

# **The impact of oversight mechanisms on service delivery in the Midvaal Local Municipality**

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**DECLARATION**

I, Lillian Masthabela Kolisang declare that this dissertation:

THE IMPACT OF OVERSIGHT MECHANISMS ON SERVICE DELIVERY IN THE  
MIDVAAL LOCAL MUNICIPALITY

Is the result of my own research investigation and that this dissertation has not been submitted in part or full for any degree at North-West University or other University.

**Signature** \_\_\_\_\_

**Date** \_\_\_\_\_

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## ABSTRACT

This study aimed to investigate the checks and balances in terms of oversight and accountability at Midvaal Local Municipality. The study explored the various oversight mechanisms and structures to promote accountability and good governance in the local municipal council. The municipality has performed considerably well, winning the title of Gauteng's top performing municipality in 2015 and achieving 3 unqualified audits in consecutive years Midvaal IDP (2017/18: 79). This bears testimony to the fact that the municipality is in good financial health and delivering services to its residents. The problem identified in this study is that township communities continue to protest on the provincial road R59 due to poor service delivery, this study investigated the role played by oversight committees, ward committees and councillors in public participation processes. Public Participation is the centre of democracy, if implemented correctly by Midvaal it can lead to positive results of sustainable service delivery in all wards even in low-income wards. Pellizo and Stapenhurst (2013:18) emphasise the Principal-agent theory, whereby *principals* can monitor and enforce compliance on their *agents*. The Principal-agent theory is effective in so far as explaining the relationship between citizens (as principals) and the executive and the legislature (both agents) on the one side, and between the legislature (acting as principal, on behalf of citizens) and both the executive and the bureaucracy on the other side. The ultimate principals are citizens, the ultimate agents are civil servants (the bureaucracy). The executive and the legislature are both principals and agents. The executive as agent, is accountable directly to citizens through the electoral process, and to the legislature which acts on behalf of citizens and exercises an oversight function over the executive. Public participation is critical to the success of good governance at municipal councils it can lead to impactful service delivery by ensuring that residents are part of crafting the Integrated Development Plan and make contributions to the Budget of the municipality. The budget is a key tool to ensure accountability because the citizens will be aware of how the municipal council will be spending public money. The section 79 Committees and ward committees of Council are important mechanisms in ensuring that oversight is strengthened in communities. These structures enhance the voice of residents and ensures that their resolutions are taken into account when the executive makes service delivery decisions.

The Township Community (low income earning) occupies the less developed areas of Midvaal, either on the edge of developed areas or in rural settings, where there is limited or no service

enabling infrastructure. The Township Community thus receives limited basic services from the municipality according to the Midvaal Customer Satisfaction Survey 3rd Quarter 2016 (Midvaal IDP 2017/18: The Township Community requires access to basic and social services which they do not have at present and have highlighted their displeasure with respect to the disparity in access and service quality between themselves and the affluent. More effort is required from the municipality to bridge the gap between the poor and affluent communities in Midvaal.

The findings in this study include insufficient staff members supporting the legislature oversight committees, and lack of capacitation for councillors to enhance effective oversight. Furthermore, tools to enhance public participation and civic education can be strengthened. There is a need for monitoring and evaluation of committee resolutions and the lack of sufficient budget allocated to section 79 committees prohibits an enabling environment for proper oversight.

The findings of this study suggest that there be capacitation of skills, budget allocation, training and development for all members of committees and those responsible to carry out oversight. Councillors should be capacitated on legal frameworks such as the South African Constitution Act 108 of 1996, Municipal Structures Act No. 117 of 1998, Municipal Systems Act 32 of 2000, Municipal Finance Management Act 56 of 2003 and the separation of powers. Citizens are the ultimate principals, therefore local authorities and municipalities must not only engage the citizens in the affairs of the municipality, but also ensure that consultations are meaningful. There has to be a concerted effort to include and educate residents, social partners, businesses, communities, the media and other spheres of government about the affairs of the Midvaal Local Municipality. The goal of this concerted effort is to ensure that the service delivery impact is experienced at all levels including grass root level and not only reflected in the Auditor- General's reports. The municipality is an example of good governance and ethical leadership and this is evident in the sound financial management. It would greatly assist the Municipality to use oversight mechanisms to enhance public participation and show that there is transparency in service delivery to all wards.

Key words and phrases: oversight, good governance, ethical, leadership, service delivery. political accountability, oversight mechanisms, municipal good governance, separation of powers, Midvaal Local Municipality

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## **LIST OF ABBREVIATIONS/ACRONYMS**

AG	Auditor-General
ANC	African National Congress
CAPEX	Capital Expenditure
CLEAR	Collaborative, Limited, Emotional, Appreciable and Refinable.
Cllr	Councillor
DA	Democratic Alliance
EFF	Economic Freedom Fighters
GEYODI	Gender Youth and Disability
HoD	Head of Department
IDP	Integrated Development Plan
KFA	Key Focus Areas
KPAs	Key Performance Areas
KPI	Key Performance Indicators
M&E	Monitoring and Evaluation
MFMA	Municipal Finance Management Act 56 of 2003
MIG	Municipal Infrastructure Grant
MLM	Midvaal Local Municipality
MMC	Member of Mayoral Committee
MPAC	Municipal Public Accounts Committee
NDI	National Democratic Institution
OPEX	Operational Expenditure
POA	Programme of Action
PR	Public Representative

RDP	Reconstruction Development Plan
SAI	Supreme Audit Institutions
SALGA	South African Local Government Association
SDBIP	Service Delivery Budget Implementation Plan
SMART	Specific, Measurable, Attainable, Relevant and Time-bound
UNDP	United Nations Development Programme

## **CHAPTER ONE**

### **INTRODUCTION AND BACKGROUND TO THE STUDY**

#### **1.1 INTRODUCTION**

The Midvaal Local Municipality is renowned for good governance and sound financial management MLM IDP (2015/6:79). However, there is a limited alignment between the expectations of low- income community members and subsequent service delivery according to MLM IDP (2017/18:59). This study investigated the causes of dissatisfaction in the low –income areas and how the legislature has used its oversight mechanisms through public participation to explore ways to enhance service delivery across all wards by exploring how oversight structures promote accountability and good governance in the municipal council. Chapter 1 outlines the structure and scope of this study. Firstly, it provides the orientation and background of the research paper; identifies the research problem in context and explores the background of the study. Secondly, it explores the problem statement, the theoretical statement, research questions and research objectives in order to understand the aims and objectives of the study. Thirdly, it outlines the research methodology, research design and the approach to capture data and analyse the research findings. The limitations of the study as well as the significance of this research will be highlighted, which will be followed by ethical considerations, chapter outline envisioned for this dissertation and the bibliography.

#### **1.2 ORIENTATION AND BACKGROUND TO THE STUDY**

This study focuses on the effects of various oversight mechanisms in promoting good governance and effective service delivery by the Midvaal Local Municipality (MLM). The oversight mechanisms and structures are the internal and external committees, namely: the section 79 committees established by the municipal council according to Section 79 of the Municipal Structures Act (Act No. 117 of 1998 which delegates this power to municipal councils. The study encompasses the councillors who represent the community members, the municipal officials as well as institutions which support democracy (Chapter 9 institutions), for example, the office of the Auditor-General as per Auditor-General Act, 1995 (Act 12 of 1995. The oversight mechanisms and structures were used to analyse the role and the effect of public participation on service

delivery and the monitoring of the budget implementation. The aim of this study also focuses on the oversight mechanisms through reviewing of: MLM's Annual Reports from 2015/16 to date, Oversight Report; Integrated Development Plan; Service Delivery Implementation Plan. Also review oversight structures namely: the council committee systems section 80 and 79, internal audit unit and committees at Midvaal and finally. Finally to assess the oversight role and impact that the Midvaal Local Municipality community has to ensure that the executive is held accountable.

Madue (2012:431) defines oversight as "... the review, monitoring and supervision of government and public agencies." Oyewo (2007:8) explains oversight as the exercise of constitutional powers by the legislature to check or control the exercise of executive powers or to hold the executive accountable and responsible to the electorate through their representatives in the legislature. For the purpose of this study, the legislature refers to the municipal council and not the provincial legislature unless explicitly stated. The Constitution of the Republic of South Africa, Act 108 of 1996 Section 114(2) (b) stipulates that the legislature's role is to oversee the actions of government departments, its agencies and public entities to promote financial accountability, transparency and compliance in order to enhance the delivery of services. This, at the local level, would be applicable to the municipal councils as legislative bodies, however, the executive authority is also vested in the municipal councils. The impact of the conflation of these two separate powers in a municipal council will be investigated at the Midvaal Local Municipality.

Cloete (2000:17) states that good governance assumes that public service delivery is the implementation of public policies designed to provide concrete services to citizens. Good governance requires good citizens who are informed about their needs, resources and development objectives. In addition, they are experienced in participating in government processes, realistic in expectations and disciplined in executing their responsibility. Cloete (2000:17) observes that through civic formations, citizens can provide oversight platforms to advance public awareness, encourage transparency and promote accountability in governance processes. The type and profile of citizens described by Cloete is an ideal one but realistically, in most historically disadvantaged communities of Midvaal Local Municipality, very few citizens are aware of their resources and development objectives. The majority of the residents in impoverished areas are unemployed and do not consider themselves as playing a crucial oversight role on the municipal council.

Mubangizi and Tshishonga (2013:299) single out the critical challenge amidst those of poverty and unemployment, as the fair and effective delivery of services to millions in South Africa who had been historically denied. Mubangizi and Tshishonga (2013:299) state that strong political will, decisive leadership, effective policy implementation, and strong oversight mechanisms ensure sustainable service delivery in communities.

Section 195 (1) (f) of the Constitution of the Republic of South Africa, Act 108 of 1996, asserts that “public administration must be accountable”. Madue (2014:860) explains that leaders elected by the people should be required to account for how they deliver on the mandates presented to them by the people. The institution that holds the elected accountable is the legislature. In this study, legislature refers to the municipal council, in particular the Office of the Speaker and its oversight mechanisms (public participation) and structures, for example, committee systems. Mubangizi and Tshishonga (2013:301) suggest that political oversight by councillors can be strengthened by the community to create peaceful and livable communities that hold public officials accountable for the provision of services such as water and sanitation. The aforementioned sustainable livelihoods can be attained in impoverished areas through active participation and effective representation of the needs in these communities by the councillors. Mubangizi and Tshishonga (2013:301)

### **1.3 PROBLEM STATEMENT**

This study analyses the impact of oversight mechanisms on service delivery at the Midvaal Local Municipality. The question of whether there is effective legislative oversight in council to hold the executive accountable and transparent is essential to explore. The pertinent issue however, is whether the legislative and executive powers assigned to a municipal council, disempowers that distinct oversight role of the legislative arm at the local sphere of government as the Constitution, 1996, Section 151 (2) stipulates that a municipal council has legislative and executive powers, an important oversight and policy-making role.

The problem is the conflation of legislative and executive authority within the municipal council without clear separation of powers. According to De Visser (2010:91), conflation firstly complicates the position of the municipal Speaker and the Mayor and secondly, it becomes difficult to identify who is in charge of the municipal administration or exercising oversight. De Visser

(2010) furthermore argues that the municipal mayor is the executive authority and often endorses administrative decisions. Therefore, the Mayor becomes explicitly accountable to the committees established for oversight purposes. Despite this dilemma, Masehela, Mamogale and Makhado (2012:347) maintain that municipal councils should not allow the legislative framework predicament to distract them from exercising their constitutional oversight mandate over the municipal administration. This is to ensure accountability, transparency, good governance and effective financial management for the improvement of the delivery of services to local communities. Oversight mechanisms such as council policies, oversight committees and public participation play a major role in ensuring meaningful impact and good relations between residents and Midvaal Local Municipality.

The conflation of legislative and executive authority within the municipal council has been viewed as problematic according to De Visser (2010:91). There is a lack of clear separation of powers between the executive and the legislature. The lack of clarity poses practical challenges and has compromised the accountability required from the municipal administration. The Constitution of 1996, is unclear on the issue because vesting both legislative and executive powers in the municipal council is ambiguous and does not provide the distinctive role of the Mayor (executive) and that of the Speaker (legislative). The purpose of this study in light of the aforementioned dilemma is to analyse the impact of legislative oversight mechanisms on service delivery and good governance at the Midvaal Local Municipality.

#### **1.4 RESEARCH QUESTIONS**

The study endeavoured to respond to the following research questions.

The primary research question is what is the impact of oversight mechanisms on service delivery in the Midvaal Local Municipality? This primary research question is elucidated by the following sub-research questions:

- What is the legislative framework governing oversight at the local sphere of government?
- How are internal and external oversight mechanisms and structures used to enhance accountability, good governance and service delivery in local government?

- What deficiencies are prevalent in the Midvaal Local Municipality oversight mechanisms and structures?
- How is the principle of separation of powers understood and applied in the Midvaal Local Municipality?
- What recommendations can be made to Midvaal Local Municipality to improve the use of oversight mechanisms to enhance effective service delivery?

## **1.5 RESEARCH OBJECTIVES**

In response to the research questions above, the main objective of the study was to provide recommendations to the Midvaal Local Municipality on how to improve the current oversight mechanisms to enhance good governance and service delivery.

The main objective is elucidated by the following sub- research objectives:

- To provide an exposition of the legislative framework of oversight in local government.
- To analyse the impact of oversight committees and structures on service delivery in Local government.
- To investigate the oversight role and the deficiencies that hamper effective service delivery at Midvaal Local Municipality.
- To establish how the principle of separation of powers is understood and applied in Midvaal Local Municipality.

## **1.6 THEORETICAL STATEMENT**

The National Democratic Institution (NDI) cited in Pellizo and Stapenhurst (2013:15) define oversight as the “obvious follow-on activity linked to law-making. After participating in law-making, the legislator’s main role is to assess whether laws are effectively implemented and whether they address and correct the problems as intended by the drifters.” This definition of oversight covers the process of law-making, the implementation and monitor mechanisms and evaluates the effectiveness of the laws. However, the definition does not cover legislative oversight in relation to holding the executive accountable. Oyewo (2007:8) explains oversight as the exercise of constitutional powers by the legislature to check or control the exercise of executive powers or

to hold the executive accountable and responsible to their electorate through their representatives in the legislature. This definition of oversight by Oyewo (2007) is relevant to this research as it explicitly defines the powers of the legislature to monitor the actions of the executive and to hold executives accountable to constituents and communities.

As mentioned above, Ogul (1976:15) discusses “seven opportunity factors” that promote or limit the potential for legislative oversight. The factors include legal authority or obligation, adequate staff, importance of the policy being overseen, the scope of oversight given executive-legislative relations, political party influences and the priorities of individual legislators. These factors influence the impact of oversight on service delivery. Pellizo and Stapenhurst (2013:18) emphasise the Principal-agent theory, whereby *principals* can monitor and enforce compliance on their *agents*. The citizens as the ultimate principals are best placed to shape the IDP of the municipality and the legislature (acting as principal, on behalf of citizens) and both the executive and the bureaucracy on the other side need to ensure that budget is allocated to action the plans raised by the community members. This process ensures that through public participation initiated by the Legislature (Office of the Speaker) allows the community to make their service delivery priorities needs clear for council to budget and implement through the Service Delivery Budget Implementation Plan (SDBIP).

The gap that exists in the study of oversight and the separation of powers in local government is the impact of practical challenges of institutionalising the model. There are contextual differences in all local municipalities that prohibit a blanket approach to the principle of separation of powers and enhancing oversight structures and mechanisms. The population, financial viability and actual municipal council structure are key elements of the success or failure of effective oversight. In addition, the gap in the study of the legislative oversight, is the role of councillors as representatives of their communities. This research focused on the legislative role that the Councillors play in making decisions about the equitable provision of services for the betterment of their communities.

Section 79 of the Municipal Structures Act (Act No. 117 of 1998) delegates powers to a municipal council to establish committees to ensure that their functions are executed effectively and efficiently. Section 129 of the Municipal Finance Management Act (Act No. 56 of 2003) stipulates

that a municipal council must adopt an oversight report containing council's comments. The Constitution, 1996, Section 151 (2) stipulates that a municipal council has legislative and executive powers, an important oversight and policy-making role. However, there are practical challenges in the ambiguity of legislative and executive powers resting within a municipal council. Masehela *et al* (2012:347) raise critical questions regarding the legislative framework that vests both executive and legislative authority in the municipal council. Appropriate and effective oversight mechanisms and structures could impact positively on service delivery at Midvaal Local Municipality. Alternatively, inappropriate and ineffective oversight mechanisms and structures could impact negatively on service delivery at Midvaal Local Municipality.

## **1.7 RESEARCH METHODOLOGY**

A qualitative research approach is followed in this study. According to Babbie (2016:339) Qualitative Research is primarily exploratory research. It is used to gain an understanding of underlying reasons, opinions, and motivations for a phenomenon. Field research is especially appropriate for the study of those attitudes and behaviour patterns best understood within their natural setting, as opposed to the artificial settings of experiments and surveys. Fox and Bayat (2007:7) state that "a qualitative method is designed to scientifically explain events; people and matters associated with them and do not depend on numerical data." The main distinctive feature of qualitative research is that it allows a researcher to identify issues from the perspective of study participants, and understand the meanings and interpretations that they give to behaviour, events, or objects Hennink, Hutter and Bailey (2011:9).

### **1.7.1 Literature Review**

The literature review in this study comprises journals in the field of Public Administration, current legislation on local government and policies of Midvaal Local Municipality. The literature review used in this study provided extensive information on oversight mechanisms at municipalities and local government. According to Sarantakos (2013:151) the literature review is an exploration of secondary published information relevant to the research process. The literature review provides the background and context that is related to the identified research problem. Alternative sources include books, journal articles such as JSTOR (Journal storage), Sabinet reference, legislation and sub-ordinate legislation, policy documents, government publications, electronic media and the

MLM council website. The North-West University Library books and on-line catalogue provided relevant information for this study including the following:

Legislation:

- The Constitution of the Republic of South Africa (1996);
- The Municipal Systems Act 32 of 2000;
- The Municipal Finance Management Act 56 of 2003;
- The Municipal Structures Act 117 of 1998

Various reports and policy documents were sourced including Oversight report, Integrated Development Plan, Service Delivery Budget Implementation Plan (SDBIP) document, and Auditor General's report. More reports that were scrutinised in this study included Parliaments Oversight and Accountability model 2009, Ward committee policy, Petitions Policy, and Systems of Delegations Policy.

### **1.7.2 Research design and instrument of data collection**

The research methodology of this study is a qualitative approach. Brynard and Hanekom (2012:8) describe the qualitative method as the research that produces descriptive data. The point of departure of the qualitative method is to view the world from the perspective of the participant/subject and focus on understanding rather than explaining information. In qualitative field research, it's mostly vital to establish rapport with those you're observing, especially if your observations include in-depth interviews and interactions. Rapport can be defined as an open and trusting relationship according to Babbie (2016: 339).

The qualitative focus of this study was to obtain the perspectives of various stakeholders with regard to oversight and service delivery at the municipal sphere of government. The municipal councillors comprised the majority of the research interviewees as they are the representatives of the communities and fall within Oyewo's (2007:8) notion that the electorate need to hold their representatives accountable. Therefore the councillors need to fulfill their mandate by representing the needs of their wards/ communities in council

### **1.7.3 Interviews**

The study targeted the Midvaal Local Municipality as a research focus. The impact of oversight mechanisms and structures were investigated from relevant stakeholders by means of structured interviews. According to Babbie (2016: 351) Field researchers often conduct in-depth structured interviews. Qualitative interviewing is more of a guided conversation than a search for specific information. Effective interviewing involves active listening and the ability to direct conversations unobtrusively. The interviewees included the Speaker, the Executive Mayor, two (2) Members of the Mayoral Committee (MMCs), the Audit Committee representative, the Municipal Manager, two (2) Senior Managers, three (3) section 79 committee Chairpersons, for example Municipal Public Account Committee (MPAC), and ten (10) Councillors from the majority and minority political parties to ensure impartiality, two (2) ward committee members, two (2) businesses and two (2) community based organisations. The aforementioned (twenty-five) (25) stakeholders provided insight on the different perspectives of the effectiveness of oversight structures on service delivery in MLM. The interviews were conducted in a thirty (30) minutes time frame and were based on fifteen (15) structured interview questions. The participants of this study were adults and excluded minors and people who are mentally incapacitated.

## **1.8 DATA CAPTURING AND ANALYSIS**

The next phase of the research methodology included data capturing and analysis and consolidation of collected information and capturing the findings. Planning was an important part of the methodology involving large amounts of data that were collected during the interviews and analysed and documented in a concise manner. Flexibility in the design is important to adjust certain pre-determined questions and methods as required on the basis of the field experience. Therefore, contingencies needed to be included in the planning phase of the research (Bazeley, 2013:33). The study required documenting and keeping organised and usable data records with details of where, when and how the information was gathered, for example, interview transcripts and recordings. This is a critical aspect of data analysis, as it will help to analyse and record the researched phenomena clearly (add source).

## **1.9 LIMITATIONS OF THE STUDY**

There is no literature consensus on the definition of legislative oversight, the concept is under-theorised, according to Olson (2008:156). The oversight phenomenon in local government has not been extensively researched. Therefore, limited resources are available on the separation of powers in local municipal councils. There is limited information on the study in terms of comparing the impact of oversight mechanisms and structures on service delivery in the local government sphere. The separation of powers model in a Metropolitan municipality is gradually being researched and implemented, however it is not fully fledged source. The Midvaal Local Municipality will be among the few researched pilot studies on the separation of powers in terms of the oversight impact on service delivery, thus placing this study at the forefront to fill the research gap.

The risks anticipated in conducting research of this nature, is the unwillingness of senior officials and politicians to participate due to busy schedules. Therefore the strategy employed by the researcher was to keep the interviews simple and straight-forward to avoid non-completion.

## **1.10 SIGNIFICANCE OF THE STUDY**

This study is significant because it contributes to the existing research on the separation of powers between the executive and legislative authorities, which have practical challenges at municipal councils. This study more importantly explored the oversight impact of the legislative arm at the local government level, against the background of the principle separation of powers. The findings include recommendations to Midvaal Local Municipality on how to improve current oversight mechanisms to strengthen the separation between the two powers. The recommendations provide clarity by delineating the roles and responsibilities of the Executive Mayor and those of the Speaker in a municipal council. The significance and value of this study will thus not only empower the Midvaal Local Municipality, but will also enlighten other local municipal councils and strengthen governance across the entire landscape of local government globally, on the African continent and particularly in South Africa.

## 1.11 RESEARCH ETHICS

As a researcher in the Management Sciences, there is a professional obligation to search for the truth, the *epistemic imperative* (Mouton, 2010:239). Mentioned approach is a non-negotiable moral contract and obligation which binds researchers. Mouton (2010: 238) further elaborates that the researcher is required to abide by the guiding principles of objectivity and integrity in his/her pursuit of the truth, and ensure that no alterations or amendments are made to the final observations. The referencing method is a technique used to ensure that the work of other scholars is acknowledged when used by researchers; it is also to avoid plagiarism, which is passing another's work off as your own. Mouton (2010:241) stresses that fabrication is regarded as the most serious offence in terms of the scientific code of ethics.

