication of backlogs in service delivery. Thus, realising basic needs in the RDP objectives was interpreted as “job creation, land reform, housing, services, water and sanitation, energy, telecommunications,

transport, the environment, nutrition, health care, social security and social welfare” (Section 1.4.3 of the Reconstruction and Development Programme, 1994). It is a fact that the three spheres of government share the responsibility of service delivery. The national sphere has the principal regulatory oversight and it sets the parameters for service delivery that are adhered to by the provincial and local spheres. The national government also provides the finances for service delivery while the provincial government has to oversee its execution. Lastly, the local government is the implementing agent.

However, often legislative decisions delegate the service delivery duties to local municipalities, which are sometimes not equipped enough to deliver the services. For instance, the provision of housing is a synchronised national and provincial competency but in many instances all three spheres of government take the responsibility, even if it is not a local government task (SACities Network, 2007:12). Basic service delivery, like electricity, sanitation and water, are the sole responsibility of municipalities, who are supposed to prioritise it. However, the extent of overlap of the functions and powers of the three spheres implies that other spheres’ activities influence or determine the municipalities’ service delivery agenda. For instance, local government is expected to eradicate backlogs in service delivery while, on the other hand, the national and provincial governments engage in the provision of new developments like low-cost housing.

In reality, these two functions call for municipalities to broaden their capacity of basic service delivery. The extent to which municipalities can exercise their constitutional mandate to “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” therefore becomes unclear (Section 153(a) of the Constitution of South Africa, Act 108 of 1996). Therefore, the intergovernmental functional overlaps are a major challenge in service delivery, especially because in most cases it is the municipalities that take the responsibility of implementing service delivery initiatives on behalf of the national and provincial governments. At the end of the day, these two spheres of government influence the municipalities’ development agendas. Sometimes, even when the roles are clear, legislative decisions can delegate the other two spheres’ responsibilities to local government, as noted by one respondent quoted earlier.

The fact that most functions and powers are shared means that all three spheres of government should be accountable. This means that if functions are synchronised and services have not been delivered, it is easy for the spheres of governments to blame each other and eventually,

no one will be held responsible by the public. De Visser calls this “a system of organised irresponsibility”, which leads to lack of transparency because “the electorate simply does not know who is to be held accountable for what function” (2002:228).

It is clear from this discussion so far that service delivery is a complicated mandate to fulfil. Moreover, when adjustments are made regarding functions and powers, it has serious implications on the administrative and financial operations of municipalities. The adjustments entail a number of things that include transference of assets and liabilities, administrative data, and also the adjustments of the existing regulations and by-laws. Local government is experiencing restructuring processes, a process that further complicates its administrative roles. Up to now, it is still not clear if local government’s constitutional responsibility of service delivery is an autonomous or devolved function. In reality, it appears as a controlled or devolved function.

6.7. THE MUNICIPAL DEMARCATION PROBLEM

The municipal demarcation process has been pointed out as one aspect affecting local municipalities’ basic service delivery,, with one respondent arguing that the “re-demarcation put a lot of pressure on municipalities like Matatiele as there was a huge increase in the population to be catered for by the municipality, yet the resources remained limited”. Since the end of the apartheid era, local government has been under reconstruction several times. Amongst the restructuring process has been municipal demarcation: a process meant to produce ‘wall-to-wall’ municipalities by incorporating and eradicating the urban-rural divide, as well as involve the previous homelands and townships. This move saw the expansion of municipal boundaries in geographic space.

The independent authority of the Municipal Demarcation Board (MDB) is mandated by the Constitution (RSA, 1996) to draw up the boundaries of municipalities and wards. The independent body is governed by the Municipal Demarcation Act (No. 27 of 1998) and is guided by Section 21 when delimiting municipal boundaries. The body’s activities are also guided by other legislation like the Municipal Structures Act (No. 117 of 1998), the Provincial Finance Management Act (No. 29 of 1999) and the Municipal Finance Management Act (No. 56 of 2003).

Since the dawn of independence in 1994, local government structures have been decreasing. A

total of 1 262 local government structures were merged into 843 municipalities in 1995-96. The MDB was instituted in 1999. In that year, municipalities were reduced to 284 in preparation for the local government elections in 2000. Before the 2006 local government elections, the number was again reduced to 283 and, the number was further reduced to 276 ahead of the 2011 local government elections. Currently, there are 278 municipalities, with eight being metropolitan, 44 district, and 226 local municipalities. This number is expected to decrease before the 2016 local government elections (MDB, 2013). Below is a table tracing the structural changes within the local government due to the municipal demarcations:

Table 6.1: Municipal demarcations

Year	No. Local Municipalities	No. District Municipalities	No. Metropolitan Municipalities	Total
Post 2000 Demarcation	231	47	6	284
Post 2006 Demarcation	231	46	6	283
Post 2011 Demarcation	226	44	8	278
Post 2016 Demarcation	215	43	8	266

Source: MDB (2013)

One respondent pointed that this merging process meant “broad administrative transformations for municipalities”. The changes ranged from human resources transfer, reallocation of resources and, importantly, the reconfiguration of administrative management processes (Centre for Development and Enterprise Roundtable, 2003:5). Notably, the process had its own challenges, as depicted in the response below from one of the participants:

The first challenge was to integrate the individual municipalities’ unique management styles and their different organisational frameworks, considering the fact that each municipality had its own procedures and by-laws. There also occurred serious tensions between the politically inexperienced councillors and the experienced municipal officials who had been serving since the prior political dispensation. The restructuring process also affected employees, as most did not know the certainty of their future in local government.

The expansion of the municipal boundaries meant that the number of local authorities also had to increase. Expanding into rural areas with mainly poor and illiterate residents, the newly formed local municipalities struggled to have skilled personnel on board, on top of the administrative and financial problems they were facing (Centre for Development and Enterprise Roundtable, 2003:5). As the Constitution only caters for the broader local government roles, the newly formed municipalities had to reconfigure and manage their own administrations, the process of which proved difficult without specific local government powers and functions that were still to be fully determined for the three categories (Centre for Development and Enterprise Roundtable, 2003:6). When the responsibilities were re-determined, other problems ensued. Below is a discussion of the problems associated with the two-tiered system of local government.

