

The Municipal Systems Act and community participation

One of the objects of local government in terms of section 152(1)(e) of the Constitution is to encourage the involvement of communities and community organisations in local government. Chapter 4 of the Municipal Systems Act (the Systems Act) deals with community participation. What follows is a summary of that chapter.

A municipality must develop 'a culture of municipal governance that complements formal representative government with a system of participatory governance' (see p1).

The Systems Act emphasises three elements:

- a) The municipality must foster participation in –
 - the integrated development planning (IDP) process (see p 5-7);
 - the evaluation of its performance through performance management;
 - the budget process; and
 - strategic decisions around service delivery.
- b) The municipality must enable participation through capacity building in the community and of staff and councillors.
- c) Funds must be allocated and used for the above purposes.

VEHICLES FOR PARTICIPATION

Participation must take place through structures (ward committees) established in terms of the Municipal Structures Act (Structures Act). It must also take place through mechanisms, processes and procedures that exist in terms of the Systems Act itself or that have been established by the council (s 17). The Systems Act mentions the councillor as a vehicle for participation. In addition to ward committees, the council may, for instance, establish advisory committees consisting of persons who are not councillors (s 17(4)).

The mechanisms, processes and procedures mentioned in the Systems Act must include:

- procedures to receive and deal with petitions and complaints of the public;
- procedures to notify the community about important decisions (such as by-laws, IDP service delivery choices, etc.) and allowing public comment when that is appropriate;
- public hearings;
- consultative meetings with recognised community organisations and, when appropriate, traditional authorities; and
- report back to the community.

These systems must, as a minimum, be established in every municipality.

The special needs of women, illiterate people, disabled people and other disadvantaged groups must be taken into account.

For example, when planning a public meeting, the council must try to accommodate all these groups and consider issues such as:

- Venue: Can the venue accommodate people with disabilities, e.g. does it have wheelchair access?
- Time: Does the time of the meeting make it difficult for women to attend because of family responsibilities?
- Publicising the event: Should the announcement appear only in newspapers?

The council must make the public aware of the mechanisms for participation that it has established. It must also inform the public of the issues in which it wants participation (s 18(1)). The residents must also be informed about municipal governance, management and development.

COUNCIL MEETINGS

The municipal manager must notify the public of the time, date and venue of every meeting of the council (s 19). The council determines how this takes place (e.g. via the local newspaper). This also applies to urgent meetings, except when time constraints prohibit prior notification.

The council must determine – in a by-law or a resolution – the circumstances under which council or committee meetings are closed for the public.

The rule here is that the public and the media can attend council and committee meetings except when it is reasonable to exclude them because of the nature of the items on the agenda (s 20(1)). An executive committee or a mayoral committee can also close its meetings if it is reasonable to do so because of the nature of the items on the agenda.

The meeting must always be open to the public if one of the following things is discussed or voted on:

- a by-law;
- the budget;
- (an amendment to) the IDP;
- the performance management system; or
- a service delivery agreement.

The council must, as far as its financial and administrative capacity allows, provide space for the public in its meeting venues. It can make rules to regulate access to, and public conduct at, council and committee meetings (s 20(4)).

COMMUNICATION

The council must determine what its official languages are, taking into

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account the language preferences and usage within the municipal area. Whenever the council notifies the community through the media in terms of any legal provision, these languages must be used. One or more of the following means of notification must be chosen:

- local newspaper;
- other newspaper that has been designated as a newspaper of record; or
- radio broadcasts.

Any such notice as well as those that must be published in the *Provincial Gazette* must also be displayed at the municipal offices.

When the municipality invites comments from the public, it must ensure that someone is available at the municipal offices during office hours to help people who cannot write (due to illiteracy or disability) to put their comments in writing. This option must be communicated to the public in the invitation for comments (s 21(4)).

Similarly, when the council requires a form to be completed, officials must assist people in understanding and completing the form. When the form deals with payment of money to the municipality or the provision of services, the assisting official must explain the terms and conditions of such payment or services.

REGULATIONS

The Minister for Provincial and Local Government can issue further regulations on participation and set minimum standards, including standards on funding for participation (s 22(1)). In doing so, the Minister must take into consideration the capacity of municipalities to comply with the regulations.

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