As far as consent is concerned, Brynard and Hanekom (2012: 86-87) hold that the aims of the research investigation and the anticipated consequences, should be communicated to the individuals or group likely to be affected. Permission or consent must be obtained from all the human subjects involved in the research study. The permission to conduct the study has to be granted by the Municipal Manager of Midvaal Local Municipality. The interview process excluded personal details to protect the identification of participants. For protection of the participants of the study, the researcher ensured that no pressure was applied and participants were afforded the opportunity to withdraw from the research at any stage of the research process. This researcher undertook to not falsify data and ensured that the information collected was not distorted to suit the study.

Brynard and Hanekom (2012:87) highlight the role of the Research Ethics Committee as protecting the rights of the research participants, society, and researchers. It is described as the unifying factor in the research field, therefore, every researcher needs to submit an application to the research ethics committee. This study was also subjected to the ethical requirements of the North-West University. The required consent form was signed by the participants. The researcher explained that participation was voluntary and that the research project was purely for academic and scientific purposes.

## **1.12 CHAPTER OUTLINE**

Chapter 1 - Introduction and background

Chapter 2 - The oversight mechanisms, accountability and good governance at local government.

Chapter 3 - The Oversight role on service delivery at Midvaal Local Municipality.

Chapter 4 - Empirical study on Oversight at Midvaal Local Municipality.

Chapter 5 - Recommendations and conclusion of the study.

## **1.13 SUMMARY**

This chapter sets the tone for the study by providing an orientation and background as well as the problem statement. It explores the theoretical statement, research questions and research objectives in order to understand the aims and objectives of the study. The Research Methodology adopted in the study was qualitative research, particularly the interview method. The limitations of the study as well as the significance of this research and ethical considerations, chapter outline were presented in this chapter. The following chapter focusses on oversight mechanisms, accountability and good governance at local government.

## CHAPTER TWO

### GOOD GOVERNANCE AT LOCAL GOVERNMENT

#### 2.1 INTRODUCTION:

The literature review explores the various definitions of oversight, the legislative framework governing Oversight. It analyses Oversight mechanisms, importance of oversight, deficiencies and successes in the local sphere of government and generally in South Africa with particular focus on Midvaal Local Municipality as a case study. The term good governance is explored in this chapter, in relation to accountability and how this ultimately impacts on service delivery in local government.

Shija (2012: 5) describes that legislatures have been bestowed with the power and authority to constantly and judiciously investigate how and why the authorities in government manage the national resources in relation to the benefit of the population. Shija (2012) explores the fundamental purpose of oversight which is to oversee that public resources are handled with care to the benefit of the public. This is the key to a healthy democracy, good governance and at the centre of oversight is the voice of the people of South Africa. The robust monitoring of the executive by the legislature is a clear indicator of good governance source. Apart from the law-making function, the legislature can ensure a balance of power and assert its role as the defender of its people's interests (Hudson & Wren, 2007:12) The other function is to keep an eye on the executive on behalf of the people, and hold the executive to account.

Oyewo (2007:8) explains oversight as “the exercise of constitutional powers by the legislature to check or control the exercise of executive powers or to hold the executive accountable and responsible to the electorate through their representatives in the legislature”. Oyewo's definition of oversight explains that a distinct feature of oversight is to hold the executive accountable, by monitoring their actions in terms of implementation of set laws and their general accountability to the people who elected them in power. The definition of oversight, emphasises that the legislatures are constitutionally empowered to exercise an oversight role and to hold the executive accountable. It is a power that should not be taken lightly by the executive.

Johnson (2005:6) states that oversight traverses a far wider range of activities than the concept of accountability. Practically the legislature conducts oversight by enacting new programmes for the state, and ensures that existing programmes are implemented and administered effectively. The Oversight and Accountability Model of Parliament (2009:6) describes oversight “entails formal, informal watchful, strategic, structured scrutiny of laws, application of budgets, strict observance of laws and policies and the constitution”. Ultimately Johnson (2005:6) explains the explicit need of ‘checks and balances’ in a democracy and the important role played by the legislature in this regard as an oversight mechanism. Therefore Oversight is the supervision of government activities and public finances by the Legislature. It is a controversial concept that causes much debate among scholars, government and civil society.

Mill (1861:104) described the proper role of the representative assembly “as to watch, control and throw light of publicity on government’s actions, to compel a full exposition and justification of things considered questionable. To ultimately censure them if found condemnable, and if they abuse their trust to expel them from office and appoint successors.” This powerful statement holds the true definition of oversight in a very aggressive manner, in that it states that should public office bearers not perform their duties with integrity and commitment, the legislature (council) should expose them, dismiss and appoint successors. Realistically this is the ideal oversight mechanism of the legislature holding the executive accountable, however it is not that straight forward. The real dilemma is that legislatures face a myriad of challenges in exercising their legislative role, namely lack of independence, expertise and resources to perform their oversight role Madue (2012: 432).

## **2.2 THE IMPORTANCE OF OVERSIGHT:**

“It becomes easier to scrutinize and control the government and its activities, and since controlling the government is a key component of democratic government, the more a government is subject to potential control, the more likely it is for the political system to be democratic” Pellizio and Stapenhurst (2006:4). Therefore Oversight is an integral part of any democratic dispensation. Within the municipal context the council is directly elected by the electorate it represents and thus has the constitutional mandate to conduct oversight over the executive and the administration.

According to Yamamoto (2007:9-10), the key functions of parliamentary oversight are described as:

- ‘To detect and prevent abuse, illegal or unconstitutional behaviour, noting that at the core of this function is the protection of the rights of the citizens. To implement punitive measures, for example dismissal and re-appoint capable people.
- To hold the government accountable in respect of throwing public light on how taxpayers’ money is utilised. It detects wasteful expenditure within the machinery of government, thus improving the efficiency, economic and effectiveness of municipal operations.
- To ensure that approved policies are actually implemented and monitored and effectiveness of those policies are reviewed. This function includes monitoring the achievement of goals set by legislation and government programmes.
- To improve transparency of government operations and enhance public trust, which in itself is a condition of effective policy delivery’

### **2.3 DEFICIENCIES PREVALENT IN THE LEGISLATIVE SECTOR AT LOCAL COUNCIL:**

According to Thornhill (2008: 492) in South Africa, the municipalities are the coalface of public service delivery because they are the first point of contact between society and government. Municipalities make decisions about the provision of services for the betterment of poor communities, and these decisions have a direct impact on the livelihoods of individual citizens, organisations and businesses. However studies point to weak oversight and accountability within the local government sphere, according to the Auditor-General Report (2012:3). The poor quality of municipal oversight and accountability is demonstrated by the high rate of disclaimers, adverse opinions and or qualified audit opinions (Auditor-General Report 2012:3).

Masehela *et al.* (2012:346) explore the conflation of legislative and executive authority within the municipal council as raising various practical challenges as these powers should be separated. Section 79 of the Municipal Structures Act (117 of 1998), section 129 of the Municipal Finance Management Act (56 of 2003) and the Constitution (1996) state that a municipal council has an important oversight role and policy-making role to play, and a wide range of other responsibilities. However, cognisance is taken of the fact that there are complexities of the oversight role of

legislatures in the quest to balancing power relations between the legislatures and the executive. In terms of the Municipal Systems Act (32 of 2000), the municipal mayor is the executive authority that endorses administrative decisions. The executive mayor explicitly becomes accountable to the committee established for the oversight mechanism. Furthermore, Butler (2011:34) argues, these conditions have compromised the accountability required from the municipal administration. However, this dilemma caused by the legislative framework does not imply that municipal councils should not exercise its mandate of oversight over the municipal administration to ensure accountability, transparency, effective financial management and good governance.

Oversight is a critical process of ensuring that laws are passed and implemented, approved budgets are spent according to plan and that the executive is held accountable. However, the context in which oversight is conducted is a complex environment at local councils that requires effective consideration in order to be executed successfully (Madue, 2012:432). The complexities of the environment at councils limit the successful implementation of effective oversight. Seedat (2010:2) postulates that legislatures typically have to fight for their legitimate and substantial role to meaningfully deliberate legislation and perform oversight over the executive. This is indicative of the power dynamics that exist between the executive and the legislature. It is clear that the executive enjoys more authority than the legislature, especially because the executive has a natural advantage in setting the policy agenda and is better resourced and has access to more information than the legislature, according to Seedat (2010:2). The legislatures often lack the independence, expertise and resources to perform their oversight function, as a result they tend to be overlooked and treated as a mere compliance activity.

### **2.3.1 Oversight deficiencies have been described as:**

There are some problems concerning the implementation of oversight. (Madue, 2012:435). The elements are as follows:

- Lack of clear separation of powers between the Executive and the Legislature.
- Weak legislature that is unable to hold the executive accountable.
- Oversight function tends to be overlooked as a mere compliance activity.
- The legislature often lacks resources, information and has insufficient staff capacity.

The Constitution of the Republic of South Africa, Act 108 of 1996 Section 114(2) (b) stipulates that the legislature's role is to oversee the actions of government departments, its agencies and public entities. The role furthermore promotes financial accountability, transparency and compliance in order to enhance the delivery of services. This, at the local level, would be applicable to the municipal councils as legislative bodies, however, the executive authority is also vested in the municipal councils. The impact of the conflation of these two separate powers in a municipal council will be investigated at the Midvaal Local Municipality. The SA constitution in this particular area of oversight has placed the executive and legislative authority in one space, namely the council at local government level. It is this conflation of the powers that places confusion on separating two distinct functions, that of the Speaker (legislative) and that of the Mayor (executive). At first glance, it seems unambiguous, however when you closely examine the detail it becomes complicated because the constitution vests all those powers on the municipal council. It is therefore important for the municipal council to use the powers authorised in section 79 of the Municipal structures Act (117 of 1998) to establish committees to ensure effective delegation of powers.

### **2.3.2 Oversight Mechanisms and Structures:**

The office of the Auditor-General is one of the Chapter 9 institutions established to strengthen constitutional democracy in South Africa. Section 181 of the Constitution of the Republic states that the Auditor-General is independent and only subjected to the Constitution and the law, that it must act impartially and perform its functions and exercise powers without fear or favour. The functions of the Auditor-General is documented in the Auditor-General Act 12 of 1995 follows:

- Audit and report on the accounts, financial statements and financial management of all national, provincial and state departments. All municipalities and any other institution required by legislation to be audited by the AG;
- Audit and report on the accounts, financial statements and financial management of any institution funded from the National Revenue Fund, and
- Submit audit reports to any legislature that has direct interest in the audit and make the report public.

The legislative framework provides for the implementation of various mechanisms and structures within the municipality to facilitate oversight. Williams (2012:22) argues that mechanisms in this context refer to processes implemented by the council to carry out oversight, and are structured for institutional arrangement to ensure that oversight is implemented accordingly. This section focusses on the following oversight structures: section 79 committees, section 80 committees, the internal audit committee, and the municipal performance audit committee. The oversight mechanisms that are reviewed are, the Annual report, The Oversight report, the Integrated Development Plan and Service Delivery and Budget Implementation Plan, budget statements and performance evaluations.

The Municipal Council decides whether or not portfolio committees will be established in terms of section 79 or section 80 of the Structures Act (117 of 1998). This Act provides generic requirements for the establishment of committees to assist council to conduct oversight. The indicators of suitability of committees include the extent of the functions and powers of the municipality, the need for delegation of those functions and powers to the committee for efficient and effectiveness in performance. Lastly section 79 and section 80 committees serve different purposes and are accountable to different entities regulated by section 33 of the Structures Act (117 of 1998). It should be highlighted that the capacity of the municipal council to conduct oversight over the executive is influenced by the committee system configuration. This is because the mayoral committee is not a committee of the council and can conduct meetings on important council matters without divulging the content of such meetings Structures Act (117 of 1998).

### **Section 79 committees:**

Section 79 committees are not chaired by a member of the executive but by a non-executive councillor. The non-executive councillor can be a member of the opposition, coalition or ruling party, and the chairperson is appointed by council. The council which may remove any member of the committee, may authorise for a member to be co-opted as determined by a committee's functions and procedures in accordance to the council policy. The Municipal Council delegates powers and duties to the committee. The section 79 committees report to council, however the municipal executive may alter reports before it is submitted to the municipal council. Section 44 (1) of the Structures Act (117 of 1998) makes provision for executive discretion to determine

whether the reports should be altered or not. This poses a challenge in terms of effective oversight, accountability and governance as the executive will inevitably change the contents of reports to suit themselves. It shows weakness in terms of power relations between the executive and legislative arm of council and is perceived as ineffective oversight and governance.

Section 79 committees can solicit input from the community with regard to the development of policies and developmental projects in terms of legislation. The effectiveness of section 79 committees is dependent on the terms of references. Council may delegate functions and powers to it and the committee will function according to that mandate. The section 79 committees at Midvaal Local Municipality are: section 79 Municipal Public Accounts Committee, the section 79 Petitions Committee, the section 79 Geographical Names Placing Committee and the section 79 Ethics committee as per section 79 of the Structures Act (117 of 1998). The section 79 Municipal Public Accounts Committee (MPAC) is chaired by a non-executive councillor from the opposition party, namely the ANC, at the Midvaal Local Municipality. The section 79 Ethics committee is chaired by the Speaker of council. The section 79 Petitions committee is chaired by the Chief whip of council.

### **Section 80 Committees:**

Section 80 of the Structures Act (117 of 1998) makes provision for the appointment of committees to assist the executive mayor or executive committee. There may not be more section 80 committees than there are members of the mayoral committee. The council determines who serves on the section 80 committees. The municipal executive, however appoints the chairperson and delegates powers and duties to the committee according to Section 80 (3) (a) of the Act. Furthermore the section 80 committees are not a committee of council, it reports to the executive and is accountable to the executive. Even though some members of the committee are from opposition parties, it must be chaired by a member of the executive. These committees are tasked to develop policies and proposals and determine which policies are submitted to the municipal resolutions. The disadvantage is that the decision-making may be centralised within the section 80 committees that report directly to the executive.

In the section 80 committees system, deliberations regarding policy options, implementation and the performance of the municipal administration, are dealt with in the section 80 committees. The

content is conveyed to the executive by a member of the executive. This does not imply that all committee members have knowledge of whether the committee's recommendation was delivered to the Mayoral committee. Another disadvantage is that non-executive municipal councillors who do not serve on the section 80 committees, have limited opportunity to conduct oversight. The major difference between section 79 and section 80 committees is that section 79 committees may be chaired by a non-executive councillor furthermore from the opposition parties.

In the context of Midvaal Local Municipality, all the section 80 committees are chaired by the members of the Mayoral committee, and the section 79 committees by non-executive councillors, the Speaker and the Chief whip. Most notably is the chairperson of the MPAC which is chaired by a member of the opposition party African National Congress (ANC). This is a good indicator of oversight because the checks and balances of the ruling party Democratic Alliance (DA) versus opposition (ANC) enables thorough scrutiny of reports, conduct and financial prudence of the municipality. Whereas, if the chairperson of MPAC was a member of the ruling party DA, it would be questionable whether they would cast light on unlawful conduct and wasteful expenditure of their fellow political members.

### **Section 79 Municipal Public Accounts Committee (MPAC):**

The Municipal Public Accounts are established in terms of section 79 of the provisions of the Local Government Municipal Structures Act 117 of 1998 and the Municipal Finance Management Act 56 of 2003, to exercise oversight over the executive obligations of Council. MPACs are not meant to duplicate the role of other committees of council, such as the audit committee; they report directly to Council through the Speaker. The functions of MPACs as emphasised by Madue (2013:49) are:

- Consider and evaluate the content of the annual report and make recommendations to Council when adopting an oversight report;
- Assist with the conclusion of matters that may not have been finalised, such as reviewing information relating to past recommendations made on the annual report. This relates to current 2016/7, in- year reports, quarterly, mid-year and annual reports;

- Examine the financial statements and audit reports of the municipality to consider improvements on previous statements and reports. Evaluate the extent to which the Audit Committee and Auditor-General's recommendations have been implemented.
- Promote good governance, transparency and accountability with regard to use of municipal resources;
- Recommend and investigation in its area of responsibility, after reviewing and report on actions already undertaken by the municipality or the Audit committee, and
- Perform any other functions assigned to it through a resolution of Council, within its area of responsibility.

Municipal Public Accounts Committees play an important role in governance by ensuring integrity in government and that the administration is accountable and ethical. They play a critical role in governance by ensuring that resources are utilised productively and that service delivery goals are met (Khalo 2013:586). The principal role of MPACs is to examine the reports of the Auditor-General and Annual report of the municipality and inform council whether there was wasteful expenditure and that effectiveness, efficiency and economy prevail in the application of policy. Khalo (2013) highlights the importance of MPACs scrutiny to ensure that money appropriated to municipalities has been spent within the scope of demand, furthermore that:

- Money recorded as spent against the allocation in the budget must not be more than the amount approved;
- The expenditure brought to account against a particular allocation must be of such a nature as to warrant its record against allocation and not against others, and
- The allocation should be spent on purposes which are set out in the detailed demand and cannot be spent on any new service not contemplated in the demand.

If money has been spent on any service during the financial year in excess of the amount approved by Council for that purpose, the MPACs should investigate each case and the circumstances leading to such an excess expenditure and make the necessary recommendations as deems fit.

The MPAC chairperson should preferably hold a full time position as the mayoral committees do. According to Masehela *et al.* (2012:346) this is to strengthen oversight and accountability. This is

a key point to effective oversight, because a full-time MPAC chair has sufficient time to thoroughly scrutinise municipal reports and conduct proper research, opposed to a part-time chairperson who does not have similar commitment. In the Midvaal Local Municipality, the chairperson of the MPAC, is a part-time councillor and lacks sufficient time to scrutinize council reports and provide meaningful feedback to council. This effectively compromises the quality of oversight conducted by the MPAC.

The role and responsibilities of Council should be conducted with a clear distinction between oversight and interference in administration, as prescribed in sections 52 (b) and 103 respectively of the Municipal Financial Management Act 56 of 2003 and the Code of Conduct for Councillors (Schedule 1 of the Municipal Systems Act 32 of 2000). The MPAC is a key measure to enhance effective oversight in local government.

### **Audit unit**

The Audit committee is an independent advisory body that advises municipal councils, political office bearers, the accounting officer and management staff of the municipal entity SOURCE. Its input covers internal control, internal audits, risk management, accounting policies, financial reporting, performance management and compliance with the Municipal Financial Management Act 56 of 2003 and the Division of Revenue Act. Van der Nest, Thornhill and De Jager (2008:550) describes the Audit Committee's responsibility as assisting municipal management by overseeing all financial reporting to ensure that it provides accurate and relevant information. The advantages of an effective audit committee is defined by Van der Nest, Thornhill and De Jager (2008:550) as:

- It improves financial practices and reporting;
- It improves fiscal accountability;
- It influences action against the misappropriation of funds, and fraud, and
- It enhances the internal and external audit functions.

The Audit committee should consist of members who have a level of financial and programmatic experience which is sufficient to understand audit reports and comprehend the associated risks identified (Madue, 2012:52). The audit committee therefore fulfils a monitoring function as well as an advisory function for the accounting officer.

## **Internal audit unit**

The internal audit unit must be independent from the financial division of the institution and must report directly to the accounting officer and the audit committee According to section 38 (1) (a) of the Public Financial Management Act of 1999. Treasury regulations state the main function of the internal audit unit are:

- Provide an investigative service to the accounting officer by determining whether the institution's resources are employed efficiently, effectively and economically;
- Monitor, assess and report on the internal control system and procedures;
- Monitor, assess and report on the various risks of public institutions, including the total system of internal control;
- Investigate and report on the compliance of the systems with the relevant legislation, regulations, instructions and directives, and
- Follow a comprehensive approach to auditing that includes compliance and performance auditing.

## **2.4 GOOD GOVERNANCE AND SERVICE DELIVERY**

Governance is a multi-disciplinary concept that has to do with the manner in which a country is governed, the way politics operates and how power is exercised source. According to Mubangizi and Tshishonga (2013:302) governance also related to how power is exercised in the management of a country's economic and social resources for development, This definition of governance is however, limited because it does not capture the broad sense of governance in terms of interrelations with other stakeholders for example civil society. Van Niekerk (2001:305) coined governance perfectly by stating that governance includes the connections, and interconnections between central, provincial, local authorities and the general public. Loffler (2003:167) further explains that non-governmental stakeholders such as businesses, media and general civil society could exercise influence on the rules of the game, and how it is played out in the public domain.

According to Kofi Annan, former UN Secretary-General (1997), good governance is government and bureaucracy without nepotism, corruption, or maladministration. It is a process that ensures respect for human rights and the rule of law; strengthening democracy, and promoting

transparency and capacity within public administration. Following the same argument Cloete (2000:17) states that good governance assumes that public service delivery is the implementation of public policies designed to provide concrete services to citizens. Good governance requires good citizens who are informed about their needs, resources and development objectives.

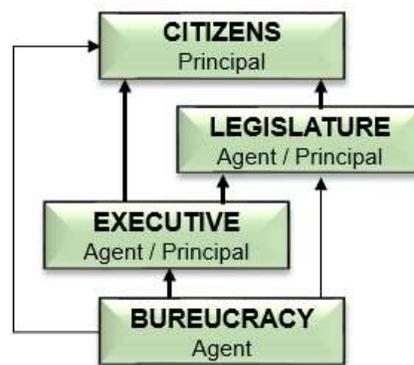
## 2.5 THEORETICAL FOUNDATION OF LEGISLATURE OVERSIGHT

There are various theories underpinning legislative oversight as described below:

### 2.5.1 Principal-agent theory

The principal-agency theory is, on the one hand between the legislature, acting as principal on behalf of citizens, and both the executive and the bureaucracy on the other hand. The principal-agent theory also called the agency theory come from the information economics (Macias, 2012: 48). Pelizzo and Stapenhurst (2012:18) reveal that the principal-agent theory shows the “institutional mechanisms whereby principals are expected to monitor and enforce compliance on their agents. This theory elucidates the accountability relationship between the citizens, as principals, and the executive and the legislature, as agents”.

The agency problem is the root of evaluation and monitoring programmes. Information regarding programmes is made available to ensure transparency, and accountability between citizens, the executive and legislatures. The legislature ensures accountability through public participation and community involvement. The flow of accountability by principals to the agents is depicted in figure 2.2. The aim is to ensure that reporting and furnishing of principals with relevant information is carried out.



Source: Pelizzo and Stapenhurst (2012: 18)

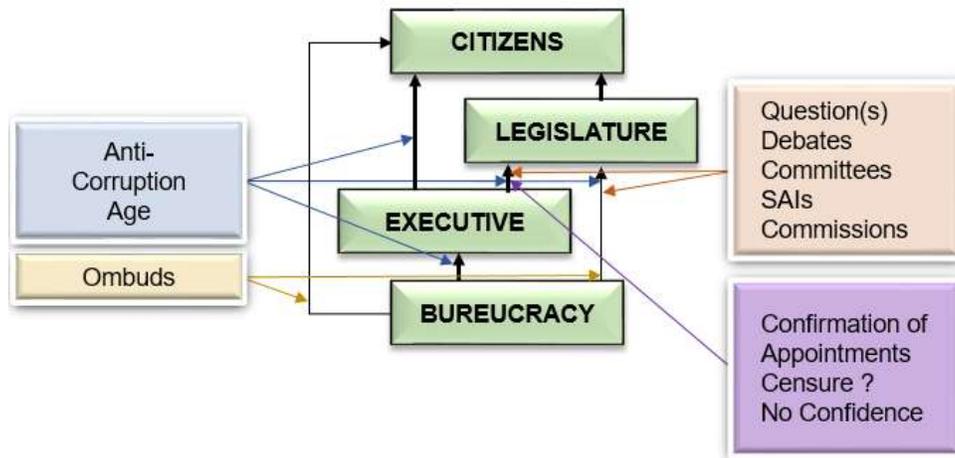
**Figure 2.2: The flow of principal-agent theory to legislature oversight**

As reflected in the above diagram, the ultimate principals are the citizens and the ultimate agents are government officials or civil servants. Gailmard (2012) reveals that public accountability requires a specification of who is accountable to whom, which is a core ingredient of this theory. The executive and the legislature are equally both principal and agent which requires transparency. Furthermore, the executive must account to citizens through the electoral process and to the legislature which represents citizens, through a performance oversight function over the executive (Pelizzo & Stapenhurst, 2012). The principal–agency theory, as pointed out by Gailmard (2012) is an important approach in the interpretation of the effects of institutional arrangements at Midvaal Local Municipality on the accountability of public decision makers and the policy-making process.