6.8. THE TWO-TIERED CONFIGURATION PROBLEMS

The amalgamation of Category B (local municipalities) and Category C (district municipalities) into a two-tiered system of local government presented its own problems. Local municipalities are administered by a single council just like Category A (metropolitan municipalities). The difference is that local municipalities are not autonomous and are therefore controlled by district municipalities (Section 155 (1b) of the Constitution of South Africa, Act 108 of 1996). The problem with this set up is that local municipalities are not autonomous as they are a tier of district municipalities. One participant pointed that this arrangement causes delays in the implementation of projects due to poor coordination and non-consultation with the local sphere by the provincial sphere. Another participant described:

At times there is a conflict in that, though the local sphere implements the provision of services, municipalities are also obliged to follow through with the provincial and national strategies in terms of delivering services. At times the sector departments in the local sphere receive mandates from the province to carry out certain development programmes even if they are not an essential priority in that particular municipality area. I feel that, even though the three spheres are autonomous, there is a form of dependency on each other and usually the local sphere is hampered by inconsistencies in the other spheres.

The above sentiment points to problems resulting from the hierarchical nature of the system. The traditional belief is that local municipalities are more capable on their own when it comes to service delivery, if compared to the district municipalities. Local municipalities implement the projects, while district municipalities are responsible for monitoring and evaluation of the projects. The problem of poor coordination noted above seems to occur at this stage where the local municipality is mandated to implement the projects while the district municipality regulates the activities.

Despite their efforts and capacity towards service delivery, local municipalities tend to be ‘voiceless’ and submissive to the district municipalities, which have the power to control the activities of the local councils (Steytler, Baatjies, & Fessha, 2007:94). That means that in cases of service delivery emergencies, local municipalities have to report to the district municipalities, which then have to authorise actions; the process of which sometimes delays the rendering of the urgent services to the communities.

The two-tier local government system implies that local municipalities have been stripped of their legislative and executive powers. However, despite presiding over local municipalities, district municipalities do not have the resources or the expertise for service delivery but instead depend on local municipalities to deliver services in some areas of the district (Ministerial Advisory Committee on Local Government and Transformation, 2001). The implication is that, in reality, local municipalities are more capacitated and have proven to be better in terms of infrastructure service delivery. Now, with the authority being with the district municipalities, problems are created when local municipalities have to render services to communities. This boils down to another aspect: that of uncertainty over which category has to deliver each service to the communities. This is further discussed below.

6.9. UNCLEAR SERVICE DELIVERY RESPONSIBILITIES

This aspect was highlighted in the responses quoted above and will now be explained further. While metropolitan municipalities preside over all local government functions, the powers and functions of local and district municipalities are differentiated and uneven. Section 155(3)(c) of the Constitution of South Africa, Act 108 of 1996, clearly states that:

A division of powers and functions between a Category B municipality and a Category C municipality may differ from the division of powers and functions between another

Category B municipality and that Category C municipality.

The problem with the above clause is that it could contribute to the ever-changing amendments of powers and functions of these two tiers. The effect of such amendments, particularly the amendment of the Municipal Structures Act (1998), has been evident in local municipalities. Initially, the Act clarified the functional responsibilities of local municipalities and, in most cases, succeeded. It also clarified the responsibility of district municipalities as broader development planning. In other words, district municipalities were mandated with overseeing and coordinating service delivery by local municipalities through:

The integrated sustainable and equitable social and economic development of its area as a whole by, inter alia, ensuring integrated development planning ... promoting bulk infrastructural development ... building the capacity of local municipalities to perform their functions and powers ... and [promoting] the equitable distribution of resources between the local municipalities.

(Section 83(3) of the Municipal Structures Act, 1998)

In 2000, the Municipal Structures Amendment Act made adjustments to the powers and functions of the two categories, with power being transferred from local to district municipalities. The Amendment Act was criticised for contradicting sections 155 and 229 of the Constitution, as well as the White Paper on Local Government (Ministerial Advisory Committee on Local Government and Transformation, 2001). These policy documents restrict Category C municipalities as a tier of government to *overseeing*, and not *directing* infrastructure service delivery (National Treasury, 2003:53). This means that, instead of delivering services, district municipalities are responsible for coordinating as well as providing administrative help to local municipalities that are incapacitated. Even though the Municipal Structures Act of 1998 indicates the function of district municipalities as that of overall municipal services delivery, the Amendment Act of 2000 stipulates the actual service provision of basic services, like electricity, water, sanitation, as well as municipal health services as falling within the district municipalities.

The differences here is that the Amendment Act authorises the district municipalities to deliver the services in the whole of the municipalities while the 1998 Act delegates the function of

service delivery by district municipalities to those local municipalities with limited capacity to do so. Therefore, what happened was that the powers and functions of basic service delivery that were mandated to local municipalities have been reassigned to district municipalities. This means that district municipalities are now the principal providers of service delivery, but may delegate the function to local municipalities as agencies until the district municipality can do so itself. This shows that local municipalities have been demoted with regards to power and influence in service delivery.

The Amendment Act also mandated district municipalities to collect levies, taxes, and to carry out the related functions like receiving and distributing local revenue. This move was criticised by the National Treasury as it shows decentralisation of powers, which could cause inconsistencies, confusion and poor accountability (National Treasury, 2001:28). In that manner, cases have occurred whereby district municipalities indicate in their budgets that they provide certain services, yet the service is actually provided by a local municipality, resulting in the financial costs being indicated in both budgets (Portfolio Committee for Provincial and Local Government, 2003).

The Amendment Act has not been without criticism, especially regarding the effect of the central government on local government autonomy. The reassignment of powers and functions from local to district municipalities was perceived as a unilateral exercise of power (The Financial and Fiscal Commission, 2001:83). Policymakers like the National Treasury (NT), the Financial Fiscal Commission (FFC), the South African Local Government Association (SALGA), the Ministerial Advisory Committee on Local Government and Transformation, the National Portfolio Committee on Provincial and Local Government and the National Government Select Committee for Local Government and Administration of the National Council of Provinces concurred that consultation regarding the amendment was not done; hence, making the act null and void (Ministerial Advisory Committee on Local Government and Transformation, 2001:67). The Constitution stipulates that the national government legislative authority can only intervene when the sub-national units of the government cannot provide the delegated function.

It is recommended that powers and functions should be delegated to the closest point of delivery within the sphere of government and, in this regard, local municipalities are the principal providers of basic services. Hence, the government should only intervene if the devolved local municipality is not capable of providing the required services. Therefore, the Amendment Act indicates how central control has been tightened because it reduces the

provincial mandate to oversee local government functions between local and district municipalities. The Amendment Act stipulates that the division of powers and functions of local and district municipalities can only be adjusted by the MEC if the former is incapable of exercising its powers regarding municipal roads, solid waste disposal, local tourism and municipal works, to mention a few (Section 6 of the Municipal Structures Amendment Act, 2000). This mandate has been delegated to the national government (The Financial and Fiscal Commission, 2001:83).

The move has been interpreted as intending to reduce the powers of the Premier or the provincial MECs in provinces that are not controlled by the ruling ANC; hence, the move was seen as politically motivated (Stanton, 2009:120). However, such amendments were partially reversed to allow the local municipalities to continue with the provision of basic services until the district municipalities were capable of doing so. This reversal of the Amendment Act was done by then Minister of Provincial and Local Government, Mr. F.S. Mufamadi in November 2000 (Mufamadi, 2000:3).

Given the above, many municipalities felt that the interim act was confusing and it took time before it was finalised, making it difficult for district or local municipalities to deliver services because of the lack of clarity on the division of functions and powers. In this scenario, local and district municipalities would not know the technical meanings as well as the financial implications of these, leading to a negative impact on infrastructure service delivery (Portfolio Committee for Provincial and Local Government, 2003:42). On the other hand, the Demarcation Board indicated that district councils are not supposed to provide services, but rather coordinate, meaning that district municipalities assume the role of service authorities while local municipalities provide services (MDB, 2005:22). At the same time, national government can still delegate local municipalities to deliver services on behalf of district municipalities in other municipal areas. This would be done at the cost of the local municipality. Thus, the co-existence of the ministerial authorisation for local service delivery and the Amendment Act created further confusion and uncertainty regarding municipal functions and powers.

The above discussion indicates the hierarchy within the two-tiered local government. From this view, local municipalities are subordinated as 'delivery arms' of district municipalities and so experience limited authority in service delivery. This shows how administrative decentralisation greatly impacts on infrastructure service delivery.

6.10. FINANCIAL CHALLENGES

From the responses quoted above, it can be determined that most participants blamed poor infrastructure service delivery on the limited municipal budget. Others indicated the challenge of municipal demarcation. The criteria employed by the MDB in the reconfiguration of municipalities have been condemned for making local municipalities financially unsustainable (MDB, 2005:18). It has been noted that the demarcations were politically motivated, as indicated earlier in this chapter.

However, the ruling ANC, at its 53rd national conference at Mangaung (2013), resolved that the MDB should consider the financial and racial implications of the re-demarcation process. The Department of Cooperative Governance and Traditional Affairs (CoGTA) also grew concerned and eventually tasked a team of representatives to review the municipal demarcation process before the 2016 local government elections (Ncube & Vacu, 2015:309). The concerns about the process revolve around the boundaries and cross-boundary municipalities, the effect of the process on the financial performance of municipalities, and the effect of the process on establishing a solid developmental local government.

A number of factors affect the financial performance of municipalities. Amongst others, these include the lack of a tax base due to poverty and unemployment, service delivery backlogs, budget planning, poor service delivery, poor revenue systems and collection, shortage of skilled, knowledgeable and experienced staff, as well as services and payment boycotts. Many participants pointed to the ever-increasing debt owed to the municipality by different stakeholders. The non-recovery of this debt has a serious financial implication on the sustainability of the municipality. In this regard, Minister Mufamadi, at a VUNA Awards ceremony in 2003, indicated that:

In order to achieve financial viability, it is necessary for a municipal jurisdiction to have a relatively resilient and sustainable economic base – where people are working and earning living wages, and businesses, large and small, are facilitating the steady exchange of goods and services. This resilient and sustainable economic base is indeed sustained by reliable municipal services and the local environments created for prosperity. The Department of Local Government and Traditional Affairs will continue to work closely with our municipalities so that we can achieve financially viable municipalities.