The above discussion shows the responsibility of reporting to principals by the agents, however reporting lines are not always clear two-way relationships between the principals and agents. The principals employ the services of agents, and the agents have a responsibility to hold the principals accountable for the delivery of services. Gailmard (2012) critiques principal-agency theory because citizens usually do not have clarity about how their wishes will be met by government, Secondly, the cost of oversight is very high, and thirdly, there is asymmetric information, meaning lack of adequate information for the citizens, regarding how the business of government is carried out. Smith (2011) explains that it is impossible to achieve zero costs.

The principal-agency theory has proven to be an effective approach when there are problems associated with informational asymmetry (Spencer & Zeckhauser, 1971; Holmstrom, 1979; Shavell, 1979; Sappington, 1991 as cited in Gailmard, 2012). Eggertsson (1990) as cited by Macias (2012: 55) states that asymmetry is a perception that an agent has more information about the details of the allocated tasks. The existing perception is that the bureaucracy has more knowledge than the executive, the legislature and/or citizens. However, the executive possesses more information than the citizens and the legislature, which in turn has more information than the citizens. In order to deal with the above limitations, a development of tools for oversight, and application by legislatures is meant to increase effectiveness of these tools (Pelizzo & Stapenhurst, 2012). Principals are required to know and understand the legislature environment, and be actively

involved in the business of the legislature. This will assist in knowing which information to seek in order to hold the agents accountable. The participation of communities in decision-making is imperative and promotes accountability. Legislatures have a responsibility to provide extensive feedback and share the necessary information to communities as agents. Councillors represent communities in council and are tasked with an oversight function, therefore because of their electoral commitment, communities should hold them responsible to fulfil their mandate.



Source: Pelizzo & Stapenhurst (2012: 20)

**Figure 2.3: Accountability and oversight tools**

The traditional models which are used to explore the accountability relationship between the executive and legislature are Chapter 9 Institutions such as audit institutions, anti-corruption agencies and ombudsman’s offices. These external oversight tools are utilised by citizens in order to ensure bureaucratic accountability (Pelizzo & Stapenhurst, 2012). Committees and commissions, questions and debates are used as internal oversight tools, during sitting of committees.

From the above discussion, it is clear that relevant information, transparency and effective implementation of oversight tools is in place to improve accountability, improve the relationship between principals and agents at Midvaal Local Municipality.

### **2.5.2 Informational theory on committees**

Informational theory, as developed by Gilligan and Krehbiel (1987, 1989 cited by Wang (2013) illustrates that committees exist in order to allow the full membership or the floor to use the

informational advantages of members who focus on particular policy areas. “Based on the theory, if policy outcomes are highly uncertain, such as in periods of rapid social and economic change, committees tend to be granted much power to gather information” (Wang, 2013:4). Lawmakers are unaware of important variables that have an impact on policy outcomes and legislative committee’s help by providing data or information on the variables (Battaglini, Lai, & Wang, 2013:2). “The greater are the different views between the committee preferences the less information the committee will be able to deliver successfully” (Groseclose & King, 2000:4). This theory suggests that legislators do not have complete information to predict the outcomes of policy instruments (Groseclose & King, 2000). It is through oversight taken by committees that the legislature will be able to gather information and assess progress on the outcomes set by the executive.

From the above, it can be concluded that legislature committees act as information intercessors between interest groups and the legislature. Effective oversight requires committees to monitor and apply proper control of the generated information. In addition the information generated is important to promote accountability and transparency between principals, the executive and the legislature. Information to principals is important because it enables them to be involved in business of the legislatures. Principals need to know how their concerns, wishes and interests are addressed by the policies, budget and plans of the legislature.

### **2.5.3 The partisan theory on committees**

Cox and McCubbins (1993 as cited by Wang, 2013: 3) indicate that the “partisan theory assumes that a majority party is able to design legislative organization in order to achieve its collective policy goals.” Committees are creations of parties which maintain control over policies. The majority party members with more seats may collude among themselves and disregard the wishes of minority parties (Groseclose & King, 2000). The influence of committees exist only when they serve the ends of the majority parties. Snowberg, Wolfers & Zitzewitz (2007) confirm that majority parties tend to control the agenda and use their power to influence approval of policies. It can be concluded that the number of seats that the party has in council has an impact on the decisions and resolutions taken, thereby impacting on the effectiveness of oversight. Political will plays a major part in enhancing oversight and accountability, despite an expectation that councillors perform oversight without fear or favour (Browse, 2013).

#### **2.5.4 Distributive theory on committees**

Wang (2013) explains that according to the distributive theory, committees are created to assist members to secure spending for their areas or regions. Clearly there is a need for accountability to citizens by both the executive and the legislature. Financial and non-financial oversight over the performance of the executive and legislature must be carried out. Legislative oversight must focus on accountability and not on addressing management challenges (South African National Treasury, 2005). This will ensure transparency, good governance and much needed feedback to communities. The provision of adequate, timely and correct information to communities is anticipated to result in informed citizens and to encourage their involvement in the business of government.

#### **2.6 Governance and Oversight**

Globally major institutions such as the World Bank, United Nations Development Programme and other agencies have changed from working exclusively with the executive to facilitating parliaments. The objective being to enable parliaments to effectively function as the people's representatives in reviewing, supervising and monitoring government machinery, particularly in the wake of dysfunctional foreign aid (Moyo, 2009:1).

Weak financial transparency in Africa cannot be detached from fragile budget transparency in some African countries; this is made worse by the seeming weak oversight function of some African Supreme Audit Institutions (SAIs) and parliaments (Semberya, 2011). Weak financial transparency gives little or no indication of how the public funds are spent, and this lack of information incapacitates citizens from holding public financial officials answerable for financial impropriety and service delivery (Semberya, 2011).

Parliaments in Africa have different backgrounds to reflect the political history of their countries. Emerging from colonial structures some emerged from authoritarian systems such as military rule, and one dominant part in a multi-party structure (Shija, 2012:2). Furthermore the democratic and governance activities in post-independence Africa have come under great influence from all over the world for example the United States of America, Japan and China to leave a mark in the governance behaviour and how resources are exploited and shared, thus influencing oversight activities (Shija, 2012:3). In the Westminster model of parliamentary democracy, legislatures have

been given the power and authority to constantly and judiciously check how and why government authorities handle national resources in relation to the welfare of the population. There are two main attributes to the work and process of oversight:

- Parliament as a Constitutional Institution;
- The Parliamentary Committees, particularly the Public Accounts Committee.

Yamamoto date states that ‘As the body that represents the people, parliament is called upon to see to it that the administration of public policy reflects and meets the people’s needs. Parliament is also called upon to ensure that agreed policy is properly implemented and delivered to target citizens, this is the role of parliamentary oversight.’

In almost every country, governance and oversight functions by parliament are predicated by the provision of the Constitution (Mbeti, 2016). The Constitution sets the parameters of legitimacy and the checks and balances for the utilization of the national resources to benefit every citizen. Parliament is the key institution for the application of the mechanics of governance at national and local levels. In South Africa, similar to other African countries, the Constitution has set up the criteria to enable every citizen to play a part in the distribution of the national resources to benefit every citizen. The Constitution of the Republic of South Africa Act 108 of 1996, chapter 2 (s7-35) describes the set of rules that give every citizen the rights and access to, and protection of, all basic human needs.

Former President Jacob Zuma (2009:5) briefly reflected on some challenges that limit good governance and service delivery in local government particularly citing the following reasons:

- That service delivery is examined against a backdrop of a global economic crisis and that there are not sufficient resources to fulfil service delivery goals. Unemployment levels are high and many people cannot afford to pay for services, which means revenue collection is stagnant and the tax base has shrunk;
- Municipalities are owed revenue even by other government spheres, billions are outstanding from departments that are not paying for services;
- Municipalities face a deep crisis of governance, due to political power struggles - battle for control over resources render many municipalities dysfunctional;

- The gap between the governors and the governed widens; which leads to alienation and frustration of communities that is often reflected in the destructive protests;
- Weak financial management and lack of capacity to collect revenue results in irregular expenditure, corruption, and adverse audit outcomes by the Auditor-General.
- Insufficient coordination across spheres of government, for example National and Provincial spheres, making decisions that have serious implications for local government without consulting local government.

Former President Zuma (2009:5) furthermore cites ways to redress the above-mentioned local government challenges by source:

- Drastically rethinking the relationship between local government and other spheres, the funding streams between the spheres and the coordination arrangements especially for the exercise of concurrent functions;
- Reviewing whether municipalities with vastly different capacities should be expected to perform the same functions; a one size fits all approach is not working;
- Separating the executive functions from administrative ones, councillors tend to interfere in administrative management and operations of the municipalities;
- Strengthening Oversight in municipalities, the fusion of executive and legislative mandates creates problems, unlike other spheres where there is separation between executive and legislative functions;
- The continuous ‘‘drum of protests’’ seems too loud to bear as municipal political office bearers are blamed for problems that may take years to solve; and lastly
- To engage in intensive dialogues with the people who gave government a mandate to rule over them, and ultimately to close the social distance with the governed.

Council has an important oversight, policy setting role and a wide range of responsibilities that include community leadership, representing citizens, making decisions about the provision of services for the betterment of the communities. Collectively councillors are responsible for decisions that affect the lives and livelihoods of individuals, organisations and businesses in their wards (SALGA, 2013:3). As custodians of community interest, Council is entrusted with the responsibility to ensure that the control environment is established and maintained to ensure that

the envisaged outcomes are attained. To ensure good governance, the municipal council comprising of all councillors have these roles to play according to SALGA:

- Represent the local community;
- Ensure the well-being and interests of the municipality;
- Ensure the provision of services to the local community in a sustainable manner;
- Develop and evaluate the policies and programmes of the municipality;
- Maintain the financial integrity within the municipality
- Carry out the duties of council under the constitution and other legislation;
- Ensure that administrative policies, procedures and oversight policies and practices are in place to implement the decisions of council. and
- Ensure the accountability and transparency of the operations of the municipality.

The above-mentioned responsibilities are coupled with oversight responsibilities in terms of the internal audit, the audit committee and MPAC (SALGA, 2013:3)

### **2.6.1 The Policy-making role of Council:**

As a result of increasing needs, desires and demands on contemporary South African local government, municipalities are expected to continuously render goods and services to communities within constraints of limited public funds and scarce resources (Fourie, 2000:81). The administration of a municipality takes place in a political milieu and it is only after the legislator (council) has made a decision, that specific administrative action should take place. Cloete (2000:12) states that at least six main groupings of interdependent, mutually exclusive administrative functions can be identified, inter alia policy-making, organising, financing, staffing, determining work procedures and controlling. These functions are prerequisites for goal achievement in any municipality.

According to Dunn (1994:14) local policies are what municipalities actually do or don't do, which means that policies could either be concerned with change or with the preservation of the status quo. In terms of section 152 of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996) the primary responsibility of a local council is to formulate policy, to marshal the financial and human resources and to administer control over the administration of a municipality.

The output of the local political process culminates in by-laws, which is nothing but a written public statement of policy by a council pertaining to a particular local matter, indicating the course of action that is preferred. According to Dunn (1994:14) the desired course of action serves as an input to the comprehensive local administrative process, which translates it into action programmes. Councils should deliberate policy recommendations, adopt new policies and oversee the implementation thereof. It can be argued that councillors should have the ability to formulate by-laws and effectively negotiate and deliberate at council meetings. Fourie (2000:97) points out that a council can delegate specific policy matters to an individual councillor however, a full council will need to ratify the policy decision.

These policy recommendations are deliberated at monthly council meetings. For this purpose councillors should prepare themselves thoroughly in order to make constructive policy inputs. Furthermore all policy recommendations should be thoroughly debated before voting takes place. It is argued that councillors should be well equipped to be able to bring their points of view across at council meetings. This implies an understanding of meeting procedures and an ability to negotiate and possibly resolve conflict. The result of the local political process is local policy, and it is therefore inseparable from politics and more specifically the political ideology of the majority party in council. Hanekom (1987: 69) coined it well stating that:

*an analysis of policy should not only take into account the costs and benefits of existing policies or alternative courses of action, but the official should bear in mind what the policy-maker envisaged when the request for policy inputs was originally made and the party-political implications of a particular policy. It could be argued that an official ignoring this will in all probability come up with information that is not useful to council.*

### **2.6.2 Accountability:**

According to Vyas-Doorgapersad and Ababio (2006:386) accountability can be understood as the answerability for performance and obligation that public functionaries (elected office bearers and appointed officials) have to give a satisfactory explanation to the public (tax payers) concerning the exercise of power, authority and resources entrusted to them. Kukamba and Fourie cited in Ababio (2007:4) outline the concept of accountability as follows:

- Undertaking official decisions and activities in a transparent way by capturing various stakeholders' interest;
- Optimum use of resources - taking into consideration of value for money and cost-benefit analysis, with no tolerance for waste and corruption;
- Adherence to ethical and professional standards and regulations;
- Responsiveness to community needs as much as possible with prioritisation;
- Viable mechanisms of providing feedback and information to the public, and
- Effort to foster awareness and civil society participation.

Hierarchical or bureaucratic accountability refers to an intra-governmental accountability that follows a strict superior-subordinate hierarchy whereby the public official is technically accountable through the leadership of the municipality (Ababio, 2007:6). This accountability relationship is based on internal control through supervision of individuals with reliance on seniority of position or functional arrangement.

Political accountability applies to internal structures of government including elected public representatives who assume decision-making functions source. It also refers to non-elected public officials with roles and responsibilities as far as management and administration are concerned; including initiation of submissions for executives and councils to decide upon (Napier, 2007:380). Ababio (2007:6) argues that that political accountability is the process where the electorate have the opportunity to measure the performance of government, and to return or remove it from power. Political accountability can furthermore also take on some administrative dimensions. This is in situations where, for example, MPAC questions the mayor on aspects of performance of portfolio. Kukamba and Fourie (2007:8) argue that political accountability tends to be affected by neo-patrimonial acquaintance, nepotism, and political party patronage which undermines the principle of responsiveness to the public. These limitations, notwithstanding political accountability, remain the highest form of accountability.

Professional accountability refers to public officials and how they are expected to exercise their best judgment, achieve results and be more output and outcome oriented rather than merely following rules and directives. Such approach provides room for the use of discretion, but may also be prone to abuse of discretion. Ababio (2007:6) states that to achieve these, performance

standards are set by professional norms and prevailing best practice, hence actions of public officials are influenced more on internalised values and appropriate practice than mere political responsiveness. Accountability involves holding functionaries responsible for their actions or their non-performance.

Napier (2007:830) cited in Ababio 2007:4) explains that in terms of managerial and administrative accountability, officials both need to account to their superiors and political leaders as far as administrative performance is concerned. Managerial and administrative personnel are allocated with certain authorities and delegations to execute administrative functions in a governing authority. Furthermore, financial and budgetary accountability involves accounting for the spending and allocation of rates and taxes and managing the control of public assets and liabilities.

Public accountability entails the obligation of authorities to explain publicly, fully and fairly, before and after the fact, how they are carrying out responsibilities that affect the public in important ways (Madue, 2014:863). Holding to account means obtaining from authorities the public explanations needed at the time needed. Validating the reporting for its fairness and completeness and doing something sensible and fair with explanations given in good faith. Lapointe (2013:4) cited in Madue 2014: 860) states that it is the obligation of the executive and its staff members to be answerable for all decisions made, actions taken and responsibility to honour their commitments without exception. Lapointe (2013:4) furthermore states that accountability includes achieving objectives and high quality results in a timely and cost-effective manner, in fully implementing and delivering on all mandates. However, other mechanisms within and without legislatures and bureaucracies do exist to assist in ensuring continuing accountability. These include motions of censure, public protests, and investigative journalism by the media, public meetings at which elected representatives and officials may be prevailed upon or even obliged to answer questions and defend their actions (Napier, 2007:380). The Midvaal Local Municipality, under the Speaker's office, pre-schedules all public meetings relating to Integrated Development Plans including Budget Public meetings, on a year planner accessible on the website and at the Speaker's office. The purpose of these meetings held annually in every ward, is to listen to communities and list their needs in order of priority to enable placing those projects on the IDP and subsequently budget for them. These public meetings provide a platform for the community to hold the executive accountable. The Speaker, the Executive Mayor, and the members of the

mayoral committee have to answer questions and defend their actions. Table 2.1 explains the Integrated Development Plan budget time frame.

## 2.7 IDP/BUDGET TIMEFRAME DIAGRAM

In terms of section 160 (1) of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996) municipalities may impose service charges, such as for sewerage and refuse removal, property rates, trading services, such as electricity and water. It can be argued that councils have to be aware of the sources of income available to a municipality, as councils have to generate the bulk of its income. Fourie (2000:119) argues that ways need to be found to effectively extract taxes and payment for services from the community. A municipality’s budget translates the policy of a municipality into concrete programmes and projects, with an indication of costing involved in the implementation of such programmes and projects. This developmental policy of council is the IDP. Municipalities prepare budgets annually and these are submitted to councils for approval. Thereafter the approved budget is regarded as the financial policy of a council. It can therefore be concluded that the budget provides citizens with an indication of a council’s policy objectives and it is a concrete plan for officials of how revenue is to be applied. Table 2.1 depicts the IPD and Budget timeframe of the municipality.

**Table 2.1: Outlining the IDP/ Budget timeframe of the Municipality**

Action / Project	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
Compilation and approval of Process Plan												
Status Quo & Analysis												
Compilation and Finalization of Ward IDP documents												

<b>Action / Project</b>	<b>July</b>	<b>Aug</b>	<b>Sept</b>	<b>Oct</b>	<b>Nov</b>	<b>Dec</b>	<b>Jan</b>	<b>Feb</b>	<b>Mar</b>	<b>Apr</b>	<b>May</b>	<b>Jun</b>
<b>Ward Committee public meetings (IDP)</b>												
<b>Draft IDP &amp; Budget document completed</b>												
<b>Draft IDP &amp; Budget approved by Council</b>												
<b>Public meetings (Draft Budget)</b>												
<b>Final Council approval</b>												

Source: 2016/17 IDP Roadshow Extract from the MLM IDP Public Presentation

The Service Delivery Budget Implementation Plan SDBIP is a concrete plan that enables the achievement of goals set out in the Integrated Development Plan of the Municipality.

Section 152 (e) of the Constitution (Act 108 of 1996) stipulates that community involvement in local matters should be encouraged. Community meetings are held to provide feedback on activities of the council. A council normally mandates a councillor to address the meeting on its behalf. The primary focus of these meetings is to inform the community regarding developments and financial implications or expectations. This remains one of the best ways to extract policy-relevant information from the community, especially the developmental objectives for the IDP and Budget in various wards.

Community newsletters and media briefings are also effective mechanisms to solicit input from the community. The Municipal Systems Act 2000 calls for citizen participation to promote development and the implementation of the IDPs. The Systems Act outlines the importance of participation through various methods, so as to disseminate information and communication through local newspapers, radios, municipal notice boards, imbizos and websites. The periodical distribution of a community newsletter informs citizens of decisions taken by council, the status of current projects, and provides information regarding any new developments in their area. According to Fourie (2000:121) the newsletter should invite comments from the public in order for a council to determine the attitude of citizens on specific issues, to enable a proactive response and strategies to deal with them.

Matsiliza (2012:449) argues that communities must be consulted via their development fora and ward councillors, especially in respect of capital projects, to ensure that it is a participatory budget in terms of the IDP. In addition, municipalities are mandated to put in place appropriate structures such as ward committees that should be represented in the IDP forums. The ward committees are the link between the municipality and the community.

It can be concluded that regular community engagements in its various forms as mentioned above, not only assist councillors in staying in touch with the needs, desires and demands of the community, but it also ensures a higher voter turnout for councillors during elections Matsiliza (2012:449) . Therefore, there is a great benefit in engaging regularly with the electorate and community outreach should be utilized as often as possible. If a council does not promote citizen participation, an understanding of the needs, desires and demands of the community are sacrificed and this could lead to opposition to decisions of a council, protests and even civil disobedience (Fourie, 2000: 99).

According to Matsiliza (2012: 451) there is no doubt that South Africa's local municipalities still need more effort to build capacity in order to include the ordinary people in participatory budgeting. The IDP prioritisation of public needs, including infrastructure, does not amount to a proper application of participatory budgeting. The officials, councillors and experts, need to apply principles of deliberate democracy, with some added values on good governance, such as

accountability, consistent consultations, capacity building, collaborative decision-making, openness and transparency, effectiveness and efficiency and responsiveness.

## **2.8 SUMMARY**

This chapter focused on the definitions of Oversight, the importance, deficiencies and successes associated with it. It discussed Oversight mechanisms. The term good governance was explored in this chapter, the relationship between accountability and oversight, in as far as how this ultimately impacts on service delivery in local government. The dynamics of accountability were explored, for example the administrative accountability and political accountability. The next chapter extends the oversight role and investigate the impact that it has on service delivery at the Midvaal Local Municipality.

## CHAPTER THREE

### THE OVERSIGHT ROLE AND IMPACT ON SERVICE DELIVERY AT MIDVAAL LOCAL MUNICIPALITY.

#### 3.1 INTRODUCTION

The Municipal council should act as the focal point for and custodian of good governance. It has to play an effective role in the strategy development process and ensure that long term strategies and (IDPs) are aligned to the expectations and needs of the community members (SALGA, 2013:3). As highlighted in the previous chapter, Council has an important oversight and policy setting role with wide ranging responsibilities from community leadership, decision-making and provision of services for the betterment of communities. In essence, collectively councillors at Midvaal Local Municipality are responsible for decisions that affect the lives and livelihoods of individuals, organisations and businesses in the Midvaal jurisdiction. This chapter explores the constitutional mandate of oversight at Midvaal Local Municipality and to what extent it impacts on ultimate service delivery.

The first century Roman poet, Juvenal asked a question which was as relevant then as it is now: "*Quis custodiest ipsos Custodes?*" Maffio (2002:334) which means "who will guard the guardian". This is critical to assess the political-administrative dichotomy which makes a clear distinction between politicians who make policies and the administration who implement the policies (Mubangizi, 2013:301). It effectively considers good governance from the perspective of principal-agency theory as described in chapter 2 with its perpetual cycle through the lenses of oversight and to what extent it ensures effective service delivery. The IDP, SDBIP, Audit committees, Risk Management process, Performance management and compliance to regulations are evaluated in as far as it impacts the exercise of oversight in the Midvaal Local Municipality. Lastly the role of formal and informal community participation in oversight structures is analysed. This includes the Separation of Powers model and how it is institutionalised at Midvaal as well as more internal oversight structures in council.

### 3.2 THE CONSTITUTIONAL MANDATE FOR OVERSIGHT IN SOUTH AFRICA

The responsibility for ensuring watchfulness over the executive emanates from section 55 of the Constitution:

*The National Assembly must provide for the mechanisms to ensure that all the executive organs of the state in the national sphere of government are accountable to it; and must maintain oversight of the exercise of national executive authority, including the implementation of legislation (Constitution 1996:34).*

The Constitution furthermore empowers the National Assembly to provide for structures, institutions and arrangements that will facilitate its functions of oversight. Both sections 56 and 57 address the role of committees in ensuring oversight. In as far as the National Assembly is the focal point of oversight on the executive, so is the Municipal council at the local level. The same powers to establish committees, implement legislation and hold the executive accountable, is extended to Councils at the local sphere of government.

Legislatures are considered very highly to the success of democracy (Pellizio & Stapenhurst 2006:2). As the mouthpiece of the people, the legislature must ensure that the executive and its departments properly address societal problems. According to Esau (2008:97) extensive evidence indicates the extent to which the countries have gone to sufficiently empower the legislature to exercise oversight over the executive. An example is the World Bank Institute which explored approaches to strengthen parliamentary oversight in 83 countries. The Parliamentary Centre in Southern Africa from 2002 to 2005 introduced projects that focused on improving the role of legislatures in oversight Esau (2008:97). Other initiatives included the Association of Public Accounts (APAC) in South Africa which initiated conferences, workshops, skills training and best practice visits to improve the function of holding the executive to account. However, this is still considered a daunting task for many legislatures in South Africa.

Esau (2008: 98) explains that according to the rules of the National Assembly, the Standing Committee on Public Accounts (SCOPA) is empowered to consider the financial statements of all government departments and constitutional institutions submitted to parliament; to examine the reports of the auditor general with regard to the expenditure of public monies; to summons witnesses to appear before it, and to assess whether value for money has been received. The

SCOPA is further empowered to initiate any investigation in its area of expertise as well as to report on such investigations to parliament. It is also required to ensure that government departments conduct their business within the framework of the Public Financial Management Act (PFMA) of 1999. Thus the primary mandate of SCOPA is to rigorously assess "financial administration in the national public sector by holding accounting authorities accountable for the spending of taxpayers money and their stewardship over public assets" (Esau, 2008: 99). The important functions of SCOPA are replicated by the Municipal Public Accounts Committee at the Council. Their main function is also to assess the financial administration of the municipal council, and investigate any maladministration or wasteful expenditure; furthermore to examine the Annual report of council and call to account the accounting officer when it deems necessary. According to section 51 of the Systems Act 32 of 2000, the municipality must hold the municipal manager accountable for the overall performance of the administration.

The Constitution of the Republic of SA, 1996 includes a number of supporting provisions to enhance oversight and accountability in the public sphere. It provides for the political right of every citizen to free, fair and regular elections for any legislative body to stand for public office. Chapter 7 of the constitution provides for the establishment of municipalities. Section 152 (1) (a) specifically refers to democratic and accountable government for local communities and section 152 (1) (e) refers to the encouragement and involvement of communities in the matters of local government. In terms of section 160 (6), a municipal council may elect an executive committee and other committees, and may also employ the personnel necessary for the effective performance of its functions. Furthermore, they may make by-laws, which prescribe rules and orders for its internal arrangements, business and proceedings; and establishment, composition, procedures, powers and functions of its committees source.

From Central government level, three key pieces of legislation have been enacted providing for the functioning of local government, the first being the, Local Government: Municipal Structures Act, 1998 (117 of 1998), and the second being the, Local Government: Municipal Systems Act, 2000 (32 of 2000), and the third being the, Local Government: Municipal Finance Management Act, 2003 (56 of 2003) MFMA. Chapter 4 of the Structures Act provides for the establishment of executive committees, election of mayors, ward committees, other committees of council and the participation of traditional leaders in council. Chapter 1 of the Structures Act, section 8 (g) allows

for municipalities to select from various types of executive systems, and in the case of Midvaal Local Municipality, a mayoral executive committee system combined with a ward participatory system was selected. Section 55 of the Structures Act 117 of 1998 determines that an Executive Mayor is elected by the full council and in terms of section 60, is entitled to appoint a mayoral committee from among the councillors to assist in carrying out the specific responsibilities.

The Systems Act in terms of Section 4, also refers to the rights and duties of municipal councils and the need to provide a democratic and accountable government. Section 6 refers to municipal administration and the requirement of a culture of public service and accountability among staff that must be facilitated. Lastly the MFMA allows the community to submit a representation concerning the annual budget after it is first tabled. The Executive Mayor is required to respond to these submissions and if necessary, revise the budget and table amendments for consideration by council, according to Napier (2007:382).



Source: Poster of Political structure at the Midvaal Local Municipality (2016)

**Figure 3.1: The Political structure of Midvaal Local Municipality**

In terms of a formula specified in Schedule 1 of the Structures Act, 1998, Part 2 (12) and (13), the quota of votes for a seat in the council, is determined by a formula as set out in the legislation. Following the 2016 elections on the 3<sup>rd</sup> of August 2016 and the application of this formula, the Democratic Alliance (DA) obtained eleven (11) wards and six (6) proportional seats, the African National Congress (ANC) obtained four (4) wards and five (5) proportional seats, and the smaller parties Economic Freedom Fighters (EFF) obtained nil (0) wards and two (2) proportional seats; Freedom Front (FF+) obtained nil (0) wards but one (1) PR seat the balance of both minority proportional representation seats making up a total of twenty-nine (29) seats in Councils. The Democratic Alliance by virtue of its majority of seats maintained political control of the Midvaal Local Council.

Since 1994, local governments are democratically elected in terms of the above legislation, the question arises as to whether a representative of a minority party can account for decisions made by the majority party? A further question according to Napier (2007:384) is how do representatives account to their respective constituents and ward members, and to whom the individuals holding representation seats, are accountable to? Each ward in Midvaal area has large numbers of registered voters, distributed in many instances over large rural geographical areas, for example Ward 1 which includes Bantu-bonke and Vaal Marina. In other wards voters are concentrated in urban areas. This raises practical issues of the role of the representative. How do representatives account to each resident in the ward. This is a challenge which affects most representatives in other political systems with constituencies or wards or districts. A further practical issue is what role representative's play with residents in a ward since all ward representatives are elected on a party platform? How does a ward councillor account to thousands of residents? There are no clear answers to this question according to Napier (2007:385).

A number of mechanisms have to be used including the media, public report back meetings, and the interaction with civil society organisations such as ratepayers associations and through the ward committee structures source. A further question arises from the latter; does the ward councillor account as a representative of a political party or as an individual? The answer is not clear and depends upon the model of representation accepted such as a trusteeship, delegation, mandate or resemblance model (Heywood 1997:206-211). According to Heywood (date and page no), the Trusteeship model suggests that once a representative is elected he/she exercises

independent judgement on the grounds that he/she knows what is best for the constituents, The delegate model requires that the representative is expected to act as a conduit conveying the views of others with little capacity to exercise personal judgment. The mandate model also states that individuals generally win elections under a party label and therefore are obliged to carry out the party mandate. According to the representative model only representatives from a particular group can represent the group. The connection between the ward councillor and the electorate depends on the theoretical view of the relationship between the councillor and the electorate taken by the councillor or political party which he or she represents (Salga, 2012)

With regard to the political party or proportional representatives at the local government level, the accountability is more tenuous. Where Public Representatives (PRs) are allocated by a party to constituencies or geographical areas representing the public, this link becomes tenuous because one can ask whether individuals account to geographical areas or whether they account to the party that placed them there. The question can similarly be applied to members of parliament and provincial councillors elected on a PR list, there is also no clear guideline. A further significant issue to explore is the relationship between ward councillors and the PR councillors allocated to a ward. In the majority of cases it comprises of different political parties for example, a DA ward councillor and an ANC PR councillor in one ward. According to Heywood (1997:206-211) the element of competition prevails between them even although elections have passed.

The Municipal Structures Act 117 of 1998, allows for the establishment of Ward committees in municipal councils. Ward committees include not more than ten members, elected by each of the 15 wards in Midvaal Local Municipality. The ward committee is presided over by the ward councillor for that specific ward. Duties and powers are delegated by the council, and elected members may make recommendations to the highest decision making levels through the ward councillor. The functioning of ward committees vary considerably from ward to ward and do not have original powers but afford a close connection here between a public representative and the electorate. Ward committees also function as communication channels between the elected ward councillor and the public, and offer an opportunity for the ward councillor to account to voters of the ward. (Ward Committee policy, 2016).

Within councils, executives are the main source of authority and decision-making. In general executives take final responsibility for decisions made. The executive mayor appoints and dismisses committee members drawn from members of council to assist in performing various functions. The Mayoral committee is not considered a committee of council and therefore is accountable to the executive mayor who appoints it. It is a debatable point as to whether individual mayoral committee members account for personal and departmental actions, or whether the executive mayor takes full responsibility and accounts for the actions taken in his/her authority. There are five Members of the Mayoral Committee at Midvaal Local Municipality, all heading the section 80 portfolio committees namely; corporate cluster, Engineering services, Community services, Development, planning & housing and lastly Finance (IDP 2017/18)

In terms of the Systems Act, the MLM adopted rules and orders of council to regulate the functioning of the council and allow for the notion of oversight and accountability to operate source. Between elections an electorate has to rely on alternative oversight mechanisms to govern the rules and hold the bureaucrats to account, this refers to the earlier question posed by Poet Juvenal - "*Quis custodiest ipsos Custodes*" Maffio, (2002:334) When translated means "who governs the governor?" There are four main oversight mechanisms facilitating accountability within the council which members of council (ward councillors or PR councillors) may use to call the executive and bureaucracy to account according to SALGA, 2012.

Firstly provision is made in the rules of council for questions, either orally or written, to be directed to the Executive Mayor. Questions may be placed on the agenda of scheduled council meetings concerning the general work of the municipality, and a member may ask for clarification.

Secondly, the facility to petition an executive to address an issue or problem is also accommodated in the rules of council - this compels the municipality to account for a certain decision, action or inaction. The procedure allows for citizens to petition government to redress grievances and other means of calling rulers to account (<https://www.salga.org.za/Documents/Municipalities>).

Thirdly, a motion may be put to council requesting further information or action which may be debated and result in the executive accounting for an action or inaction with regard to a particular municipal matter. Motions are subjected to be accepted or rejected in legislature/council and may

be out to a vote. Generally a vote on a motion is subject to party discipline and members vote along party lines in accepting or rejecting the motion.

Fourthly, councils allow for debate on agenda items which allow members the opportunity to supply or elicit information on a municipal matter. In the process they may raise points of order or information or criticism as a mechanism to call the executive to account in a debate. The placing of agenda items is determined by the political executive of a council which does impose rigidity on the agenda and little opportunity for councillors to raise issues peripheral to the item being debated.

Finally, submissions from special interest groups may be received by the mayoral committee or council in response to a request. This is a critical link between decision-makers and the general public.

Besides the main council at MLM, provision is made for Portfolio committees, with deliberative and delegated powers to address proposals put before them before submitting them to the Mayoral committee and then the full council. There is a relationship between the bureaucrats who give account for their actions through policy or request for support of their recommendations and the political representatives, councillors and members of the mayoral committee. Portfolio committees are established in terms of section 79 and 80 of the Structures Act, 1998. Besides the powers allocated to committees, powers are delegated to several senior officials heading various functional areas including EM, the MM and Heads of Departments and other subordinate officials, for example, legal and administrative/secretarial services. ([www.midvaal.gov.za](http://www.midvaal.gov.za))

The section 79 and 80 committees comprise representatives determined in proportion to the strength of their party representation in council. According to the Municipal Structures Act 117 of 1998, each committee comprises members of political parties represented proportionally in council. The committees report back to the mayoral committee and full council. Decisions taken in terms of delegated powers by the section 80 portfolio committees, may not be overridden by the mayoral committee or council. Although opposition parties have representation in these committees, their role in decision-making is limited by their minority status. The budget is perhaps the most key tool to ensuring accountability source. The budget is presented annually and in the MLM, the process is preceded by public participation meetings to receive representations and

submissions from ward committees, residents and other stakeholders. At the end of this process, the budget is submitted to the full council for consideration and approval. Councillors may then scrutinise and request executive to account on certain issues of the budget.

### **3.3 SERVICE DELIVERY**

Through the Constitution of 1996, sustainable service delivery has become a right of every South African citizen. As contained in the Reconstruction Development Plan (RDP), service delivery, especially for the poor and marginalised communities, is often linked to redressing the injustices and legacy of apartheid. Also given the harsh realities of rising poverty, high unemployment rates and gross inequalities, the democratic government has committed to creating a responsible and people-centered society by addressing challenges that people face.

Additionally, service delivery protests in South Africa may not be surprising as South Africa is said to have a significant percentage of poor people (Machethe, 2004) who depend on government social services as the only hope of survival, and according to a popular aphorism “a hungry man is an angry man”. A people-centered vision for development based on empowerment and participation and delivery of goods and services to passive citizenry, is drastically discouraged (Tshishonga, 2012: 256). Service delivery is expanded especially to the needy and unemployed as part of the strategies geared towards reducing poverty and deprivation suffered by many communities. In order for the government to manage challenges, there is a need to enhance efficiency of state bureaucracy through effective intergovernmental relations. The process entails recommitting public servants within the three spheres of government and across different departments to work together towards a society free from poverty, unemployment and hunger.

The White Paper on Local Government (1998) outlines principles which should guide municipalities and councillors to select the best service delivery options for constituents, namely:

- accessibility of services;
- affordability of services;
- quality of products and services;
- accountability for services;
- integrated development and services;

- sustainability of services;
- value for money;
- ensuring and promoting competitiveness of local commerce and industry, and
- promoting local democracy.

### **3.3.1 Accessibility of services:**

Councillors, through governing functions, should strive to ensure that all citizens have access to basic services, by ensuring that imbalances are identified and addressed adequately. This can be done by the development of new infrastructure or upgrading of existing infrastructure in the wards. The resolutions adopted by councillors to enhance basic service delivery are often subject to financial constraints in terms of the capital budget of the municipality. The Municipal Infrastructure Grant (MIG) is a capital grant to assist municipalities in funding bulk and connector infrastructure for low-income households. According to Gqamane (2013:827) MIG extends access to services to previously disadvantaged communities.

### **3.3.2 Affordability of services:**

The White Paper on Local Government, 1998 articulates that accessibility of services is closely linked to affordability, meaning that even when service infrastructure is in place, services may remain beyond the reach of many unless such services are financially affordable. The challenge is to set tariffs which balance the economic viability of continued service provision and ability of the poor to access services and determining appropriate service levels which are not too high. It should be noted however, that inadequate service levels may perpetuate spatial divisions between low, middle or high income users, particularly in urban areas. To minimize imbalances municipalities should consider cross-subsidisation between high and low-income users and commercial and residential users (Gqamane, 2013:827).

### **3.3.3 Quality of products and services:**

The White Paper on Local Government, 1998 proposes criteria to be used by councillors when adopting resolutions pertaining to the quality of services. The criteria include suitability of purpose, timeframes, safety and continuity, responsiveness to service end users, and a professional and respectful relationship between council and residents (service users). According to Maimela

(2009:475) in order to provide high quality services, management must be obsessed with quality and the driving force behind quality is customer satisfaction. Councillors should pay attention to the quality of services to their wards especially in light of the violent service delivery protest action that has occurred in MLM.

#### **3.3.4 Accountability for services:**

Although there may be several service delivery mechanisms available to municipalities, accountability for services being delivered, remains the ultimate responsibility of the municipal council. Kakumba and Fourie (2007:652) argue that accountability is the answerability for performance and the obligation that public functionaries are required to provide satisfactory explanations to the public over the exercise of power, authority and resources entrusted to them for service delivery.

#### **3.3.5 Integrated development and services:**

Municipalities should adopt an integrated approach to planning and ensure the provision of adequate municipal services. This implies taking cognisance of the economic and social impact of service provision in relation to municipal policy objectives such as poverty eradication, spatial integration and job creation .(White Paper 1998).

#### **3.3.6 Sustainability of services:**

Municipalities must ensure that planned services are sustainable, economically viable and do not disrupt environmental and social systems that are currently in place. Furthermore, sustainability has major implications for service-charge collection and enforcement of payment (White Paper 1998).

#### **3.3.7 Value for Money:**

Value in the public sector is both a matter of the cost of inputs, and the quality and value of the outputs. This principle requires that the best possible use is made of public resources to ensure universal access and sustainable basic services (Gqamane, 2012:33).

### **3.3.8 Ensuring and promoting competitiveness of local commerce and industry:**

Municipalities should ensure that job-creating and the competitive nature of commerce and industry, are not adversely affected by high rates and service charges according to the White Paper 1998). Municipal councils may not delegate the responsibility for amendments of rates or service charges. The White Paper, 1998 prescribes that transparency is required to ensure that investors are aware of the full costs of conducting business in a local area that falls within the geographical area of the municipality.

### **3.3.9 Promoting local democracy:**

In terms of section 152(2) of the 1996 Constitution, municipalities must strive within their financial and administrative capacity to encourage the involvement of communities in local government matters. Councillors have a legislative obligation to promote community consultation and participation in local government matters. An important aspect regarding service delivery is what clients expect from public institutions, public officials and councillors. The primary objective is to serve communities by providing water, electricity, sanitation and other services (Gqamane, 2013:829). Service delivery should be undertaken in accordance with generally accepted normative principles, such as the Batho-Pele principles, which promotes consultation, service standards and transparency according to Gqamane (2013: 829).

## **3.4 COMMUNITY PROTESTS**

Community protests are a predictable consequence of the systemic institutional failures of government to provide basic services to poverty-stricken communities. If failures cannot be remedied immediately, more modest measures that reduce the potential for outbursts of violence must be considered (Karamoko, 2011:12). The Sicelo community in Midvaal on numerous occasions protest and burn tyres on the route 59 provincial road, as Karamoto states that institutional failures to address the issue of basic services in poor communities translates to violent protest action.

### **3.4.1 Good Governance for Municipal Service Delivery:**

Good institutional governance is necessary to focus on the mandate and main objective of municipalities, which is to provide services to the communities that they are serving in terms of schedule 4B and 5B of the Constitution of the Republic of South Africa, Act 108 of 1996.

### **3.4.2 The key components of good governance at municipalities should include:**

- Risk management and internal control;
- Integrated planning and budgeting;
- Performance management;
- Compliance with statutory and regulatory framework;
- In-year monitoring and reporting and annual reporting;
- Annual planning and performance review;
- Effective internal auditing;
- Effective audit committees;
- Effective MPACs, and
- Ethical leadership.

These key components are critical factors for good governance and service delivery.

### **3.4.3 Risk Management and Internal control**

The Risk Management Policy of MLM explains that the Executive authority (Council) should take an interest in risk management to the extent necessary to obtain comfort that properly established and functioning systems of risk management are in place to protect the municipality against significant risks. Responsibilities of the Executive Authority include ensuring that institutional strategies are aligned with the Government mandate. Further requirements are to obtain assurance that the municipality's strategic choices are based on rigorous risk assessment. Obtaining assurance from management that key risks inherent in the municipality's strategies are identified and assessed and are being properly managed. Also ensuring risk management by assisting the accounting officer to deal with fiscal, intergovernmental, political and other risks beyond their direct control and influence and by providing assurance to relevant stakeholders that key risks are properly identified, assessed and mitigated. (Midvaal Risk Management Policy, 2016)

**The Midvaal Risk Management Committee** is responsible for assisting the accounting officer in addressing the oversight requirements of risk management; to evaluate and monitor the municipality's performance with regards to risk management; and to review the risk management policy. The Midvaal Risk Management Committee also reviews the fraud prevention policy, strategy and implementation plan and recommends it for approval by the accounting officer. It is also the task of the committee to review the risk appetite and tolerance and recommend approval by Council amongst other risk identification and monitoring risk management implementation plan initiatives. The Chief Risk Officer provides specialist expertise in terms of comprehensive support services to ensure systematic, uniform and effective risk management in the municipality. The specific roles and responsibilities include working with senior management to develop the municipality's vision for risk management. This process is in consultation with management, the municipality's risk management framework, risk management policy, risk management implementation plan as well as risk appetite and tolerance levels for approval by Council. (Midvaal Risk Management Policy, 2016).

### **3.5 WARD COMMITTEES IN MIDVAAL LM:**

An extra effort was made by MLM to include the Ward Committees and councillors to maximise their administrative functions and outputs at all levels. (Midvaal Annual Report 2016/17). Any inputs or comments from the committees are reflected or accommodated in the reports pertaining to council matters. MLM Ward Committees are also involved in commenting on reports, with the purpose of being kept abreast of changes and developments within the municipality and to keep the community informed ([www.midvaal.gov.za](http://www.midvaal.gov.za)).

Mentioned process ensures a high level of public participation and promotes the principle of accountability. A report has to follow a lengthy process to ensure all role-players are aware and supportive of the recommendations before it appears on the council agenda. Reports are forwarded from the meeting of the Municipal Manager and Heads of Department to the relevant Ward Councillors and Ward Committees, if applicable, who then comment as indicated above. Thereafter the reports are submitted to the Section 80 Portfolio Committee Meeting where a full-time councillor (MMC) chairs the meeting in collaboration with part time Councillors of Midvaal. After a report has been noted and commented on by the Section 80 Committee, it is then forwarded

to the Mayoral Committee for resolution or comments according to delegated powers. After a final resolution has been approved by either the Mayoral Committee or Council, it is captured in a resolution register which is regularly updated. The notification for implementation of the resolution is sent to the relevant role-player responsible for the execution and followed up. Feedback of the final resolution to the Ward Committee is the final phase of this process of community participation (Ward Committee Policy, 2016).

### **3.6 SEPARATION OF POWERS:**

In terms of Chapter 7 of the Constitution of the Republic of South Africa, the legislative and executive functions of a municipality are vested within its Municipal Council. Following the introduction of an Executive Mayoral System, Midvaal initiated the process of splitting the executive and legislative functions by delegating certain executive powers to its Executive Mayor (Midvaal Delegation of Authority policy 2016). With the introduction of the Municipal Public Accounts and Oversight Committee (MPAC) and its implied oversight role, there has been a further implied split between the two functions. The MPAC as a structure of the legislative function (the Council) is expected to assist with oversight over the executive function (the Executive Mayor). The principle of good governance requires that the legislative and oversight function that is to be exercised by a municipal council should be independent of the executive function that has been delegated to the Executive Mayor. This is to avoid undue influence and pressure being exerted by one function upon another and to allow each function the opportunity to operate freely within its delegations. It is in pursuance of the notion of having sound checks and balances in place in the governance model. The legislative and oversight function of the Council is vested within the full Council with the Speaker as its chairperson.

The separation of powers and roles between the council administration and the legislature is aimed at strengthening the oversight function of the legislature. The “MFMA assumes a separation between councillors serving on the executive, for example Mayor or executive Committee and non-executive councillors” (Department of Cooperative Governance, 2013:7). The separation of powers is crucial to ensure that council performs its oversight function.