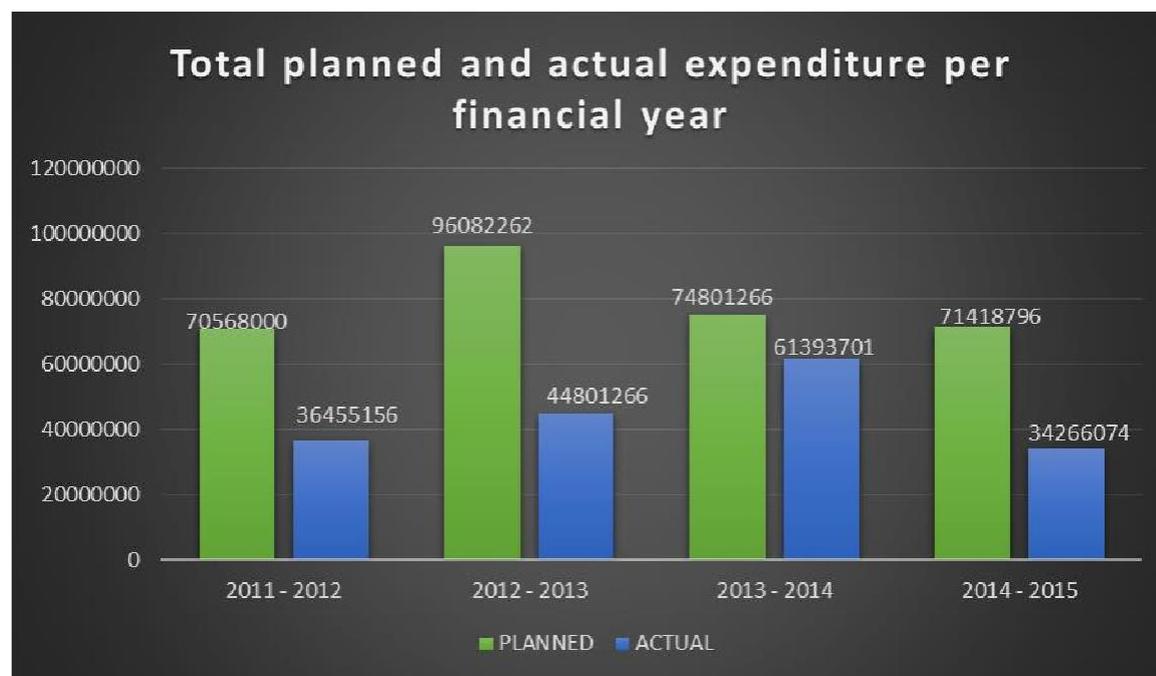
Again, the most challenging factor is the failure of a timely intervention by the provincial and national government to address these concerns. In the case of MLM, a detailed account was given of how it was affected by the municipal demarcations in Chapter 4. Before MLM was incorporated into the Alfred Nzo District Municipality, it had a population of about half a million (597 211) but, after re-demarcation, the population rose to 663 271 in 2007/08 (about an 11% increase)(MDB, 2013:59). This means the geographical area of the municipality also increased (from 956 km² to 4352 km²). This move saw the establishment of 24 more wards (MDB, 2013), leading to additional costs for the municipality.

The re-demarcation of 2005/6 saw municipal expenditure rise from R41 million to R83 million in 2006/7 (Ncube & Vacu, 2015:316). This could have been a result of the increased human resources personnel that were employed to develop the newly incorporated wards. It was reported that the number of employees increased by more than 100% (National Treasury, 2011:38). Capital expenditure rose from R7.4 million in 2005/06 (prior to demarcation) to R26.6 million in 2006/07 (after demarcation)(Ncube & Vacu, 2015:316). The tax base of the municipality was also affected: the newly incorporated areas had a serious service delivery backlog due to high levels of poverty.

As a result, the municipality increased its debt from R6.6 million to R46 million (Matatiele Annual Report, 2006/7). The annual report indicated that a huge part of the debt was inherited from the Maluti areas where the municipality could not charge rates. The increase in human resources meant that the municipality had to spend more on that aspect instead of diverting the funds to other segments. Thus, the municipal demarcation has been condemned for negatively affecting service delivery in municipalities, MLM included.

However, respondents also indicated that MLM was not able to meet its spending targets from 2011-2015. Interviewed participants indicated a number of reasons for the surplus in municipal expenditure. “Lack of solid financial, business and project planning capacity for the development of appropriate project business plans” were highlighted. Those in the technical department pointed to the challenges of “political administrative interference”. A number of participants indicated instances where office bearers as politicians had “personal interests overriding the strategic agenda of municipalities”. MLM is not an exception to these challenges.

Political interference by those in management is usually evident in the municipalities' major projects and it normally causes delays in the implementation of service delivery projects. Thus, frequently important municipal matters end up being discussed based on factions and not constitutional norms of the local government. However, it has been highlighted that administration-politics relationships should not be like a servant-master relationship (Cameron, 2003:55). In many instances, inter-political party matters negatively affect service delivery and governance in the municipality. The State of Local Government Report in South Africa (2008:10) indicates that the politics-administration interface, inability of some councillors to manage local government, inability to distinguish between political parties and municipal council powers, as well as the unclear division between the legislative and executive all affect municipal governance. Such institutional problems affect service delivery.



Source: Author's own (based on Matatiele Annual Report, 2014/2015).

Figure 6.1: Total planned and actual expenditure per financial year

Overall, the progress on infrastructure service delivery by MLM has been improving, though at a slow pace. The graph above indicates the total expenditure on infrastructure and the planned budget from 2011-2012 to 2014-2015. Looking at the graph, it is evident that the actual expenditure across these financial years is less than the planned expenditure (under expenditure). Over these financial years, about 36% (R176 916 197) of the R489 862 343

planned expenditure has been spent. The participants in this study highlighted some reasons above. Other reasons include, “sourcing of materials, projects overlapping over financial years, delays due to changing weather patterns and other natural disasters”. Besides these challenges, poor planning in terms of how and when projects are implemented is another cause. However, the challenges experienced differ in certain cases from year to year.

6.11. POPULATION MIGRATION

Matatiele Municipality is also affected by in- and foreign migration. Poor economic activities in the rural areas force many people to migrate to urban regions with the hope of finding employment. The same problem has forced foreign migrants from neighbouring Lesotho and other countries to come to the small town of Matatiele. Some interviewees noted that these migrants “put pressure on municipal services such that the municipal budget will not be able to cater for the demands of the community”. It has been further noted that the decrease in the municipal capital budget “pressurises local government to take in the cost of basic infrastructure and service delivery down the line”.

6.12. THE IDP AS A STRATEGIC DOCUMENT

It has been indicated by some participants that service delivery is being hampered by the “failure of the municipality to align strategic documents with the municipal developmental goals”. Like any other municipality, MLM developed and adopted the SDF, Land Use Management Scheme (LUMS) and the IDP. In addition to the IDP discussed in the early chapters of this study, the SDF is a guide for the development of the municipality, while the LUMS regulates municipal development. Some participants noted gaps between these important documents and the budget, highlighting the fact that these documents and the budget are still perceived as separate entities. It needs to be reiterated that the budget and all planning projects should be seen as coordinates and should therefore be aligned (Carter, 2002:68). Even the MFMA (2003) underlines that “the efficient budget process that incorporates the IDP review will facilitate community inputs, encourage discussions, promote better understanding of community needs, provide an opportunity for feedback and improve accountability and responsiveness to the needs of the local communities”.

6.13. CONCLUSION

This chapter has presented the findings of the study. Amongst other things, it has emerged that the constitutional allocation of functions and powers to the spheres of government is one major challenge to the delivery of infrastructure and services by municipalities. This has been blamed for stripping local government of the autonomy to render services to the communities. The fact is that debates as to the division of functions and powers within the spheres of governments will never be completely solved. Lack of coordination between the spheres further aggravates the delivery of services since some of the overlapping legislations do not clearly state which sphere of government is responsible for a particular service delivery. The resulting problem, however, is that the public will always blame the local government for poor service delivery or lack thereof, as the public is not well-informed regarding the parameters of local government as far as service delivery is concerned. For the public, municipalities are the first point of contact when it comes to service delivery. This points to a need to reassess some of the legislations and make corresponding recommendations. This will be discussed in the following chapter.

CHAPTER 7: CONCLUSIONS AND RECOMMENDATIONS

7.1. INTRODUCTION

The previous chapter presented the findings of the study. This chapter gives an overview of the study, highlighting the important points. Before proceeding, it is important to reiterate the objectives of this study in order to observe if they have been achieved. These are: to contextualise the legislative framework in which service delivery is taking place in South Africa; to explore the effects of compliance on infrastructure service delivery; and, finally, to suggest strategies for promoting and fast-tracking infrastructure service delivery.

The first objective has been answered in the preceding chapters, particularly chapters 2 and 3. The second objective has also been answered in the above-mentioned chapters, and was further confirmed by the participants, as reported in Chapter 6. The last objective was answered in the previous chapter, and will be further discussed in the recommendations presented in this chapter. This chapter presents a critical reflection on the current status quo of local municipalities with regards to infrastructure and service delivery. The chapter will also indicate several unresolved governance issues that continue to dampen the potential of local municipalities in service delivery. Lastly, some shortfalls in research will be identified, along with how the gaps call for further research.

7.2. SYNOPSIS OF THE STUDY

This study has examined how legislative compliance affects service delivery. With the objectives of the study in mind, the purpose of the study is to determine the extent to which the municipal constitutional obligations are being fulfilled. The second chapter of this study gave an overview of what constitutes basic infrastructure and service delivery in South Africa. The third chapter discussed the legislative policy framework in which municipalities are functioning in South Africa. Chapter 4 gave an overview of the case study, the MLM, in order to establish this study. Chapter 5 detailed the methodology used to answer the research question. The presentation of the gathered data was done in Chapter 6. This chapter now concludes the study by highlighting the important aspects.

Based on the results of the study, it was noted that local government is an autonomous sphere of government, as per the Constitution. However, in reality, local government political autonomy is compromised of several factors, including the influence of political parties (especially the ruling party ANC) in the national legislature, the related effect of the national executive system, the incompetence of officials like ward councillors, as well as the lack of community participation regarding local governance. This also affects how services are being delivered in the respective communities.

7.2.1. The Role of Local Government

It has been highlighted from the previous chapter that local municipalities' role is not just the provision of day-to-day services. They have also been mandated to deliver on universal basic services. This followed the decentralisation of functions and powers, which has been challenged by the difficulty regarding the amalgamation of previously disconnected financial and administrative structures. The assigned functions and powers to provide services call for a lot of local development planning procedures and responsibilities. However, evidence from this study has revealed that municipalities, MLM included, have limited administrative and technical capacities. Several respondents in this study even indicated that some local municipalities are more capable than other district municipalities in their efforts to deal with service delivery backlogs.

The reason for the national government to devolve functions like electricity and water supply to district municipalities was the perception that local municipalities have enough capacity and revenue access, so the move was meant to strengthen district municipalities (Stanton, 2010:137). In this way, local municipalities' autonomy has been greatly compromised. Despite being legally autonomous with regards to planning and the eradication of backlogs in service delivery, it has to be noted that the planning is also determined by capacity. Respondents in this study have indicated that the local service delivery functions are mainly controlled by national government policy; hence, local government has become more accountable to the other two spheres of government instead of being accountable to their local constituencies.

7.2.2. Financial Issues

The financial viabilities of local municipalities have also been implicated in affecting infrastructure and service delivery. Initially, local municipalities have many mandates that are poorly or not funded at all. Other factors contributing to the poor financial status of local municipalities include, but are not limited to, poor budgeting, financial management and planning, as well as ineffective cost recovery systems. Respondents argued that local government has been delegated some powers and functions without the respective accompanying funds for those specific functions. What is also evident is that the local municipalities' expenditure responsibilities have not been aligned with revenue generating capacities, affecting the quality of the service delivery function of the municipalities. As indicated in the previous chapter, the service delivery backlogs in some wards have been linked to the municipality's tight local expenditure control, limited revenue powers and the decentralised administrative functions and powers.

7.2.3. Effects of Municipal Demarcation

The effect of municipal demarcation has not been spared from infrastructure service delivery by local municipalities. The process involves the reorganisation of the geographical boundaries of local municipalities, integrating the formerly marginalised rural areas with urban areas. The re-demarcation meant that municipalities became broader in terms of population and geographical area. Previously, the procedure was also done without any additional revenue base and has proved costly on the part of local municipalities (Deacon & Piper, 2008:65). The municipal demarcation's effect is visible on the municipal expenditure, revenues, human resources, tax bases, supply chain-related issues, and municipalities' IDPs, to mention a few.

In summary, this study has indicated the factors contributing to poor municipal performance with regards to service delivery as the following: the restrictive and sometimes unclear legislation with regards to who is supposed to do what, legislative non-compliance by municipalities, political administrative interface challenges, poor financial management, huge service delivery backlog challenges, lack of capacity resulting from the scarcity of human and capital resources, as well as allegations of corruption and fraud.

7.3. RECOMMENDATIONS

Based on the findings from the study, some recommendations are necessary. Starting on the aspect of the categorisation of municipalities, concern was raised that the responsible personnel are misled when they treat municipalities equally or as if they have the same capacity in terms of resources and performance. A more differentiated approach in this regard could be considered, bearing in mind the different challenges faced by different municipalities.