Section 79 committees report directly to council, and not to the executive. This arrangement enhances council oversight and accountability by the executive (Komane, 2016). Yamamoto

(2007) explains the critical functions of parliamentary oversight, which are to discover and stop abuse of power to ensure that government accounts with respect of its spending. Oversight identifies possible areas where wasteful expenditure exists.

Thus improve the efficiency, economy and effectiveness of government operations. It is also to ensure policy implementation as pronounced by government. This function involves monitoring the set goals and priorities and, oversight aims to improve government transparency and increase public trust. It is clear that with oversight there would be better running of the municipality, increased accountability by the administration and better public participation (Ababio 2007: 10).

The passing of by-laws, policies on functions retained by Council and frameworks within which delegated powers must be exercised, remain the function of the full Council except where certain express delegations have been made in this regard.

The Speaker is also responsible for the Whippery, training of Councillors such as modular training, Councillor Capacitation and Ward Committees. The Section 79: Ethics and Disciplinary Committee to assist the Speaker with the performance of the delegated functions relating to investigating misconduct of Councillors, enforcing the Code of Conduct for Councillors and enforcing the Standing Orders of Council. The Section 79: Disciplinary and Ethics Committee was established. The Section 79: Municipal Public Accounts and Oversight Committee (MPAC), Petitions Committee and Public Place Naming Committee -To assist the Council with its oversight function, a Section 79 Municipal Public Accounts and Oversight Committee (MPAC) was established with specific terms of reference. The MPAC functions as the Oversight Committee of Council in respect of the Annual Report, and its Oversight Report is submitted and published in accordance with the MFMA requirements and guidance. The MPAC consist of members of the majority and opposition parties. The Petitions Committee has been established as a section 79 Committee reporting directly to Council in terms of Council's Petitions Policy. The Public Place Naming Committee is also a section 79 Committee that considers and advises Council on the names for public places (such as streets, parks, etc.) or the changing of any such names. (Delegations of authority policy MLM 2016)

Besides the powers and functions accorded to and imposed on the Executive Mayor in terms of legislation (e.g. the Municipal Systems Act, Municipal Finance Management Act, etc.), the

executive function of the Council is delegated to the Executive Mayor as the appointed head of the executive function insofar as the Constitution and practicalities allow. The Executive Mayor is to exercise political oversight of the administration, except for the administrative unit known as "The Office of the Speaker" (Midvaal Delegations Policy 2016). In executing and performing the executive functions of Council and the Municipality, the Executive Mayor is assisted by five Members of the Mayoral Committee each with a particular portfolio. The Section 80 Committees contemplated in Annexure A constitute these specific portfolios.

The Council has a Whippery which comprises the Chief Whip of Council and the Whip of the official opposition represented in Council. The Whippery mainly deals with inter-party relations, party discipline and issues of mutual interest. Specific Programmes Certain projects are championed by the political offices directly. Examples are the public participation processes to engage the residents in formal structures such as Ward Committees, People's Assembly or and Petitions. Less formal personal interaction include public meetings and discussions with interest groups. Another example is the establishment of the Junior Council which comprises learners from schools within the Midvaal area. The Junior Council functions well as a formalised structure and meets regularly to deliberate on issues of concern to the Youth. The Junior Council is also a mechanism to expose the grade 10 and 11 learners to governance issues. ([www.midvaal.gov.za](http://www.midvaal.gov.za)).

### **3.7 MIDVAAL QUARTERLY IDP AND SDBIP REPORTING**

The SDBIP is a key management, implementation and monitoring tool, which provides operational content to the end-of-year service delivery targets, set in the budget and IDP. It determines the performance agreements for the municipal manager and all top managers, whose performance can then be monitored through Section 71 monthly reports, and evaluated through the annual report process. The SDBIP information on revenue will be monitored and reported monthly by the municipal manager in terms of Section 71(1) (a) and (e). For example, if there is lower than anticipated revenue and an overall cash shortage in a particular month the municipality may have to revise its spending downwards to ensure that it does not borrow more than anticipated. More importantly, such information requires the municipality to take urgent remedial steps to ensure it improves on its revenue collection capacity if the municipality wants to maintain its levels of service delivery and expenditure. Section 1 of the MFMA, Act 56 of 2003 states that the SDBIP

as a detailed plan approved by the mayor of a municipality in terms of service delivery should make projections for each month of the revenue to be collected, by source, as well as the operational and capital expenditure, by vote.

### **3.8 THE SERVICE DELIVERY TARGETS AND PERFORMANCE INDICATORS**

The service delivery targets and performance indicators need to be reported on quarterly (MFMA, 2003). Mid-year Budget and National and Provincial Report Section 72 of the MFMA requires the accounting officer to prepare and submit a report on the performance of the municipality during the first half of the financial year. The report must be submitted to the mayor, National Treasury as well as the relevant Provincial Treasury. As with all other reports this is a crucial report for the Council to consider mid-year performance and what adjustments should be made, if necessary.

### **3.9 PERFORMANCE REPORT**

Section 46 of the Municipal Systems Act requires that a municipality must prepare for each financial year, a performance report that reflects the performance of the municipality and of each external service provided during that financial year. The performance report must be submitted at the end of the financial year and will be made public as part of the annual report in terms of chapter 12 of the MFMA. The publication thereof will also afford the public the opportunity to judge the performance of the municipality against the targets set in the various planning instruments. (Midvaal Annual Report 2017/18).

### **3.10 ANNUAL REPORT**

Midvaal municipality is required by Section 121 of the MFMA and National Treasury Circular 63 to prepare an annual report for each financial year, which must include the annual financial statements of the municipality or municipal entity as submitted to the Auditor-General for audit and, if applicable, consolidated annual financial statements. The Auditor-General's audit report on the financial statements, an assessment by the accounting officer of any arrears on municipal taxes and service charges; particulars of any corrective action taken or to be taken in response to issues raised in the audit reports; and any explanations that may be necessary to clarify issues in connection with the financial statements.

### **3.11 OVERSIGHT REPORT**

The council of a municipality must consider the municipality's annual report including any municipal entity under the municipality's control. In terms of Section 129 of the MFMA, within two months from the date of tabling of the annual report, must adopt an oversight report containing the council's comments. The report must include a statement whether and when council has approved the annual report with or without reservations. In terms of Section 132 of the MFMA, the following documents must be submitted by the accounting officer to the provincial legislature within seven days after the municipal council has adopted the relevant oversight report: – the annual report or any components thereof of each municipality and each municipal entity in the province; and all oversight reports adopted on those annual reports. (S129 MFMA *Circular No 32 of 2006.*)

### **3.13 PERFORMANCE MANAGEMENT PROCESS AT MIDVAAL**

The Vision of Midvaal, states that the Council will be renowned for robust economic growth and a high quality of life for all. The Mission speaks to strive to enhance and sustain the quality of life in our urban and rural areas, promoting an open opportunity society for all that will result in robust economic growth. The MLM Performance Framework is composed of Key Performance Areas (KPA's) which are the areas of focus required for the Municipality to achieve its strategic objectives, and are aligned with the promises made as part of the political vision. MLM has developed eight KPA's. The eight KPA's have been closely aligned to governmental and political objectives. The KPA's have been further broken down into focus areas for implementation referred to as Key Focus Areas (KFA's) the focus areas segment the KPA into its constituent opportunities and are supported by Key Performance Indicators (KPI's), which are in turn achieved through project implementation. The cascading of performance from KPA through to KPI, ensures that all projects contribute in some way to the achievement of a MLM strategic objective and in turn District, Provincial and National objectives.

#### **3.13.1 The Auditor- General Key Performance focus areas**

The MLM organisational performance management system can be defined as the planning process whereby the MLM set the strategic agenda, vision and mission, as well as strategic objectives and

development objectives for the upcoming financial year/s, and the desired performance results. Performance management at organisational level involves various phases (IDP 2016/17).

Phase 1: Planning - The Integrated Development Planning process and the Performance Management Process should appear to be seamlessly integrated. The IDP fulfils the planning stage of performance management. Performance management fulfils the implementation management, monitoring and evaluation of the IDP process.

Phase 2: Priority Setting - In setting priorities, the municipality should inter alia consider the following: 1. An assessment of development in the municipal area, identifying development challenges and the *status quo* of the underdeveloped areas; 2. A long term development vision for the municipality to address its development challenges; 3. A set of KPAs, strategic objectives and development objectives, based on identified needs, achievable in the current term of office, that would contribute significantly to the achievement of the development vision for the area; 4. A set of internal transformational objectives; 5. Additional projects and programmes identified in contributing to the achievement of the above objectives; 6. A financial plan and medium term income and expenditure framework that is aligned to the priorities of the municipality; and 7. A spatial development framework. To be useful in the management of performance, the IDP must provide very clear indicators by which to measure the achievement of the objectives and unambiguous targets for those indicators.

Phase 3: Setting Objectives - All components of the IDP need to be translated into a set of clear and tangible development objectives. This is a crucial stage in ensuring that there is clarity on the IDP and that the suitable indicators are found. A clear and concise construction of statement of objectives is needed. The statement requires a tangible, measurable and unambiguous commitment to be made. It is often useful to have a clear timeframe attached to this commitment in objective statement.

Phase 4: Setting Key Performance Indicators - KPIs are measurements that tell us whether progress is being made in achieving our objectives. Indicators should describe performance dimension considered key in measuring performance. The ethos of performance management as implemented in local governments and captured in the Municipal Systems Act and Municipal Planning and Performance Management Regulations rely centrally on the use of Key Performance Indicators.

Phase 5: Setting Targets - The municipality should have clear objectives for its IDP and identified appropriate indicators. Targets are purely objectives or milestones for what we intend, an indicator to measure at various timeframes. Performance targets are planned levels of performance or milestones the MLM sets for itself for each indicator identified. Targets are usually expressed in quantity or time terms.

Phase 6: Monitoring is a continuous process of measuring, assessing, analysing and evaluating the performance of the organisation and departments with regard to KPIs and targets. Mechanisms, systems and processes for monitoring should provide for reporting at least twice per annum to the MLM council and the community, it should enable detection of early indication of underperformance and provide for corrective measures/indicators.

Phase 7: Review includes assessment of the system itself, the framework, targets, and performance targets of departments and performance measurement of employees. It identifies the strengths, weaknesses, opportunities and threats of the municipality in meeting key performance indicators, performance targets and general key performance indicators. It also measures/indicates the economy efficiency and effectiveness in the utilisation of resources and impact in so far as performance indicators and targets set by the MLM are concerned. Performance improvement and adjustment is based on review. The MLM should ensure that the community participates in the review.

### **3.13.2 Effective Internal Auditing**

Internal audit and findings should serve as a management and governance tool to ensure that internal controls are effective and efficient in mitigating the key risks. Management should provide feedback on the findings of the internal auditors and use it to improve management and service delivery practices, according to Visser (2014:21). Furthermore, a risk-based audit plan should be approved by the audit committee and the findings should be reported timeously. In some instances the findings of the internal auditors could be used by the Auditor-General when external audits are conducted after the financial year end. Therefore it is necessary that the findings of the internal auditors be taken seriously by management, to regard it as an advisory service to management.

Internal audit provides independent, objective assurance on the effectiveness of the risk management process according to Khalo, (2013:580). The specific roles and responsibilities

include: Internal audit must evaluate the effectiveness of the entire system of risk management and provide recommendations for improvement where necessary; In terms of the International Standards for the Professional Practice of Internal Audit, determining whether risk management processes are effective is a judgment resulting from the internal auditor's assessment that: (1) Municipality objectives support and align with the municipality's mission; (2) Significant risks are identified and assessed; (3) Risk responses are appropriate to limit risk to an acceptable level; and (4) Relevant risk information is captured and communicated in a timely manner to enable the accounting officer, management and the Risk Management Committee and other officials to carry out their responsibilities. Internal Audit must develop its internal audit plan on the basis of the key risk areas, according to the Midvaal Risk Management Policy (2015:13).

### **3.13.3 Effective Audit Committee**

Effective Audit Committees are regarded as a key component of institutional governance. The internal auditors report to the audit committee as an independent committee of council, consisting of technical experts. It is important to note that the audit committee depends on the internal auditors to be functional and objective in their recommendations to council according to Visser (2014:21).

Audit Committee Section 166(2) (a) (ii) of the Municipal Finance Management Act, Act 56 of 2003 states that: "An audit committee is an independent advisory body which must – (a) advise the municipal council, the political office-bearers, the accounting officer and the management staff of the municipality, or the board of directors, the accounting officer and management staff of the municipal entity, on matters relating to – (ii) risk management."

The Midvaal Audit Committee is an independent committee responsible for oversight of the municipality's control, governance and risk management. The responsibilities of the audit committee should be clearly defined in its charter. The responsibilities of the audit committee include:

### **3.13.4 Effective Municipal Public Accounts Committee**

MPACs are a crucial oversight mechanism to ensure accountability from executive/administration, and to ensure effective and efficient use of municipal resources. MPAC should receive full support from Midvaal Council when investigating irregularities; there is a need for a good working

relationship between MPAC (councillors) and the Audit Committee (Technical experts) since the two committees might deal with the same issues from time to time. (Visser, 2014:21).

According to Khalo, (2013:590) MPACs must scrutinise statement of accounts of municipalities and their entities and the reports (quarterly and annual) emanating from accounting officers and the Auditor-General thereon. An important function of MPACs is to ascertain that money appropriated to municipalities and their entities has been spent within the scope of the demand. This means that (i) money recorded as spent against the allocation in the budget must not be more than the amount approved; (ii) the expenditure brought to account against a particular allocation must be of such a nature as to warrant its record against the allocation and not against others; and (iii) the allocation should be spent on purposes which are set out in the detailed demand and cannot be spent on any new service not contemplated in the demand.

If any money has been spent on any service during the financial year in excess of the amount approved by Council for that purpose, MPACs should examine, with reference to the facts of each case, the circumstances leading to such an excess and make such recommendations as it may deem fit. MPACs are not concerned with questions of policy in the broad sense. This is the role of the Finance Oversight Committee, although it is within its jurisdiction to point out whether there has been extravagance or waste in carrying out the applicable policy. However, the committee examines cases involving losses, wasteful, fruitless, unauthorised and irregular expenditure. When a matter involving the afore-mentioned cases is brought to the attention of the MPACs, they can call upon a member of the Mayoral Committee or Executive Committee and/ or heads of departments concerned to explain what action, disciplinary or otherwise, it has taken to prevent such a recurrence. In such a case the committee can also record its opinion in the form of disapproval or pass strict measures against the extravagance or waste or lack of proper control by the Member of the Mayoral Committee/Executive Committee or department concerned. In order to execute its general function as stated in the foregoing, the MPACs should review statement of accounts showing the income and expenditure of the municipality and its entities; exercise financial oversight on behalf of Council; refer and receive matters from other committees, such as the finance committee; ask and receive advice from the internal audit committee; and ask and receive reports from the Mayoral Committee/Executive Committee and administrative departments. The MPACs have the power to examine the financial statements of all executive

organs of the municipality, including its entities; any audit reports issued on those statements; any reports issued by the Auditor-General on the affairs of the municipality and its entities; any other financial statements referred to it by Council; and the annual report on behalf of Council and make recommendations thereafter (Khalo, 2013:590).

The MPACs must carve a public accounts process through receiving the annual report from the Office of the Speaker; reviewing documents referred and requested; obtaining briefings from the Auditor-General; adopting preliminary questions; analysing responses and convening hearings for the executive to account (if necessary); making findings; preparing a report-back to Council for resolution and monitoring progress in the implementation of the resolutions; report on any financial statements or reports to Council; initiate and develop the annual oversight report based on the annual report; initiate any investigation within its area of competence; and perform any other function assigned to it by Council. When examining financial statements and audit reports, the MPACs must consider improvements from previous statements and must monitor the extent to which the committees and Auditor-General's recommendations are implemented (Khalo, 2013:590).

### **3.13.5 Ethical Leadership**

Good governance is essentially about effective leadership; there is a need for (political) councillors and managerial/ administrative leadership (MM & Senior Management). Visser, (2014:21) argues that leading by example is the core of leadership and it sets the tone from the top, through motivating staff to perform at their best. Leading by example refers to honesty, integrity, fairness, transparency and commitment to be accountable for ones actions and the willingness to root out fraud and corruption. The Municipal code of conduct is therefore important as already prescribed in the Municipal Structures Act 117 of 1998 and the Municipal Systems Act 32 of 2000.

### **3.13.6 Auditor-General**

The Office of the Auditor-General is one of the institutions established in terms of Chapter 9 of the Constitution of the Republic of South Africa to strengthen constitutional democracy in South Africa. According to Section 181 of the Constitution of the Republic of South Africa, the Auditor-General is independent and only subject to the Constitution and the law, and must act impartially, perform functions and exercise powers without fear or favour. The Auditor-General

is appointed by the President as the independent auditor of the Executive Authority in South Africa for a fixed, non-renewable term of between five and ten years. The appointment, conditions of service, powers, duties and related matters are dealt with under the Constitution of the Republic of South Africa, Auditor-General Act, 1995(Act 12 of 1995) and the Public Audit Act, 2004(Act 25 of 2004). The Auditor-General is assisted by the Deputy Auditor-General and nine provincial auditors. The nine provincial auditors are responsible for the management of provincial governments, specific statutory bodies and municipalities. They are also responsible for related reporting to the provincial legislatures and other provincial and local government institutions ([www.southafrica/finance/auditor-general](http://www.southafrica/finance/auditor-general)).

#### ***3.13.6.1 The functions of the Auditor-General:***

The audit and report on the accounts, financial statements and financial management of national and provincial state departments and administrations; all municipalities; and any other institution or accounting entity required by national or provincial legislation to be audited by the Auditor-General (AG). The AG audits and reports on the accounts, financial statements and financial management of any institution funded from the National Revenue Fund or a provincial Revenue Fund or by a municipality; or any institution that is authorised in terms of any law to receive money for a public purpose; and to submit audit reports to any legislature that has direct interest in the audit and make the report public. The Public Accounts Committees' work centers on the reports of the Auditor-General and it is important that the two institutions maintain a good working relationship. Wehner (2016) argues that the Public Accounts Committees are the primary audience of the Auditor-General and that while Public Accounts Committees depend on high quality audit reporting to be effective, the Auditor-General also requires effective Public Accounts Committees to ensure that departments take audit outcomes seriously. Therefore, the relationship between the two institutions is reciprocal. Although the reports of the AG are submitted to Parliament, the Auditor-General is allowed to attend the sittings of Public Accounts Committees where these reports are discussed. Besides the relationship with the Auditor-General, Public Accounts Committees maintain relationships with the executive authority and other committees of parliament. Committees would normally summon the accounting officer of public institutions to their hearings to explain matters pertaining to the administration and financial management of their institutions. Occasionally, the Committees would invite other parliamentary committees such as

the Portfolio Committee on Finance to scrutinise the audit reports that emanate from the Auditor-General according to Wehner (2016).

### **3.14 PUBLIC PARTICIPATION IN MIDVAAL LOCAL MUNICIPALITY**

The Midvaal Council resolved that regular public feedback meetings should be held in wards, this is pursuant to the back to basics requirements from the department of Cooperative Governance and Traditional Affairs (COGTA). Annually a public campaign is embarked upon to involve the citizens of the MLM in the review of municipal performance over and above the legal requirements of the Municipal Systems Act and the MFMA. Such a campaign could involve all or any combination of the following methodologies: Various forms of media including radio, newspapers and billboards could be used to convey the annual report. The public may be invited to submit comments on the annual report via telephone, fax and email; Public hearings could be held in a variety of locations to obtain input of the annual report; Making use of existing structures such as ward and/or development committees to disseminate the annual report and invite comments; and hosting a number of public meetings and road-shows at which the annual report could be discussed and input invited. In pursuance of the requirements on Ward Councillors by the Back to Basics reporting regime, public meetings in the Wards must be held and Councillors must report back to Council on their Communications to the community. The following policy is submitted to pursue compliance with the Back to Basics requirements. If a Ward Councillor wishes to conduct a Public Meeting, the following steps must be strictly adhered to (Midvaal Ward Committee Policy 2016):

1. The Councillor must inform the Speaker in writing or via e-mail of all Public Meetings;
2. If a Councillor requires the assistance of the Speaker's Office in setting up Public Meetings, the Councillor must complete the attached Request for Assistance Form and submit it 7 days prior to the meeting, and at least 3 days in advance if the Speaker agrees that it is an urgent meeting (Annexure A);
3. The Councillor must book the venue;
4. The Speaker's Office will assist with loud hailing and printing of pamphlets;
5. The Councillor and Ward Committee members will distribute the pamphlets/posters unless otherwise arranged with the Speaker's office;

6. The Speaker's Office will assist with a PA system upon request and the recording of the meeting;
7. The Speaker's Office will print Attendance Registers; Councillors must adhere to the Agenda Template as per the Back to Basics requirements to report to the community on the decisions/resolutions of Council and those of the Ward Committee that the Ward Councillor chairs;
8. The Official will give a copy of the notes in writing to the Speaker and Ward Councillor within 3 working days of the Public Meeting;
9. The Councillor must report to the Speaker on what transpired at the Public Meeting within 5 working days after receipt of the Official's notes in terms of 11 above, and
10. As Ward Councillors and Ward Committee Members serve the community as a whole, they may not wear party-political regalia/clothing at Ward and Public Meetings and, if they do, they may be subjected to disciplinary steps; although a measure of flexibility.

Furthermore, it is a strict policy of Midvaal Council that it is compulsory for Ward Councillors to attend the IDP/Budget meetings in his/her ward. Failure to do so without leave of absence being granted by the Speaker on sound and reasonable grounds, brings the Council into disrepute and is considered to be a contravention of items 2 (a) and (b), 3 and 4 of the Code of Conduct for Councillors (Schedule 1 of the Municipal Systems Act 32 of 2000).

Agenda of Public Feedback Meeting:

1. Opening and welcome
2. Apologies
3. Report and feedback on resolutions adopted by Council
4. Report and feedback on activities of Ward Committees per sector
5. Report on issues raised at Budget & IDP Meetings
6. Other general matters

The following table will list all the public meetings held in Midvaal Local Municipality in 2016/17 financial year. This is important to note because public participation is critical in enhancing transparency and oversight in the municipality. Public meetings provide the residents an

opportunity to engage meaningfully with the council leadership and clarifies service delivery queries.