It is a fact that high poverty levels and increasing populations make the pressure on infrastructure and service delivery unsustainable, dampening most Category B municipalities' efforts towards service delivery. The revenue base from poor communities is very low, so if municipalities are treated differently based on such economic considerations, this could help the National Treasury when implementing the revenue-raising capacity correction. With regards to the demarcation processes, the government should attempt to meet the transitional expenses of the restructuring. For example, some kind of grant could be awarded to the merging municipalities in order to fast track the process.

It has been revealed that the assignment and reassignment of powers and functions mostly affect local municipalities. This is a very important element as it concerns local municipalities' principal responsibilities and income-generating potential, eventually determining their financial, administrative and political autonomy. With the misunderstandings and miscommunications between district and local municipalities that impact on accountability, there is a need for district municipalities to be more involved in local municipalities' affairs. Perhaps the provincial and national spheres of government need to be more 'hands on' with regards to monitoring how local government is executing its responsibilities of basic service delivery. In other words, they need to provide enough support in whatever form is required for local municipalities to deliver on their service delivery mandate. The three spheres need to be reminded that they do not work in isolation but are rather interrelated and interdependent. This implies that local government has the constitutional right to receive help from the other two spheres, while the other two are mandated to render adequate support to local government in order to reinforce its capacity to execute its powers, functions and ability to manage its own municipal affairs.

Respondents from this study highlighted delays by the provincial government to intervene in municipal affairs when needed. Provincial government could improve in this regard. A good starting point to helping local government to effectively deliver its mandate could be to educate

both provincial and local government employees on the necessity of monitoring and evaluation, that is, how the process enhances effective service delivery. Previous research has indicated that municipalities do not necessarily appreciate the aspect of monitoring and evaluation, as they perceive it as dictatorship by provincial government (Shah & Thompson, 2004:53). This has led municipalities to not provide important information for performance monitoring upon request by provincial government. This is an indication that local government employees are not well-informed regarding the necessity of monitoring and evaluation in good governance and effective infrastructure and service delivery.

7.4. FOR FURTHER RESEARCH

The results of the study indicate that a number of aspects are involved in service delivery by municipalities, and these issues affect the process of service delivery in different ways. Based on those findings, below is a discussion of some grey areas that still need attention by responsible stakeholders in order to improve the delivery of infrastructural services. These important areas include the two-tiered local government system, the potential of community participation in service delivery, the potential of the LED, as well as the sustainability of service delivery, to mention but a few.

As highlighted in the previous chapter, the Municipal Structures Amendment Act (2000) mandated district municipalities to *oversee* basic service delivery being executed by local municipalities. Soon after the promulgation of this Act (2000), the Department of Provincial and Local Government circulated a notice highlighting the constitutional expectations that the functions and powers of basic services should be “as close as possible to the communities the services are meant to serve” (DPLG, 2000). This is good for accountability purposes. However, this move indicates that the government is not sure which sphere should have authority over basic services delivery.

It has, however, been indicated that powers and functions must be delegated at the local level *unless* they can be better performed at a level higher than the local level (Carpenter, 1999:123). This part of the Constitution does not clearly indicate whether “the local level” refers to the local or provincial government. This needs more clarification. It has been noted that it is the responsibility of local municipalities to provide basic service delivery. This is in contrast to

Section 156(4) of the Constitution, which highlights that municipalities can only do this *if* they can most effectively do so and *if* they have the capacity to do so.

From the responses provided by the participants in this study, it is still not clear if the two-tiered local government system is the best option. Seemingly, the system does not benefit the two categories of municipalities in the same way. It has been indicated that the misconception is that Category C municipalities are capable of cross-subsidising the provision of services in Category B municipalities, an element that many are still doubtful of. This needs thorough investigation, since some of the participants pointed to the lack of capacity by district municipalities to fulfil their mandate. Participants pointed to the incompetence of district municipalities, with some regarding this as the weakest sphere of government. This incompetence can also be observed in the literature (Steytler, Baatjies & Fessha, 2007:7-8). District municipalities have been blamed for their lack of expertise and lack of financial capacity that compromises the fiscal viability of local municipalities, as well as their lack of management skills (MDB, 2005).

It has been argued that having a second tier of local government has been an unnecessary cost as it duplicates administrative structures as well as staffing (Steytler, Baatjies & Fessha, 2007:8). For instance, the Alfred Nzo District Municipality comprises only two local municipalities, but most of its resources are channelled towards the district municipality, which has about 95% of the district's population (Steytler, Baatjies & Fessha, 2007:7-8). The Department of Cooperative Governance and Traditional Affairs, as well as the Demarcation Board, have noted that more than half of the district municipalities are not fulfilling their mandate of delivering on basic services like sanitation, water and electricity as stipulated in the Municipal Structures Amendment Act (2000), while about 70% of the services are provided by local municipalities (CoGTA, 2009; MDB, 2005). Analysis could be essential to establish the appropriateness of the two-tiered system of local government in providing sustainable basic services. Perhaps enough consideration should be done to establish whether to completely eliminate district municipalities.

Regarding the sustainability of basic service delivery, it has been indicated by participants that many issues, including the non-payment of services by some residents and high levels of poverty, affect the financial viability of local municipalities. It could be logical to revise some of the national policy decisions regarding this matter, looking at the effect of free basic services as well as the non-payment for services on the sustainability of service provision. With the

objective of eradicating service delivery backlogs, more households would have access to services and thereby the number of those entitled to free basic services would increase. The approach would not increase revenue but it would mean greater service delivery costs and, hence, high municipal debt and unsustainable service delivery.

On the same note, the illegal connections to basic services by communities need to be investigated to determine if it is caused by non-payment or if it is because people cannot afford the services. If the latter is true, then service delivery is not sustainable. Service delivery to those who cannot afford to pay or those who are not willing to pay implies the underutilisation of infrastructure that will eventually deteriorate at the local government's cost. It should be underlined that affordability and the willingness to pay for basic services are fundamentals to investing in infrastructure service delivery.