**Table 3.1: List of Public Meetings held in Midvaal in 2016/17**

Public Meetings						
Nature and purpose of meeting	Date of events	Number of Participating Municipal Councillors	Number of Participating Municipal Administrators	Number of Community members attending	Issue addressed (Yes/No)	Dates and manner of feedback given to community
Ward 1- LDAC Youth Against Drugs	08-Jul-16	1	2	45	Yes	Public Participation with different stakeholders
Ward 10 - Coorporate Services Road Show	12-Jul	2	2	93	Yes	Public Participation with different stakeholders
Ward 1- Mamello Housing Project	31-Aug-16	2	2	42	Yes	Public Parcpitation Housing and Sewer Issues were raised.
Ward 1- Elections of WCM	04-Sep-16	1	3	48	Yes	WCM- were sucessfully elected
Ward 2- Elections of WCM	07-Sep-16	1	3	36	Yes	WCM - were successfully elected
Ward 1- Registration of subsidy for RDP Houses	10 - 11 Sept 2016	3	3	300	Yes	Subsidy registration went well
Ward 4- Elections of WCM	11-Sep-16	2	2	63	Yes	WCM - were successfully elected
Ward 3- Elections of WCM	14-Sep-16	2	3	40	Yes	WCM - were successfully elected
Ward 8 -Elections of WCM	18-Sep-16	2	3	218	Yes	WCM - were successfully elected
Ward 14 - Elections of WCM	21-Sep-16	1	2	33	Yes	WCM - were successfully elected
Ward 5 - Elections of WCM	28-Sep-16	2	2	74	Yes	WCM- were successfully elected
Ward 10 - Elections of WCM	05-Oct-16	3	3	257	Yes	WCM- were sucessfully elected
Ward 6 - Elections of WCM	09-Oct-16	4	3	233	Yes	WCM - were successfully elected
Ward 5 - IDP Public Meeting	11-Oct-16	6	8	37	Yes	All issues were addressed
Ward 7 - Elections of WCM	12-Oct-16	1	2	8	Yes	WCM - were successfully elected
Ward 11- IDP Public Meeting	13-Oct-16	7	6	178	Yes	All issues were addressed
Ward 12 - Elections of WCM	16-Oct-16	2	2	107	Yes	WCM - were sucessfully elected
Ward 4 -IDP Public Meeting	18-Oct-16	7	7	44	Yes	All issues were addressed
Ward 9 - Elections of WCM	19-Oct-16	2	2	31	Yes	WCM - were successfully elected
Ward 1- IDP Public Meeting	22-Oct-16	8	8	84	Yes	All issues were addressed
Ward 12 -IDP Public Meeting	23-Oct-16	8	4	67	Yes	All issues were addressed
Ward 15 - Election of WCM	30-Oct-16	2	3	25	Yes	WCM - were successfully elected
Ward 9 - Elections of WCM	01-Nov-16	6	5	49	Yes	All issues were addressed
Ward 2 - IDP Public Meeting	02-Nov-16	4	3	18	Yes	All issues were addressed
Ward 13 - IDP Public Meeting	03-Nov-16	9	4	53	Yes	All issues were addressed
Ward 6 Public Meeyting about Sports Field Project	04-Nov-16	3	4	121	Yes	All issues were addressed
Ward 11 - Elections of WCM	06-Nov-16	3	3	127	Yes	WCM - were successfully elected
Ward 4 - Feedback Public Meeting	08-Nov-16	1	2	56	Yes	All issues were addressed
Ward 13 - Election of WCM	09-Nov-16	2	3	40	Yes	WCM - were successfully elected
Ward 7 -IDP Public Meeting	15-Nov-16	7	4	40	Yes	All issues were addressed
Ward 3 - IDP Public Meeting	16-Nov-16	4	3	35	Yes	All issues were addressed
Ward 6 - IDP Public Meeting	19-Nov-16	8	5	133	Yes	All issues were addressed
Ward 15 - IDP Public Meeting	22-Nov-16	8	4	27	Yes	All issues were addressed
Ward 1 - IDP Public Meeting 2nd Jakkaldraai	23-Nov-16	7	4	74	Yes	All issues were addressed
Induction of WCM	03-Dec-16	11	5	107		Ward Committee Inducted
Farmers Engagement	06-Dec-16	7	2	113		Successful engagement with Farmer's
Faith Based Forum	06-Dec-16	7	2	84		Successful engagement with FBO
Ward 10 - Public Meeting	15-Dec-16	2	1	69		MMC Road Show
Ward 11- De deur Precinct Plan	31-Jan-17	5	6	187		The precinct plan was discussed in details
Ward 10- IDP Public Meeting	06-Feb-17	9	8	235		All issues were addressed
Ward 8 - IDP Public Meeting	07-Feb-17	9	9	252		All issues were addressed
Ward 8 - Public Meeting	19-Feb-17	2	3	128		Numbering of Shacks with Urban Metro Service Provider
Ward 2 - Public Meeting	13-Mar-17	1	3	82		New developments Town Houses
Ward 6 - Public Meeting	18-Mar-17	3	4	170		Sports field development
Ward 4 - Public Meeting	19-Mar-17	1	2	80		Feedback Public Meeting
Ward 1 - Public Meeting	28-Mar-17	3	3	115		RDP Housing Project
Ward 9 - Public Meeting	11-Apr-17	1	2	42		Introduction of Ward Committee Members
Ward 8 - Budget Public Meeting	18-Apr-17	9	10	254		Presentation of the Budget was done and disussed by all.
Ward 4 &15 - Budget Public Meeting	19-Apr-17	8	6	40		Presentation of the Budget was done and disussed by all.
Ward 10 - Budget Public Meeting	20-Apr-17	8	6	112		Presentation of the Budget was done and disussed by all.
Ward 5 - Public Meeting	22-Apr-17	2	2	58		Feedback Public Meeting
Ward 6 - Budget Public Meeting	24-Apr-17	8	9	182		Presentation of the Budget was done and disussed by all.
Ward 11 - Budget Public Meeting	02-May-17	8	6	93		Presentation of the Budget was done and disussed by all.
Ward 7 - Public Meeting	10-May-17	1	3	32		Precinct Plan
All wards - SOMA	10-May-17	10	14	430		The event was a success- Discussed the slate of the Municipality
Ward 15 - Public Meeting	23-May-17	1	0	116		Feedback Public Meeting
All wards - Block House Event	31-May-17					The event was a success
Ward 1 - Public Meeting	11-Jun-17	26	26	327		New development for ECD - Early Childhood Development
Ward 8 Public Meeting	13-Jun-17		5	81		Feedback Public Meeting with Siculo Youth Transformation Movement
All wards - Speakers Stakeholders Dialogue	15-Jun-17	7	5	154		The event was a success

Source: Midvaal Municipality web site: [www.midvaal.gov.za](http://www.midvaal.gov.za) 2017

### **3.15 SUMMARY**

In conclusion the IDP, SDBIP, KPA's, Audit committees, Risk Management process, Performance management and compliance to regulations have been discussed in as far as it impacts the exercise of oversight in the Midvaal Local Municipality. The various Legislature committee theories were explored in this chapter. Lastly the role of formal and informal community participation in oversight structures were explored in detail, the Separation of Powers model and how it is institutionalised at Midvaal. More internal oversight structures, such as committees in council, were also thoroughly examined.

The next chapter explains the research conducted at Midvaal Local Municipality, the findings from the qualitative study through structured interview questions. The next chapter describes the research design and methodology of this study to evaluate the effectiveness of the oversight committees in the Midvaal case study.

## **CHAPTER FOUR**

### **RESEARCH METHODOLOGY AND DATA ANALYSIS**

#### **4.1 INTRODUCTION:**

This chapter presents the research methodology used in this study. The chapter is divided in two sections. The first part of the chapter discusses the research methodology used and the second part of the chapter presents the data analysis and interpretation of the study. The findings of the study explores the outline and presentation of the data collected through individual interviews with participants, content analysis and findings are presented in this chapter.

#### **4.2 RESEARCH METHODOLOGY:**

McGuigan and Harris (2012:3) assert that qualitative and quantitative research methodologies are two primary schools of research, and that the advantages and disadvantages of these two methods are highly debated. This study adopted the qualitative research method to gather information by reviewing literature on oversight and service delivery in government. Qualitative research seeks to embrace and understand the contextual influences on the research issues, according to Hennink et al (2011:9). It is a method that allows a researcher to examine people's experiences in detail, by using research methods such as in-depth interviews, observations, group discussions and content analysis. The various legislation that regulates local government were explored thoroughly in relation to oversight in the municipalities. The study made extensive use of policies of the Midvaal Local Municipality to gain insight in the actual practices of oversight and service delivery at the municipality. The qualitative method was more suitable for this study as it covers a topic that is social in nature as opposed to quantitative which is more objective and numerical (Kgothule 2004:112). Qualitative methods provide in-depth understanding of the research issues that embraces the perspectives of the study population and they context in which they live according to Hennink et al (2011:10).

##### **4.2.1 Literature Review**

The Literature review in this study comprised of journals in the field of Public Administration, current legislation on Local government and policies of Midvaal Local Municipality. The

Literature review was used extensively to gather information on oversight mechanisms at municipalities and local government. According to Sarantakos (2013:151) the literature review is an exploration of secondary published information that is available pertaining to the research conducted. Most of the information was sourced from books, journal articles like, JSTOR (Journal storage), Sabinet reference, legislation, policy documents, government publications, internet

Research methods and application of these methods show how the study was carried out (Gupta & Gupta, 2011). The choice of methodology relies upon the paradigms or research orientation that guides the research activity. There are multiple approaches to social science studies and the objective of the research will determine which approach to use. This study used the interpretive orientation as it was most suitable based on the objectives of the research.

In the qualitative interpretivist approach, the researcher observes or talks face to face with individuals from different groups, while observations and conversations are carried out to solicit information on the topic being researched. This information captures what people say about their experiences, and following information gathering then the findings are presented. Importance is on the examination of the words or text (Neuman, 2003), and Mutch (2005 as mentioned in Tuli, 2010) explains that interpretive scholars make use of qualitative research, describe social realities, they also interpret and provide descriptive reports in words. Interpretive scholars rely on participants' observations and field research. In contrast with the positivist approach, interpretive scholars are concerned with how people manage their affairs on a daily basis (Neuman, 2003). It can be concluded from the above discussion that details regarding the study are generated from the participants or people who are being interviewed or participants. As compared to positivism, interpretive research approach is a social study, seeking to understand the social experiences and perceptions of people. The study adopted an interpretive orientation which included conducting interviews, and interpreting data which were turned into text format, followed by a presentation of the findings and recommendations

#### **4.2.2 Research Design and Data Collection Instruments**

The research methodology used in this study is the qualitative method. Brynard and Hanekom (2012:8) describe the qualitative method as being the research that produces descriptive data. The crucial point of departure of the qualitative method is to view the world from the point of view of

the participant/subject and focus on understanding rather than explaining information. This qualitative method aims to obtain the perspectives of various stakeholders with regard to oversight and service delivery at the municipal sphere of government. The municipal councillors formed the majority of the research interviewees as they are the representatives of the communities. Oyewo (2007:8) outlined - the electorate need to hold their representatives accountable. Therefore, the councillors need to fulfil their mandate of representing the needs of their wards/ communities in council.

A research study may be qualitative or quantitative, and at times the study may use a mixed methods approach McGuigan and Harris (2012:3). It is important to determine the need for qualitative or quantitative data. The study employed a qualitative approach because its goal is to understand perceptions, attitudes and experiences of the people, and it answers questions such as how, what or why as compared to questions such as how much or how many (Patton and Cochran, 2002). Kothari (2012) states that qualitative research is imperative in the behavioural sciences, where the objective is to determine the underlying motives of human behaviour. Neuman (2003) further states that qualitative research uses data in the form of text, written words, representing people, events and actions in social life. Its primary focus is not statistical analysis. McGuigan and Harris (2012:3) view qualitative research as an approach which relies on the views of participants by using general questions, where data is generated from the participants, to enable a description and analysis of information which is coded into themes. There are three qualitative methods namely, participant observation, interviews and focus groups. Saunders *et al.* (2013) postulate that participatory observation is where the researcher participates in the activities and lives of the group, community or organisation; an interview is a conversation between two or more people and the interviewee is willing to be interviewed; focus groups are intended to pay attention to the given experience of the respondent and its effects. From what has been acknowledged above, it can be concluded that qualitative study focuses on the human behaviour and that the data are interpreted in the form of text. It is imperative to gather and process data which can be presented as findings from the investigation or inquiry.

Data collection methods are usually interviews and focus group discussions, with a review of the literature review to elaborate the results (Dawson, 2010). The intention of the grounded theory is to develop a theory that is trustworthy, based on the evidence. It is a system of revealing new

theory (Neuman, 2003). It is against this background that the study uses the grounded theory and data collection is done by means of conducting interviews.

This study was an exploratory approach because it was intended to pursue and search new insights. It can also be used to investigate and measure occurrences in a new light. Zikmund (2003:54) describes exploratory research as “preliminary research conducted to explain the nature of a problem”. It is supported by a review of the literature, followed by data collection and interpretation. Exploratory research formulates a problem with the intention of undertaking a detailed investigation. It is considered to be more flexible than descriptive research (Kothari, 2012). On the other hand, the exploratory approach deals with exploring a new topic or issue with the intention of learning more (Neuman, 2003).

#### **4.2.3 Data Collection Instruments**

The collection of data is an important aspect of any research. Kumar (2011) and Kothari (2012) emphasise three main approaches to data collection in qualitative research, namely, interviews, observations and secondary sources and they consider the use of interviews and observations as critical in obtaining data in qualitative research. The study used face to face semi-structured interviews (Babbie 2016), in order to make valid inferences from the data collected. Individual interviews were used because of the interest in the participants’ own views and perceptions.

#### **4.2.4 Interviews**

In- depth interviewing is a qualitative method that reinforces the purpose of gaining a detailed insight into the research topic from the participant’s perspective. It involves using semi- structured interview questions to prompt the data collection, it requires establishing a trust relationship between the interviewer and the interviewee. The researcher must ask questions in an open, emphatic way.

The study used the Midvaal Local Municipality as a research focus. The impact of oversight mechanisms and structures were investigated from all relevant stakeholders through structured interviews. The interviewees comprised of the Speaker, Executive Mayor, two (2) MMCs, the Audit Committee representative, two (2) Senior Managers, three (3) Section 79 committee Chairpersons/members, for example Municipal Public Account Committee (MPAC), and five (5)

Councillors from the majority and minority political parties to ensure impartiality, two (2) ward committee members, two (2) businesses and six (6) community members and one (1) representative from the Auditor-General's office. The aforementioned twenty-five (25) stakeholders is the list of persons who were interviewed to gather insight on the different perspectives of the effectiveness of oversight structures on service delivery in MLM.

The interviews were less than thirty (30) minutes and there were fifteen (15) unstructured interview questions given to participants. This is in line with the sampling technique of Sekaran & Bougie, (2013). The sampling process was aligned with the objectives of the study. The participants interviewed were adults; this study excluded minors and people who are mentally incapacitated.

Research instruments are crucial in data collection and in this study semi-structured interviews were undertaken. Interviewing is a commonly used method for collecting and generating information from respondents. The interviewer reads questions or statements to respondents and records their answers. It is often a verbal, face to face interchange, or through other technological means such as the telephone, computer terminal (Skype), or video conferencing (Annum, 2016) where the interviewer tries to elicit information, beliefs or opinions from another person (Burns, 1997:329). As the researcher conducting the interviews, it is important to understand how to conduct interviews and to be familiar with the data collection tool. The interview method used in this study comprised of key theme sections, beginning with general questions, then different sub-sections to gather more information on the broader question e.g. compliance, effectiveness of oversight, challenges faced by oversight committees and the oversight processes at Midvaal Local Municipality.

#### **4.2.5 Research Population**

The entire group of participants, events and interests under investigation form part of the population (Sekaran and Bougie, 2013). Neuman (2003:216) explains that a researcher has to identify the component that is to be sampled and the geographical location", therefore a portion of the entire population will be invited to participate in the study. Interviews allow participants to elaborate on their views or make clarifications. The population of the study was entire population of Midvaal Local Municipality, residents, employees and councillors of the municipality, participants either had to be a resident or work for the municipality to qualify to participate.

The sample was made up of participants from political parties, officials from the executive and legislature and community members from the Midvaal Local Municipality. The small pool of knowledgeable staff and councillors were targeted as the research population.

The final sample of twenty-five (25) respondents made up of officials, community members and politicians was selected. The sample was taken from a research population of fifty (50), the sample was diversified in order to get opinions and relevant insight from as many participants as possible.

#### **4.2.6 Sampling Strategy**

Gupta and Gupta (2011:41) emphasise that “sampling is the process of choosing a few respondents from a larger population to become a basis for determining or predicting the occurrence of unknown information, situation or outcome”. There are two types of sampling, namely probability and non-probability sampling. In probability sampling the elements in the population have an equal chance of being chosen, whereas in non-probability sampling, the participants do not have a chance of being chosen as respondents (Sekaran & Bougie, 2013). The sampling process was aligned with the objectives of the study. According to Gupta and Gupta (2011:41) the choice of participants will affect the information gathered, and to maximise the collection of data, the identification and selection of relevant people or sample is crucial.

#### **4.2.7 Trustworthiness and Credibility**

Positivists apply the measures of validity, reliability and objectivity in contrast to that of interpreters who refer to trustworthiness and credibility. Ulin, Robinson and Tolley (2004) claim those positivists employ reliability, validity, precision, objectivity, and generalisation to judge the thoroughness of quantitative studies. Qualitative researchers do not use the same criteria used by positivists to assess the outcomes of research. Research has to be credible, and to realize this, investigators need to have a close orientation and knowledge of the topic being studied. The researcher must immerse himself or herself in the study and understand the topic (Lincoln & Guba, 1985). Credibility and trustworthiness were ensured by asking questions that warranted valid accounts and events of phenomena. In addition, the research instrument was piloted on two senior staff in the corporate services department to ensure due consideration. Credibility, transferability, dependability, and conformability ensured that the study was rigorous, and these are discussed below.

In qualitative research Skolia, Biros, Mason and Weiser (2013) claimed that transferability equals external validity, whereas, credibility equals the internal validity, while dependability equals reliability.

#### **4.2.7.1 Credibility**

Skolia *et al.* (2013) explain that credibility shows how generated data reflects the accuracy of the actual phenomenon. Establishment of credibility can be done through prolonged engagement with informants, triangulations of data from a variety of sources such as documents and interviews, sharing of the transcript on the individual interviews. Credibility is the confidence placed in the truth of the study (Anney, 2014).

Because the researcher was part of the legislature at the MLM, there was an added advantage of prolonged engagements with participants, which meant adequate time to engage with officials and councillors as research participants and to verify data. The investigator's experience was an advantage because the issues of biases was not new and the approach was to be open-minded when approaching the study. The familiarity of the investigator and the respondents made enhanced the trust relationship and ensured that honest and credible responses were provided by the respondents as Skolia *et al.* (2013) has elaborated on the importance of credibility in research.

#### **4.2.7.2 Transferability**

The transferability implies "the application of one set of findings to another" (Skolia *et al.* (2013:2). Transferability is improved through methodology, input from peer briefers and explanation of the research to participants. The relationship with participants improves the level of transferability. To enhance credibility, it was imperative to debrief participants and put them at ease. The process allowed the testing of the data collected, interpretations, findings and conclusion to be presented clearly to the participants.

#### **4.2.7.3 Dependability**

Dependability is described as the consistence of data over time under various situations, and technique used to analyse the study. Dependability is high when the researcher follows the decision applied by the initial scholar (Thomas & Magilvy, 2011).

All the variations were recorded and documented to produce a reliable or dependable account of developing research focus. Saunders, Lewis and Thornhill (2013:206) explain that “dependability means recording all changes to produce a reliable account of the emerging research focus that may be understood and evaluated by others”. In addition to above, the supervisor examined and ensured that the study was well conceptualised, with minimum risk to participants. He commented, monitored and oversaw how the data were collected, and guided the interpretation of findings and the reporting of the results. As mentioned above, the supervisor assisted greatly with assessing whether the findings, recommendations and conclusions reflect the scientific truth and are supported by the data in the study.

#### **4.2.7.4 Conformability**

According to Skolia *et al.* (2013) conformability tests whether the study is impartial and fair, and if an audit trail is used to offer essential resources for conforming the study. The audit trail shows how the data were generated, analysed and recorded. The following documents are necessary for the audit interview and observation, namely, transcripts, notes, raw data, and filed documents (Anney, 2014). According to Skolia *et al.* (2013) trustworthiness is enhanced through the use of audit trails, negative case analyses, triangulations of data sources, peer questions or debriefs, and prolonged or lengthy engagements with participants, as well as sharing and discussing the interview transcripts with individual participants and allowing a peer review process.

A process of peer examination was undertaken, this is where processes and findings were presented and discussed with neutral colleagues. Items such as background, data generation techniques, management of data, notes and transcripts, analyses of data generated and study findings were examined.

#### **4.2.7.5 Response Rate**

All the participants answered questions from an interview schedule which was specially designed for the study. All the participants took part in the study, therefore there was a 100% response rate.

## CHAPTER FIVE

### PRESENTATION OF DATA AND ANALYSIS AND FINDINGS

This chapter analyses data related to key findings which are presented in line with research questions and objectives. The analysis consists of segmenting the data and reassembling them with the aim of transforming the data into findings, this is according to Boeije (2010:94). The qualitative tool used to analyse findings was coding, when coding the researcher distinguishes themes or categories in the research data, and names them by attributing a code. (Boeije, 2010; 95).

#### 5.1 Oversight Mechanisms:

This section provides the findings on Oversight mechanisms of Midvaal Local Municipality:

##### 1. Please name the oversight mechanisms/committees at Midvaal Local Municipality? How often do they convene meeting?

The findings based on the interviews conducted indicate that the majority of the respondents understood what oversight committees are and were able to name a few examples. 16 of the respondents were able to name 3 or more oversight committees that are in Midvaal Local Municipality namely, section 79 Petitions committee, S79 GEYODI committee (Gender, Youth and people with Disabilities) and Municipal Public Accounts Committee (MPAC). The Senior Managers, Councillors, Speaker and Mayor named all the existing oversight committees due to their in-depth knowledge of council structures.

The committees named by 16 of the respondents were:

- Section 79 committees: Municipal Public Accounts Committee (MPAC), Ethics Committee, Petitions Committee, Place Name Changing Committee, Gender Committee;
- Section 80 committees: Finance, Corporate Services, Engineering, Development and Planning, Community Development.

There were eight (8) respondents, mainly ordinary community members from different wards in Midvaal, who were unable to name at least two (2) oversight committees. They did not respond to this question at all because they did not know the answer.

A follow up question was posed to all respondents regarding the frequency of these committee meetings. Out of the twenty-five (25) only sixteen (16) responded with the names of committees and that they meet monthly and others quarterly. The Speaker of Midvaal Council mentioned that other committees like the Ethics committee convene as and when required. Therefore if there are no cases to consider in the committee, then there is no need for the committee to meet.

The respondents also added that support provided to these committees needed to be from support staff with a tertiary qualification such as a degree. They mentioned the complex nature of committee work and that competent and qualified support staff are necessary for the success of the committee.

As a follow up question to the oversight committees and support provided to the councillors to execute their oversight over the executive, a question regarding resources available to committee members was asked. Respondents who indicated that councillors do not have adequate resources, explained that some councillors are not sufficiently capacitated in terms of business tools and other resources to undertake this oversight function. The findings show that most of the respondents indicated that resources for the councillors are not adequately available and this calls for capacitation of councillors, and providing them with required training and the necessary resources for oversight thus enabling the legislature to effectively undertake its oversight functions. A lack of resources impacts on the effectiveness of conducting effective oversight. 80% of respondents reported lack of budget and other resources for committees to exercise oversight on the legislature as a major hurdle to overcome to ensure proper scrutiny.

From a review of the literature in Chapter2, it is clear that there are a number of factors impacting on the effectiveness of the oversight function such as the competency of councillors and officials, budget allocation to committees and committee communication with communities regarding expectations. This is in line with Khoza and Masondo (2006) who assert that limited financial and human resources, in addition to unclear expectations from their constituency, pose challenges to the work of councillors.