Respondents to this study highlight that municipal services are normally poor due to limited budget, implying lack of resources. Particularly, the RDP housing system is argued to be poor in most areas. Service delivery to these faraway places from the city centre is expensive. Some of the housing projects are straining the already existing infrastructure, such as sewage systems. Participants mentioned a backlog in repairing and maintaining the existing infrastructure. In 2009, then Minister of Human Settlements, Tokyo Sexwale once reported that "it would cost R1.3 billion to rebuild badly constructed houses provided under the government's housing programme." (SAPA, 2009:1).

In the 2004 State of the Nation Address, then President Thabo Mbeki said that, by 2012, every household would have access to electricity. In 2016, that is not yet the case. In the June 2014 State of the Nation Address, President Jacob Zuma announced that 12.1 million (85%) households had access to electricity (SONA, 2014). It is therefore clear that a number of issues affect the sustainability of basic service delivery. These issues need to be investigated, especially considering the backlogs in service delivery, the elements of affordability and poverty, non-payment for services, as well as the maintenance of infrastructure.

Importantly, the Constitution clearly indicates that "local government must be committed to work with citizens and groups within the community to find ways to meet their social, economic and material needs and improve the quality of their lives" (DPLG, 2000). This highlights the importance of community participation in governance. Citizen protests against poor service delivery by local government are a common sight in South Africa. Reasons for the protests include poor communication, allegations of corruption and fraud, financial

mismanagement by those in authority, and an indication of dissatisfaction with local government by communities. These issues call for serious investigations into the extent of community dissatisfaction with municipalities' poor participatory systems. Community participation guides those in authority as to the preferences of citizens in terms of service delivery. As such, investigation into the extent to which community participation influences local government to justify their actions would be valuable.

The element of local economic development (LED) is central to the potential of local government in service delivery. In that view, greater analysis into the association between access to services and LED becomes imperative. The general perception is that local government is expected to alleviate poverty through LED. LED is intended to "eradicate poverty by generating more jobs, free up fiscal resources for poverty reduction programmes and reduce the risk of financial crisis within local authorities" (Kroukamp, 2006:31). The argument is that the lack of access to basic services implies the lack of income generation, no poverty reduction, as well as lack of LED. This means that the opposite of this is true: when communities have access to basic services, their living conditions are improved and they will become economically active, hence leading to LED.

The South African legislation clearly indicates that local municipalities should drive LED in order for them to become independent from the national government. However, municipalities cannot afford to pursue LED when they can still not afford to provide sustainable basic services. It has been highlighted in the previous chapter that municipalities function under 'tight' budgets. The governance issues evident in this and the previous chapter highly affect service delivery by municipalities. Therefore, as long as municipalities still encounter the service delivery challenges highlighted in this study, it remains impossible for them to drive LED projects. Perhaps, more research could be done to establish other ways of encouraging LED.

7.5. CONCLUSION

This study has indicated that infrastructure service delivery by municipalities remains a challenge. Several underlying issues have been indicated as dampening municipality efforts towards sustainable infrastructure service delivery. Capacity shortages are an element present in most local municipalities. The complex relationship between the three spheres of government is also a major aspect in as far as infrastructure service delivery by municipalities

is concerned. It has been shown that how municipalities deliver basic services results from the division of functions and powers, as well as the resources within the three spheres of government. It has, however, been suggested in this chapter that the three spheres should regard themselves as interrelated and interdependent in order to fulfil the service delivery mandate. Most importantly, it has been recommended in this chapter that the national and provincial spheres should give as much support as possible to the local sphere because it executes service provision to the communities. Local government is the first point of contact by communities, so administrative powers and functions regarding service delivery should rather be devolved on local government.

Overall, it is evident that this study has gone a step further in providing literature with regards to local government in South Africa by discussing the extent to which infrastructure service delivery by municipalities is being influenced by the legislative, financial, administrative and political arrangement of the decentralised character of governance. By recognising some of the general and structural factors affecting infrastructure service delivery by municipalities, the concern remains that service delivery by municipalities will forever be a challenge, considering the turbulent legislative environment in which local government operates.

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APPENDICES

APPENDIX 1: INTERVIEW COVER LETTER

My name is Lihle Ndzelu, a registered student at Stellenbosch University. My research study is on **THE EFFECT OF COMPLIANCE ON MUNICIPAL INFRASTRUCTURE SERVICE DELIVERY: A CASE OF MATATIELE LOCAL MUNICIPALITY.**

I request your participation through interviews on the research topic. I guarantee that the information you provide will be solely used for the purposes of the research study and will not be shared with other individuals or published in any media. I also guarantee that the information you share with me will remain confidential and personal identification information, such as names of people, will not form part of the research report. Participation in this research is completely voluntary and all participants have a choice not to proceed with the interview session at any stage of the research process should they feel uncomfortable. With your permission, I would like to record our conversations on a prepared recording template to accurately capture the points made, which will later be transcribed into interview notes to capture the essence of the interview session.

Thanking you in advance for your cooperation in this regard.

Lihle Ndzelu

Email:.....

Phone number:.....

APPENDIX 2: INFORMED CONSENT LETTER

Dear Participant

My name is Lihle Ndzelu, currently studying for an MPA degree with Stellenbosch University. I am undertaking a study entitled **THE EFFECT OF COMPLIANCE ON MUNICIPAL INFRASTRUCTURE SERVICE DELIVERY: A CASE OF MATATIELE LOCAL MUNICIPALITY**.

Your participation in this study is voluntary. You may refuse to participate or withdraw from the project at any time with no negative consequences. There will be no monetary gain from participating in this survey. Confidentiality and anonymity of records identifying you as a participant will be maintained.

It would be highly appreciated if you could answer all questions accurately. Please give your honest and sincere opinion.

LIHLE NDZELU

APPENDIX 3: QUESTIONNAIRE

PARTICIPANT'S DETAILS

POSITION:

ORGANIZATION:

SECTION A: WHAT ARE THE FACTORS AFFECTING INFRASTRUCTURE SERVICE DELIVERY IN THE LOCAL MUNICIPALITY?

Please type in your answers to the questions below:

- i. What do you understand by municipal infrastructure service delivery?**

- ii. What is the state of service delivery in Matatiele Local Municipality?**

- iii. Do you think infrastructure is needed?**

- iv. What is the present state of infrastructure in the municipality?**

- v. Do you think there is a conflict between local, provincial and national governments on infrastructure service delivery?**

SECTION B: WHAT FACTORS CAUSES EFFECTS OF COMPLIANCE ON INFRASTRUCTURE SERVICE DELIVERY?

Please type in your answers to the questions below:

- i. Which legislations have an impact on infrastructure service delivery?**
- ii. In delivering infrastructure services, what are (1) the legislation requirements needing to be compiled with and (2) processes to be followed?**
- iii. In your own understanding, what is the role of each legislation mentioned in (i) above to ensure that infrastructure services delivery is done in a satisfactory manner?**
- iv. Are there any municipal policies regulating infrastructure service delivery in MLM?**
- v. What impact those policies may have on infrastructure service delivery?**

SECTION C: WHAT FACTORS WOULD ENABLE MUNICIPALITIES TO ENHANCE INFRASTRUCTURE SERVICE DELIVERY?

- i. Do you think legislative compliance improves service delivery?**
- ii. What is your reason for your answer on point (i) above?**
- iii. Do you think that, these legislations have a positive or negative effect on infrastructure service delivery? Please elaborate your answer.**

SECTION D: WHAT IS THE ROLE OF STAFF ON MUNICIPAL INFRASTRUCTURE SERVICE DELIVERY?

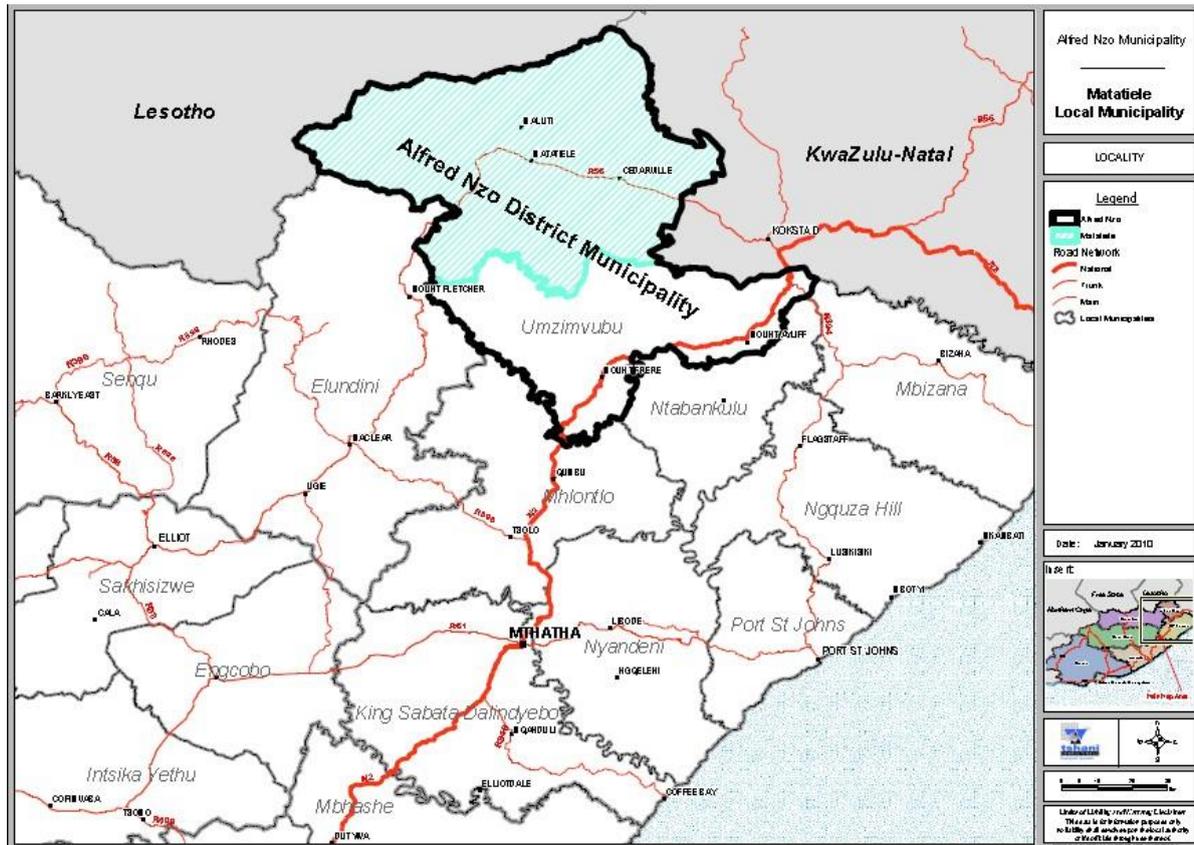
- i. Does staff play a role in compliance for infrastructure service delivery?**

- ii. How does the role played by staff affect the service delivery?**

COMPLETION DATE: _____/_____/_____

THANK YOU FOR YOUR PARTICIPATION

APPENDIX 4: MAP OF MATATIELE LOCAL MUNICIPALITY



APPENDIX: 5 PERMISSION LETTER



102 Main Street,
Matatiele
P.O. Box 35,
Matatiele, 4730
Tel: 039 737 3135
Fax: 039 737 3611

OFFICE OF THE MUNICIPAL MANAGER

21 January 2015

MR. L. NDZELU
PO BOX 1312
KOKSTAD
4700

0828974601

RE: PERMISSION TO USE MUNICIPAL INFORMATION FOR ACADEMIC PURPOSES

This letter serves to give permission to MR. L. NDZELU to gather municipal information for academic purposes. The results and recommendations made based on the research may be made available to the municipality.

Hoping that you find this in order

Yours faithfully,

Dr. DCT NAKIN

MUNICIPAL MANAGER