Eleven respondents thought that support staff has adequate skills and competence to assist their oversight committees, however, one of the respondents mentioned that most support staff lack passion for their job and on-going training is needed. A retention strategy also needs to be

investigated since the institution loses competent people. However, 2 respondents felt that support staff are not adequately qualified for the job. It is noted that councillors feel that their support staff are competent in their support of committees for the oversight function. The competence of staff must be accompanied by reasonable and adequate resources, and in addition there has to be a succession and retention strategy so that institutional memory can be retained. Rapoo (2003) emphasises that legislative institutions should develop capacity, expertise and the necessary skills to maintain effective oversight. Eigeman (2007) adds that training and education of staff is crucial in enhancing the quality of service delivery. Furthermore, Hlanganani and Rudzani (2014) stress the importance of adequate resources, in the form of budget, office space, as well as training for effective and efficient oversight including the capacitation of staff.

- **How often do they convene meetings?**

Ten (10) of the respondents mentioned that one committee and one council meeting are recommended on a month basis. Two (2) of the respondents stated three to four committee meetings per month and one (1) of the respondents confirmed two committee and council meetings per month. The Municipal Systems Act (2000) provides for council to meet at least quarterly in a financial period. Dikobe (2012) said that according to the committee's year planner, there should be monthly committee meetings. During these meetings the executive heads of department, account to oversight committees on the performance of their respective departments. While these are scheduled meetings, committees are allowed to have special or extra-ordinary meetings to discuss matters of urgency. In addition to monthly committee meetings, council may also request extra-ordinary meetings as and when necessary.

The findings from the interviews concur with Midvaal Standing Orders of Council (2016) as it states that the council and committees are required to have at least one meeting per month in the last week of the month. Apart from the ordinary meetings, the Speaker or chairperson of the Section 79 committee may call an extra-ordinary meeting to conduct business of the council or committee outside the schedule meetings.

2. **List the oversight reports (output) produced by oversight committees on documents presented by the Executive at the municipality?**

Eight of the respondents did not understand the question. They requested to skip to the next question as they were not aware of what oversight reports are produced by committees. The rest of the respondents agreed that indeed oversight committees scrutinised and produced reports. Ten respondents agreed that oversight reports are produced by oversight committees and they were able to successfully name the oversight reports; Annual report, the Budget, Quarterly reports, and the Service Delivery Budget Implementation Plan (SDBIP).

The Municipal Systems Act stipulates the procedures of carrying out oversight duties. One respondent pointed out that legislation on local government does not state in detail how the oversight responsibility and authority should be carried out. The focus of the Systems Act is only on the establishment of council and its committees, however, the mandate and powers of council committees are not fully stipulated, therefore there is a lack of clarity on the oversight mandate in local government.

Komane (2016) states that the introduction of a separation of powers paved the way for the establishment of section 79 committees which replaced section 80 committees through the Municipal Structures Act. In the literature review oversight conditions and laws associated with effective oversight were discussed. This included the powers to audit, enforce compliance, investigate, analyse and summon political heads to oversight committees. Although the Standing Rules of Council (2016) states that every committee may determine its own procedures, the lack of clarity regarding how to conduct oversight is subject to own interpretation.

In an attempt to assess whether the municipality complies with the requirements of oversight, all of the respondents agreed. They stated that the legislature is required to do oversight over the performance of the executive and this is done through considering, interrogating and analysing the quarterly and annual performance reports of departments. The legislature also ensures that during the consideration of annual reports, the budget and IDP, communities are invited and they are allowed to comment and submit their inputs.

### **3. Do committees experience challenges in obtaining reporting information from the Executive or Departments?**

Thirteen (13) respondents believe that reporting information is accessed from the Executive and departments at Midvaal Local Municipality. These respondents agreed that there are no challenges in accessing this information and that it is easily accessible from the Executive and the departments. On the other hand, five (5) respondents stated that reporting information is not easily accessible at Midvaal. They stated that it is a challenge for oversight committees to scrutinise documents from the Executive or departments because they struggle to get access to the documents. Seven (7) respondents did not know whether information is easily accessible from the Executive or departments, or if it is a challenge. Committee analyses the departmental quarterly or annual reports, develops and tables the committee oversight performance report with recommendations to council. Following deliberation by the committee, the report is routed to council for final approval. It is interesting to note that seven (7) respondents did not know how recommendations are tabled, but the rest of the respondents understood the process.

All the monthly, quarterly and annual reports must be sent to the council reflecting implementation of the SDBIP. Council makes use of these reports in order to oversee both service delivery and financial performance of the municipality's implementation plan. This oversight cycle is explained by Brugge (2009) who states that the main requirements in the oversight cycle include the budget process, and both quarterly and annual reports.

It is an expectation that officials should assess risk more; implement oversight committee recommendations and council resolutions. There is also a focus on capital expenditure (CAPEX) and operational expenditure (OPEX). However, one of the respondents said that there should not be reliance solely on the executive's performance reports to verify information, thus emphasising the need for field-based oversight.

Other sources of verification include scholarly sources, the media and the public. In addition to regular field-work to validate what the executive has presented in their monthly, quarterly or annual reports. A respondent advised that oversight committees also appreciate visual reporting, for example, making use of photographs in the reports submitted by the executive.

Insufficient departmental reports impact on oversight which affects scrutiny. It is further noted that due to the technical nature of these reports, a certain level of expertise or understanding is required of councillors who may not always be able to engage the executive due to the jargon used in these

reports. It is also important for councillors to be aware that their role is strategic and not operational, in other words, their role is to provide a helicopter overview of the performance of departments, not run the departments. This implies that oversight should focus on issues of compliance to ensure that procedures have been followed rather than to be operational and take over the function of executive departments.

**4. Do Oversight committees conduct regular follow-ups on implementation of Council resolutions?**

Ten (10) respondents answered that there is a resolution tracking and follow up of Council resolutions. Seven (7) respondents stated that there is no formal follow up system on implementation of Council resolutions, while some in this category said that only the Petitions Committee track petition related resolutions. Four (4) respondents indicated that there is no tracking system in place whereas 4 respondents said that a matrix structure was used to track resolutions in the form of minutes and matters arising. One of the respondents explained in detail the actual process of monitoring; committee coordinators capture and track committee recommendations as well as council resolutions.

Resolutions being tracked are those resolutions emanating from Section 79 committees oversight reports on departments and Municipal entities quarterly performance reports, committee's oversight site visits reports and study tour reports. Some of the challenges experienced in monitoring, as stated in the respondents' interviews, are that committees are not consistent in the manner they deal with resolutions.

**5. How do committees conduct quality assurance on their own recommendations to ensure that their oversight reports and recommendations are aligned to strategic objectives and service delivery imperatives?**

Fifteen (15) respondents stated that committees conduct quality assurance on their recommendations to ensure alignment to service delivery imperatives. Five (5) respondents disagreed by stating that committees just make recommendations but there is no quality assurance on their recommendations. The remaining five (5) respondents did not know whether committees conducted quality assurance on their own recommendations. The fifteen (15) respondents that

agreed that committees conducted quality assurance on their recommendations, stated that the committee ensures that recommendations are aligned to their mandate as a committee and broader service delivery imperative, therefore quality recommendations ensure that they stick to the strategic objectives of the organisation.

Eleven (11) respondents thought that support staff have the adequate skills and competence to assist their oversight committees, however, one of the respondents mentioned that most support staff lack passion for their job and on-going training is needed. A retention strategy also needs to be investigated since the institution loses competent people. However, two respondents felt that support staff is not adequately qualified for the job. It is noted that councillors feel that their support staff are competent in their support of committees for the oversight function. The competence of staff must be accompanied by reasonable and adequate resources, and in addition there has to be a succession and retention strategy so that institutional memory can be retained. Rapoo (2005) emphasises that legislative institutions should develop capacity, expertise and the necessary skills to maintain effective oversight. Eigeman (2007) adds that training and education of staff is crucial in enhancing the quality of service delivery. Furthermore, Hlanganani and Rudzani (2014) stress the importance of adequate resources, in the form of a budget, office space, and training for effective and efficient oversight, including the capacitation of staff.

#### **6. How effective are the ward committees as an oversight mechanism in Midvaal Local Municipality?**

Thirteen (13) participants said the ward committees in Midvaal Local Municipality are effective oversight structures. While seven (7) said the ward committees are not effective, the remaining respondents were of the view that some ward committees were functional in Midvaal and others not functional depending on the specific wards and the Councillor of the ward. Some respondents argued that not enough support is given to ward committees by ward committee officers. The reasons given was that insufficient capacity due to only two (2) officials from the Speaker's office sharing fifteen (15) wards.

#### **7. Do Section 79 committees in the municipality scrutinize and make input into the draft by-laws and policies?**

Ten (10) respondents argued that the section 79 Committees do not scrutinise or make meaningful input to draft by-laws; whilst seven (7) said they do contribute to by-laws and eight (8) respondents said they were not sure whether they contribute to by-laws.

Ten (10) respondents answered that by-laws were not effectively reviewed, which in turn affected their enforcement in areas such as revenue collection, and resources management which discourage a sense of responsibility in communities. They further mentioned that they do not remember the last time by-laws were reviewed by the legislature. It was also mentioned by one of the respondents that by-laws lapsed before they could be reviewed as advertisements took long or never happened. However, two (2) respondents out of the seven (7) mentioned that by-laws were extensively reviewed especially in areas of property by-law, public open spaces air pollution, cemeteries and crematoria, and credit control and debt collection.

One respondent was not sure how to answer this question. By-laws cover various local government issues including parking grounds, public health, street trading, culture and recreational services, public roads and encroachment on property.

#### **8. Are members of the public invited to attend Section 79 committee meetings?**

Ten (10) respondents agreed that the public is invited to attend section 79 committee meetings, while nine (9) disagreed. The remaining six (6) respondents said they did not know whether the public is invited to attend section 79 committee meetings, however four (4) said they are aware that one can attend council meetings. The respondents that agreed that the public is invited to section 79 committee meetings, highlighted attendance to section 79 Petition committee stating that you are sometimes invited as petitioners. However, most respondents agreed that Council meetings must be open to the public, including the media. In addition to the public access to meetings, members of the communities are encouraged to attend as observers or are allowed to make inputs to the committees of the legislature. However, currently section 79 committees do not encourage public participation and involvement of communities.

On the other hand a total of five (5) respondents had a different view and submitted that service delivery has increased and the following were provided in support: service delivery gaps were

identified, accountability by the executive increased, the level of service, quality, range and impact increased due to public involvement in council.

**9. How effective are the public participation processes at the municipality, is the general public making a meaningful contribution to municipal processes?**

Seventeen (17) respondents stated that the public is making a meaningful contribution to Council through its public participation processes. Five (5) respondents disagreed and said that the public is not given ample chance to contribute to Council through public participation mechanisms. Three (3) respondents were of the view that the channels are there at the Municipality for communities to make contributions; however those avenues are usually not used constructively or are misused as complaint sessions rather than providing meaningful solutions to the community issues. All the respondents answered this question with saying that feedback was done through Integrated Development Plan (IDP) on an annual basis, however, five (5) respondents felt that feedback is never provided to constituencies. Every year, the Mayoral Committee is required to report on community engagement outcomes and the public views regarding service delivery (IDP, 2016) as stated in section 34 of the Municipal Systems Act, 2000. This section prescribes that a municipality must review its IDP on an annual basis. This review process integrates the wishes and demands of the community and stakeholders at large. Those respondents who stated that feedback on performance is not given, indicated that council also fails to incorporate stakeholder inputs and to report on progress regarding the objectives, priorities or mandate given by the constituency for the given period. Therefore government institutions must be accountable to communities and must ensure that their service delivery programmes integrate the inputs of communities, and that feedback is given on time, in a way that communities can understand.

**10. What impact do Ward councillors, PR councillors, CDW's have on public participation?**

Fourteen (14) respondents stated that the Ward Councillors have a positive impact on public participation as they are the community leaders who facilitate public meetings. Seven (7) respondents disagreed by saying that some Ward Councillors have a negative impact and mislead the communities through public participation. They substantiated by saying that some Councillors abuse their role and use it to benefit only the few connected to him/her. It is important to remain

impartial and serve the community members without fear, favour or prejudice. The rest of the respondents argued that their Ward Councillors had no impact on public participation at all as they are not even visible or available to community members when they are needed.

The respondents that agreed most with the positive impact that Councillors have on public participation are mostly Councillors. It is important to note that respondents who said Councillors have little or no impact on public participation are community members; so it shows that there is a disconnect between the councillors and his/ her community members.

The PR Councillor's role, according to most of the respondents, is basically to provide oversight to the Ward Councillor and ensure that he/she is performing his/ her duties in the ward. Around 70% of the respondents said most community members don't even know who their PR councillor is in their respective wards. They said the PR plays a very competitive role to the Ward Councillor and most often sabotages the efforts of the Councillor especially in public participation processes.

The Community Development Workers received heavy criticism from respondents with 80 % stating that they are non-existent and not effectively having any impact on public participation in the wards. The remaining 20% disagreed by saying that CDWs are having a positive impact on public participation in Midvaal Local Municipality.

Most of the respondents agreed that the Executive Mayor and the Speaker of Council are visible in the communities as they hold numerous public meetings like the IDP and Budget meetings. A few suggestions to improve public participation included expanding the public consultations to social media (Facebook and Twitter) where a younger target market can be reached. Radio stations and printed media could also be used to enhance the participation of community members.

#### **11. How are oversight committees funded and do they have their own budget per committee?**

Fifteen (15) respondents said that they do not know how exactly the oversight committees are funded and whether they have their own budget. Seven (7) respondents said the budget for oversight committees is with the Speaker's office and they manage it centrally. The seven (7) respondents said, however, committees don't all have separate budgets but all fall under the

Speaker's office. The remaining three (3) respondents said that the oversight committees are not funded at all.

**12. How effective is the internal audit committee at Midvaal Local Municipality?**

Nineteen (19) respondents said that the internal audit committee at Midvaal Local Municipality is very effective and it can be seen through the clean audit reports received from the Auditor-General's office. Five (5) respondents said that the internal audit is not effective; whilst one (1) respondent said he does not understand enough about what the function of the internal audit unit is.

**13. What is your assessment of how the Separation of Powers model is institutionalised at Midvaal Local Municipality? What impact does separating the executive and the legislative function have on effective service delivery?**

All twenty-five (25) respondents concur that there is clear separation of powers between the Executive Mayor and the Speaker (Legislature). Only two (2) respondents said there is separation of powers, however, they get confused occasionally when it comes to which office handles community complaints.

The gaps in performance of the legislature in oversight do exist, as a result of challenges such as a non-existent monitoring and evaluation tool, no proper planning for committee work, a lack of political will to address committee issues, and the failure to implement committee action plans. The purpose of undertaking oversight needs to be clearly defined and understood so that the outcomes can be measurable (Plaatjie, Borchard & Layman, 2014). In summary, there is a lack of integration of approaches and systems to implement legislature programmes and for the legislature to be accountable.

In order to respond adequately to the gaps mentioned above, respondents were asked to make recommendations. Respondents presented different approaches such as an increase in the number of committee and council meetings, debates and questions in committees, continuous public participation, inclusion of community inputs and submissions in oversight reports, and an increase in both house and field-based oversight. They also stressed the use of a matrix for tracking committee recommendations which should be shared with all intended users who are committee

researchers, coordinators and the authors of reports from the executive; and implementation of results based monitoring and evaluation systems, public hearings and meetings and committees working closely with the ward committees.

Another critical finding on separation of powers was that at a political level there is clear separation of powers; however at administrative level there is a conflation of executive and legislative functions and this impedes and weakens proper oversight and scrutiny. A respondent mentioned that the administrative support to the Speaker of Council is lacking in that the role of "Secretary to Council" which essentially is administrative head of the legislature, is occupied by a Deputy Municipal Manager who is also the Executive Head of Corporate Services. This is problematic in the sense that there are blurred lines in terms of accountability. Which politician takes priority in this regard, the Speaker or the Executive Mayor? The checks and balances in this scenario are also weakened by the fact that one is therefore a player and a referee in the game.

An effective oversight model requires sufficient independent support to the Legislature head, as the Chairperson of Council and his/her role in ensuring proper scrutiny of the Executive. This conflation has a ripple effect on budget allocations and general support to section 79 committees. The legal advisors providing support to Section 79 committees are from the executive; some of the administrators of Section 79 committees are from the executive departments. So how is proper scrutiny expected when officials from departments reporting to the executive advise and support oversight committees? There is bound to be biased and flawed systems which fail the legislature repeatedly.

There are seven oversight tools namely, hearings in plenary sittings, question time, interpellations, committee hearings, inquiry commissions, and the ombudsman (Pelizzo, Stapenhurst & Olson, 2006). Makhado et al (2012) together with Plaatjie et al (2014) also provide an effective oversight and accountability tool Oversight tools consist of investigation reports, which may be quarterly and/or annual, strategic plans, annual performance plans, and oversight site visits. Accountability tools include the budget and public hearings.

The findings reveal that oversight measures are mostly used by the legislature and its oversight committees; however, it is important to assess the effectiveness of oversight tools and use them in a relevant way to effectively hold the executive accountable. When reports are tabled by

committees, the performance of departments is interrogated and scrutiny is done to assess performance over reports received, committees thereafter, resolve on reports tabled to it. On approval of reports by committees, items are referred to council for final approval and resolution.

The findings concur with the literature review, MFMA circular 32 of 2006 which prescribe the oversight process and the establishment of oversight committees. Hlanganani and Rudzani (2013) states that committees' oversight is crucial in closing the accountability circle of budgeting, implementation, planning, reporting, auditing and oversight. The availability of an oversight model ensures the effectiveness and efficiency of the scrutiny and oversight.

**14. What audit opinion was given by the Auditor-General to Midvaal Local Municipality in the past three years?**

Twenty-three (23) respondents argued that Midvaal Local Municipality received three (3) consecutive clean audit opinions from the Auditor-General. The overwhelming majority claimed that the clean governance and proper record-keeping were the reasons why the municipality excels. The Executive Mayor highlighted that a continuous improvement of administrative processes, proactive monitoring and evaluation and inculcating a culture of high performance in the institution, has enabled them to achieve clean audit opinions. The two (2) remaining respondents were not sure what the audit opinion was. The majority of respondents agree that Midvaal Local Municipality is above other municipalities when it comes to clean governance and compliance to legislation. This is testament to the many accolades that Midvaal boasts for good governance. The responses showed that there is definitely great work done by the municipality and compliance to legislation. The achievement of three (3) consecutive clean audit opinions is a huge success for a municipality.

**15. Is Midvaal Local Municipality delivering services equitably across all wards (Rating scale from 1 poor-10 outstanding)?**

Fifteen (15) respondents stated that Midvaal Local Municipality does not deliver services equitably across all wards because the wards are so vastly different. The key points raised by respondents were that services distribution varies due to informal settlements bulging and no revenue being collected in the areas. An influx of migrants to Midvaal at a staggering high number, increasing

unemployment and access to basic services, was another contributing factor. Some respondents in this category stated that due to apartheid spatial groupings, access to services remains good along suburban areas and rural areas/townships receive poor service delivery. The lack of development in rural areas is testament to past spatial lack of allocation to basic services. Some cited financial resources and unemployment as reasons for the unequal distribution of services. The middle class to high income communities, for example, can afford to pay rates and taxes and therefore receive good services; whereas poor to low income communities do not pay for services and therefore receive very limited services. Most of the respondents in this category gave Midvaal an above average rating of service delivery across wards with a plus minus seven (7) out of ten (10) rating.

On the other hand five (5) respondents stated that there is equal access to services in Midvaal Local Municipality. Some of the reasons provided for their response are that Midvaal Local Municipality is delivering services in all wards, and that it does substantially better than neighbouring municipalities. They also state that much effort has been placed on uplifting the rural and poorer township areas; the basic services are being delivered by the Municipality. The vastness of the Midvaal area also makes it difficult to reach the entire constituency as only small pockets of communities are scattered across large geographical areas making delivery of services highly difficult and expensive. This category gave Midvaal a high rating of service delivery in wards, with a plus minus eight (8) out of ten (10) rating.

Five respondents said that Midvaal does deliver services however, the distribution is not equal in all the wards. Some areas that have a high population and low income have to share services like sanitation and water. So this category said there is relative equality in service distribution in Midvaal. This category gave Midvaal an average rating of five (5) out of ten (10) for service delivery.

## **5.2 FINDINGS FROM THE STUDY**

Findings are from both the literature review and interviews presented below.

### **5.2.1 Findings from a review of the literature**

To formulate relevant questions utilised for the purpose of this study, information was obtained from extensive consultation of relevant literature review. Sources such as accredited journal

articles, policies, legislation, electronic sources, IDP, Municipal Annual reports, the SDBIP and policies of the municipality were utilised for this study.

### ***5.2.1.1 Legislative oversight and accountability***

Midvaal Local Municipality has an oversight model of separation of powers through the delegations of authority policy (2016) which separates the roles of the executive and council including the levels of decision-making and accountability and a restructuring of the municipality. The aim being to strengthen the role of the council legislature and enhance its oversight role, improve public participation in council affairs and make laws (Integrated Development Plan, 2015). The legislature uses council meetings or/and oversight or Section 79 committees to hold the executive accountable (National Treasury, 2006). Dikobe, (2012) further postulates that committees of the legislature are the key drivers of the core business of the institution dealing with law making, oversight and public participation.

There are a number of tools used by the legislature for the oversight function which include but not limited to hearings in plenary sittings namely questions, question time, interpellations, committee hearings, inquiry commissions, and the ombudsman (Pelizzo, Stapenhurst et al, 2006). Makhado et al (2012) together with Plaatjie et al, (2014) also present oversight and accountability tools: oversight tools consist of investigation reports, which may be quarterly and/or annual, strategic plans, annual performance plans, and oversight site visits; accountability tools include the budget and public hearings. These tools assist with both house-based (usually internal) and field-based (usually outside the council building) oversight (Rapoo, 2003). The capacity of Section 79 committees to perform oversight and accountability to the executive depends on a number of factors such as the expertise and competence of both councillors and administrative staff, political will, the ability, skills and competence of the committees to interrogate the executive on the implementation of policies and programmes. Hudson (2007) cautions against a lack of competence to hold the executive accountable, by citing examples from parliaments. It is also clear that effective oversight leads to open transparent governance and accountability. Pelizzo (2013) further states that effective legislatures who are performing oversight, have a number of benefits including reduced corruption, improved transparency and service delivery, and their political systems work much better.

### ***5.2.1.2 Public participation***

Council is accountable to the communities and it has the responsibility to include communities in all the programmes that the municipality undertakes. The wishes of the communities must be integrated in the plans of the municipality and there has to be constant feedback to communities. This takes place through the IDP process, however it is not done in a way that accommodates community members due to the technical nature of reporting, in formal English and not in the local languages. Some strides have been made in some communities to speak the local language and provide translation. Although the final or ultimate principals are the citizens, municipalities must account to the citizens (Gailmard, 2012). For public participation to be meaningful, communities must be involved in the affairs of the municipality including important decision-making to promote accountability and transparency. Legislatures have an even bigger responsibility to provide extensive, continuous feedback and share information with the important stakeholder, the public.

Various forms of media including radio, newspapers and billboards could be used to convey the annual report messages. The public may be invited to submit comments on the annual report via telephone, fax and email; public hearings could be held in a variety of locations to obtain input of the annual report. Making use of existing structures such as ward committees to disseminate the annual report and invite comments; and hosting a number of public meetings and road-shows at which the annual report could be discussed and input invited. In pursuance of the requirements on Ward Councillors by the Back to Basics reporting regime, Public Meetings in the Wards must be held and Councillors must report back regularly to Council on their Communications to the Community. The Speaker must follow up vigorously with ward councillors on whether these meetings are taking place. In terms of ward governance and administration of ward committees, it is recommended that more support staff be employed to enable effective support to all wards. There are currently only two ward committee officers at Midvaal and they are struggling to juggle 15 wards between both. This will effectively ensure quality minutes of ward meetings, good reports on ward governance at Midvaal and a more manageable workload for officials leading to job satisfaction.

### **5.2.2 Findings from the interviews**

Twenty-five (25) people were interviewed and a majority have at least 5 years' experience at the Midvaal Local Council, whether as an office bearer, a Councillor, or resident. The study finds that the effectiveness of the oversight model is affected by a number of factors such as a lack of adequately skilled, able and competent staff to oversee the executive. This was cited as a major challenge for the legislature to hold the executive accountable. Councillors also need to have the required knowledge regarding how the council legislature functions, understand how local government systems, oversight model and separation of powers function.

The effectiveness of oversight at Midvaal is a result of the ability and capacity of those who conduct it, but other scholars claim that the relationship between oversight capacity and effectiveness may be hindered by political will and the capacity and skills of those who carry it out (Pelizzo, 2013). In addition, Hudson (2007) postulates that without the knowledge and necessary skills to perform oversight effectively, parliaments are rendered ineffective in performing their activities. The study found that a majority of councillors and officials lack both professional governance and oversight skills. The support staff in the form of committee administrators sometimes closes the gap, as they possess some technical skills to analyse and verify the technical executive reports, thus improving accountability and adequate interrogation of departments' performance. However, there is an urgent need to address the lack of sufficient staff supporting oversight committees at Midvaal; and that some of the administrators are from departments reporting directly to the executive. It is recommended that more support staff to committees be employed in the Speaker's office (Legislature) to enhance performance of committees and ensure effective scrutiny of documents.

The oversight model has to be monitored and evaluated to assess, amongst other things, its relevance, coherence and responsiveness. It is important to put measures in place in order to assess the performance of the oversight and scrutiny model. This will result in knowing where gaps are and in identifying areas needing improvement. According to Castro (2011) performance assessment is crucial in order to improve effectiveness, efficiency and accountability in government. Brugge (2009) posits that the construction of resolutions by the council based on the recommendations from the Section 79 committee oversight reports is important in enhancing the

effectiveness of the oversight process. At the end of the political term, the governing party must provide feedback to stakeholders regarding their performance. They also have to prepare a handover report detailing the priorities and objectives which were agreed upon and the extent to which they were achieved. If performance is not assessed, then it becomes difficult to measure progress with regard to outcomes, and lessons learned.

Another challenge to gauge the effectiveness of the oversight model was a lack of tracking the recommendations of oversight committees and the resolutions of council. Perrin (2012) suggests that the implementation of monitoring should include tracking and tracing of progress with regard to identified plans or objectives, using measurable data on an ongoing basis. Limited evidence of this could not be found at the Midvaal Local municipality, especially resolutions of some Section 79 committees.

Participants cite a lack of meaningful public participation as another challenge affecting effectiveness of the oversight model. In any planning processes, the community should be regularly consulted, so as to be actively involved in the development of municipal priorities and all affairs of the municipality (Mngoma, 2010; the Constitution, 1996; Municipal System Act, 2000).

The council legislature's oversight and accountability are hampered by the late submission of executive reports. For oversight to be effective there is a great need for the departments to send the reports on time so as to allow committees to be able to verify and consult with the public. Although none and/or late submission of department reports contravenes section (41) (1) (e) of the Municipal Systems Act, 2000 which stipulates that the executive and administration must provide regular reports to council, oversight committees have no punitive measures in place, thereby being rendered toothless watchdogs. Poor attendance by the executive and senior managers to attend Section 79 meetings when they are invited to account, is also problematic.

Political will plays a crucial role in ensuring effective oversight and accountability. Political allegiance and a lack of political will to hold/get redress where there is wrongdoing, is a challenge facing the separation of powers. In order to ensure effective oversight, the legislature must perform oversight without fear or favour. The executive, MMCs and the departments must be held accountable to attend and respond to issues raised by oversight committees.

### **5.3 CONTEXTUALISING THE FINDINGS WITH RESEARCH OBJECTIVES**

The purpose of the study was to evaluate the impact of oversight mechanisms on service delivery at the Midvaal Local Municipality. In this study, the factors that hamper the effectiveness of the Section 79 oversight committees have been discussed in the previous chapters. Included in the study is the discussion around resources available to committees in order to conduct oversight, oversight tools and challenges faced by committee's in holding the executive accountable. The Separation of powers has been explored in relation to Midvaal and findings show that there is a clear separation of powers between the Legislative and Executive arms. There were positive findings in relation to whether Midvaal Local Municipality delivers services. The majority of respondents concurred with this assertion, although some felt that the service delivery was not equal in all wards.

The study came to the following conclusions in line with the objectives of the study.

#### **5.3.1 Compliance by section 79 committees**

To measure compliance by the Section 79 committees by holding the executive accountable. The study arrived at the following conclusions: the study revealed that 100% of the respondents are of the view that council committees do comply with all the necessary statutory requirements. Section 79 committees are bound by the Standing rules of council, the Municipal Systems and Structures Acts and other government legislation. Participants generally have confidence over the separation of powers at Midvaal, by seeing an improvement in accountability by the executive and more community involvement.

#### **5.3.2 Challenges faced by the Section 79 committees**

To determine challenges faced by the Section 79 committees in holding the executive accountable. The study concludes that the Section 79 committees face numerous challenges beginning with, insufficient budget allocation, lack of standard resolution matrix to be used by oversight committees, and haphazard and uncoordinated resolution tracking. The action plans of committees were also not integrated in a central committee's action plan leading to fragmentation and duplication of oversight activities. Although executive member absence from committee meetings

was noted in serious light, oversight committees had no punitive measures in place to deal with this matter.

The respondents concur that the effectiveness of oversight requires skilled and competent leadership, councillors and support staff. There was a suggestion that Section 79 committees be chaired by the members of the opposition party to allow for independence and impartiality. There is only one (1) committee at Midvaal which is chaired by a member of the opposition; MPAC is chaired by an Economic Freedom Fighter Councillor. Other suggestions include increasing the number of committee and council meetings in order to have more time for oversight, however with councillor's being part-time it seems that this may not be feasible. As mentioned earlier, only MPAC is chaired by an opposition Councillor in Midvaal, the rest are from the ruling party. It would enhance oversight and impartiality greatly to consider allowing an opposition councillor to chair one or two more oversight S79 committees.

### **5.3.3 Monitoring and evaluation of section 79 effectiveness**

In order to assess the extent to which Section 79 committees monitor and evaluate the implementation of their own programmes. These respondents further explain that that committee members do not monitor or evaluate the performance of their own committees, which made it difficult to evaluate the committee's effectiveness in its oversight role and document any lessons learned during the implementation of the committee's programmes of oversight. This implies that committees fail to account to the council and flaunt the rules they should be guardians of. Some oversight committees like the Section79 Gender committee have stagnated in terms of their policy being approved by Council and recommendations being implemented. A major reason is the lack of political will to approve some of the recommendations due to implications of the policy if adopted in council. A contentious issue is the succession plan and the call to have a female in the top three (3) political office bearers' positions at Midvaal, has been sighted as a hindrance to adopt the gender policy. This requires a political will for transformation and only a resolution of Council can effect this recommendation by the Section 79 Gender committee.

The study concludes that not all oversight tools are used effectively by committees. These include debates and questions for oral or written reply, community inputs and submissions, meaningful

public participation at the IDP and site visits. If implemented correctly, these measures have the capacity to greatly improve the effectiveness of oversight in any government institutions.

### **5.3 SUMMARY**

This chapter presented the qualitative research methodology used to gather information on how oversight mechanisms impact service delivery at Midvaal Local Municipality. A detailed description of the data collection instruments used in the study like interviews and the trustworthiness of the information were all presented in this chapter.

An analysis of oversight and scrutiny at Midvaal Local Municipality and how it impacts on service delivery was the key theme in the interview questions. This chapter presented the findings of the study by outlining and presenting data collected through individual interviews with participants, the content was analysed. The next chapter focuses on conclusion and recommendations.

## **CHAPTER SIX**

### **RECOMMENDATIONS AND CONCLUSION**

#### **6.1 INTRODUCTION**

This chapter will focus on the findings from the study in accordance with the research objectives highlighted in chapter four. The recommendations will be given in this chapter to remedy the critical shortcomings highlighted in previous chapters regarding Oversight in Midvaal Local Municipality and how it impacts on service delivery. The primary data was generated by means of interviews and the secondary data through a review of the literature.

#### **6.2 RECOMMENDATIONS**

In light of the findings and an attempt to assist Midvaal Local Municipality with issues relating to how oversight mechanisms impact service delivery, the following recommendations are provided:

##### **6.2.1 Effectiveness of Section 79 committees**

The effectiveness of oversight can be improved by engaging the services of retired professionals and active community members who are not aligned to any political party. With a misalignment of councillor skills and abilities to serve on certain committees, outsourcing the services of retired judges, doctors, civil engineers, and chartered accountants and social workers may be worthwhile. It is a missed opportunity that ward committee members do not make inputs into oversight, as these are people who are assumed to be knowledgeable in the portfolios they carry in ward committees. This will also deal with the issue of reports which are laden with technical information and sector-specific jargon. It is recommended that the executive and their support staff present the performance reports in a clear and simple language and that political parties allocate councillors with the relevant knowledge of the department they intend to oversee so that they are well-capacitated and skilled to perform their oversight role.

Following through with the committee plans should be mandatory, and not optional. Oversight can be committee driven if all understand and actively participate in the development of committee objectives, understand the reporting cycle, the scope and focus of each oversight committee and work continuously to consult with the community. It is further recommended that Section 79

committees lead by example, by complying with municipal laws and policies, for instance, allowing no by-law review process to lapse. Adding to the above the committee business or strategic plans must outline the oversight approach and be linked to the entire institutional goals.

Arising from the finding that the effectiveness of oversight committees is influenced by lack of ability, skills, and capacity to discharge oversight duties. It is therefore recommended that the capacitation, skills, training and development for all members of committees and those responsible to carry out oversight, especially councillors, should be done and should cover the legal framework such as South African Constitution, Municipal Structures Act, Municipal Systems Act, Municipal Finance Management Act and the separation of powers. There is a need to empower support staff who lack passion for their job and on-going training is needed to keep them motivated and challenged.

The legislature has to ensure that its recommendations are specific, measurable, attainable, relevant and time-bound (SMART) and collaborative, limited, emotional, appreciable and refinable (CLEAR). This has implications for the implementation of council resolutions by the executive and also makes follow-up by committee staff much easier. Reporting to both council and members of the community through public meetings may enhance public participation.

### **6.2.2 Compliance by the Section 79 committees**

The separation of powers and relevant legislations prescribes and made a ruling that items be decided on the basis of majority votes in council and committees, therefore it is recommended that members of committees must attend their respective meetings especially when they have to vote for the items that are referred to council for final resolution.

A conclusion has been made that the intervention from the political management is needed in addressing and prescribing the flow of the reports from the executive to the legislature and to arrest the concerns relating to late reports received from the executive.

### **6.2.3 Inclusion of communities in the affairs of the municipality**

Because citizens are the ultimate principals, municipalities must not only engage them in the affairs of the municipality, but make sure that this consultation is meaningful. There has to be concerted effort to include residents, social partners, businesses, communities, media and other spheres of

government in the affairs of the Midvaal Local Municipality. It is important to develop instruments and tools for effective consultation with both internal and external stakeholders as they have a stake in effective oversight.

Council has the responsibility to engage communities, and to bring the council to the people. Also, the standing rules may need to be amended to accommodate public participation in Section 79 committees by being open to all members of the public, to participate not only by invitation as observers, but to make inputs where relevant and possible. Councillors have the responsibility to account to communities, therefore consolidated feedback reports and findings from councillor's community meetings and house-based and field-based oversight must form part of the oversight performance report and be tabled at committee and community meetings. Participants agree that there is no framework guiding councillors on how to undertake oversight. In light of this, a consolidated legislature process manual containing all of the steps to be undertaken in oversight, must be made available to councillors and officials at induction to orientate them on how to undertake and exercise oversight.

#### **6.2.4 Research assistance for councillors**

Based on the findings of this study it is recommended that municipal councils address the lack of capacity to conduct oversight, by ensuring that there is a directorate within the administration to assist councillors with research and conducting oversight. If competent and qualified researchers are appointed, the council could be kept abreast with information and policy changes that have an impact on governance. These researchers will provide valuable information and can assist councillors on request and may also research matters on request by the various portfolio and oversight committees. If councillors are provided with research material pertaining to the various structures and mechanisms which can be implemented to conduct oversight, they will be well informed and can formulate informed opinions when submissions are made by the administration. Furthermore, the skills of councillors can be significantly developed and improved with the provision of research material. This research directorate should be located within the Speakers office and should be charged with the mandate to assist oversight and committees. The directorate should administratively report the municipal manager but be independent. Councillors should liaise directly with the researchers who will be the link to the administration. The researchers should assist the councillors with the following:

- analysis of the annual report;
- analysing of financial statements including monthly budget reports which are submitted to the council; and
- analysing of the IDP and SDBIP and how it interlinks with the performance agreements;

### **6.2.5 Internal Audit**

It is recommended that the internal audit unit be tasked with the analysis of the annual report and monthly budget statements and that the analysis of these reports be submitted via the audit committee to the municipal council. Oversight will be greatly enhanced if the audit committee submits regular monthly reports to the municipal council regarding all aspects of financial and legislative compliance.

## **6.3 AREAS OF FURTHER STUDY**

Oversight in local government is an exciting area that is gaining momentum in terms of research and is an area which should be researched extensively in order to enable good governance in municipalities. Furthermore, monitoring and evaluation is evolving in the South African context especially in the public sector, it is therefore critical to conduct a detailed study in this field. Studies of a similar nature may assist in highlighting similarities and differences from various government institutions, and document the findings so as to contribute to the enhancement and effectiveness of the oversight model in the government sector.

## **6.4 CONCLUSION**

The findings have been analysed, leading to conclusions and making significant recommendations. The findings and recommendations made in the study are grounded and based on the results and the existing body of literature and the research case study findings. The study recommends that Midvaal put in place measures to assess the relevance, responsiveness and effectiveness of the oversight mechanisms in relation to service delivery. The findings have indicated that Midvaal Local Municipality is delivering services and doing well in terms of governance. A few bottlenecks need to be resolved relating to employment of additional staff in the Speaker's office and capacitation of staff and Councillors and administrative separation of powers. The oversight committees can improve the scrutiny of reports and embark on oversight visits to wards to assess

the issues at grassroots level. A budget allocated to various Section 79 committees is critical in ensuring performance of oversight duties because without a budget very little can be done. The various policies adopted by Midvaal council must be adhered to and practiced consistently to ensure good governance. Communities lose faith in local municipalities when they do not deliver on their promises, it is therefore critical for Midvaal to deliver on the promises made to all the wards. Public participation is a tool that is used to engage constructively with community members and to listen to them, this helps to build a trust relationship between the municipality and residents. Oversight is a key tool to accountability and good governance at all spheres of government, it should be a focal point and key research topic for future research projects in public service financial management.

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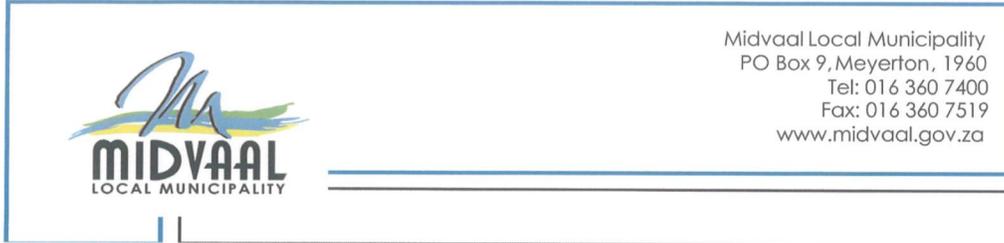
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## Appendix A: Letter of Permission to Conduct the Study



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### OFFICE OF THE MUNICIPAL MANAGER

Our ref: 2/11

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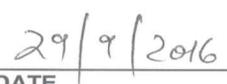
### RE: REQUEST FOR PERMISSION TO CONDUCT RESEARCH AT MIDVAAL LOCAL MUNICIPALITY

Dear Prof. Lukamba,

This letter serves to respond to your request for Masters candidate Ms Lillian Kolisang- 24102997 to be allowed to conduct research for her Masters in Public Management and Governance. Please note that permission is granted. The research topic agreed to is "***The impact of oversight mechanisms on service delivery in the Midvaal Local Municipality***". It is understood that the research will be conducted for academic purposes only.

Yours Sincerely,

  
1 \_\_\_\_\_  
MR A.S.A DE KLERK  
MUNICIPAL MANAGER

  
DATE \_\_\_\_\_

## **Appendix B: Interview Questions**

### **Interview questions: The Impact of Oversight Mechanisms on service delivery at the Midvaal Local Municipality**

#### **Oversight Mechanisms:**

- 1) Please name the oversight mechanisms at the MLM, How regularly do the S79 Committees at Midvaal municipality convene meetings?
  - a) Outline the number and type of staff supporting S79 Committees (committee coordinators, researchers, information officers, administrators, etc.).
  - b) What are the required educational qualifications for the various committee support staff?
  - c) Do S79 Committees have access to academics / experts in their respective sectors to consult when necessary?
  - d) What other enablers / support is given by the municipality, for S79 Committees to fully execute their oversight function?
- 2) List the outputs (oversight reports) produced by Oversight Committees at the municipality. Are oversight reports produced on the following documents delivered by the Executive: If yes, kindly elaborate; if no please state reasons?
  - a) Annual Report
  - b) Budget Vote
  - c) Quarterly reports
  - d) SDBIP
- 3) Do Committees experience any challenges in obtaining reporting information from the Executive / Departments? Do Departments submit reports in accordance with the Committees Time / Format / Quality parameters? Are these investigated?
  - a) What challenges do Committees experience when conducting independent verification / site visits?
- 4) Do Oversight Committees conduct regular follow-ups on implementation of Council Resolutions?
  - a) If not, why not?

- b) If so, how regularly is resolution tracking conducted?
- 5) How do Committees conduct quality assurance of their own recommendations to ensure that Oversight Committee reports and Recommendations and ultimately Council Resolutions are aligned with relevant strategic priorities and service delivery imperatives?

**Ward Committees:**

- 6) How effective are the ward committees as an oversight mechanism in Midvaal LM?
- a) What oversight role do the ward committee members play at Midvaal LM and how do they hold the executive accountable?
  - b) What training has the municipality given to the ward committee members in the financial year 2015/16?
  - c) Does the municipality include ward committee members in oversight structures/committees to enable them to perform their oversight mandate?

**Law-making:**

- 7) Do S79 Committees in this municipality scrutinize and input on draft by-laws and policies?
- a) If so, how often do S79 Committees undertake such tasks?
  - b) If so, how effective are S79 Committees in making meaningful contributions to draft by-laws and policies?
  - c) If so, do Committees have support from legal advisors when scrutinizing draft by-laws and policies?

**Public Participation:**

- 8) Are members of the public / stakeholders invited to attend S79 Committee meetings?
- a) If yes, on average how many stakeholders would attend a Committee meeting?
  - b) And do they make submissions to the Committee?

- 9) How effective is the public participation processes at the municipality / is the general public making a meaningful contribution to municipal processes?
- a) What mechanism(s) is/are used to measure public satisfaction with regard to service delivery?
  - b) What mechanism(s) is/are used to address dissatisfaction with regard to service delivery issues?
  - c) Does this municipality have a dedicated public participation unit?
  - d) If yes, how many staff members does the unit comprise and what are their respective functions?
- 10) What impact do the Ward Councillors/PR Councillors/Community Development workers have on public participation?
- a) How often do they hold/ attend public meetings to provide feedback to communities?
  - b) Does the Speaker and EM with Mayoral committee members attend the public meetings?
  - c) What could be done to strengthen public participation processes of this municipality?

### **Committee Performance**

- 11) How are Oversight Committee activities funded? Does each Committee have its own budget? If not, why not and are Chairpersons of S79 Committees appointed on a full-time or part-time basis?
- a) Are Chairpersons of Oversight Committees from Opposition parties or the ruling party at the municipality?
  - b) Kindly break down the composition of Councillors in Oversight Committees per political party representation.
  - c) How effective are the Oversight reports and what impact does the committees have on ultimate service delivery?

### **Internal Audit**

- 12) How effective is the internal audit committee/ unit at Midvaal LM?
- a) Who are the members of the internal audit e.g. Officials/outsourced/ stakeholders?
  - b) What are the strengths & areas of improvement of the committee/ unit?

- c) Do the members have the knowledge and financial expertise to serve efficiently in their role?
- d) Are the members independent of the council management?
- e) What impact does the internal audit unit have on service delivery?
- f) How effective are your internal control mechanisms to ensure sound financial management and compliance to local financial legislation?

### **Separation of Powers**

- 13) What is your assessment of how the Separation of Powers model is institutionalized in Midvaal local municipality? And what impact does separating executive and legislative function have on effective service delivery?
  - a) Having come this far without legislative reforms to support the separation of powers distinctly at local government. In your view, if legislation was to be enacted to realise the separation as it has at the provincial and national spheres, what do you think would render implementation different?
  - b) What would you regard as the strengths, weaknesses and threats of the separation of powers in so far as they relate to efficiencies in the Executive, Administration and Legislative Oversight Committees?

### **Auditor- General**

- 14) What audit opinion was given by the Auditor-General to MLM in the past three years?
  - a) How have oversight mechanisms at the municipality impacted on the audit opinion given by the AG and why?
  - b) What best practices have the municipality adopted to sustain the good audit opinion achieved? (unqualified or clean)
  - c) What deficiencies have been noted by the municipality which led to a qualified or worse disclaimer audit opinions?

### **Service delivery**

- 15) Is MLM delivering services equitably across all wards? If no, please elaborate, if yes please substantiate.
  - a) What would you rate the level of service delivery at MLM, and why? Out of a scale 1 to 10 (1-Poor 10- Outstanding)

## Appendix C: Ethics Approval letter & Certificate



PO Box 1174, Vanderbijlpark  
South Africa, 1900

Basic and Social Sciences Research  
Ethics Committee

Tel: +27(18) 910-3483

Web: <http://www.nwu.ac.za>

20 July 2017

Dear Ms L Kholisang and Prof. Lukamba

**ETHICS APPLICATION:** NWU-HS-2016-0204

**TITLE:** The Impact of Oversight Mechanisms on Service Delivery in the Midvaal Local Municipality.

Risk Level: Low  
MA (Public Management)

Thank you for a well-presented application and additional material!

At the virtual meeting of the Basic and Social Sciences Research Ethics Committee (BaSSREC) held on 18 July 2017, the committee approved the above ethics application in view of the additional information submitted. There is an adequate risk/benefit ratio and the protocol is acceptable.

A certificate will be issued for the duration of the applicant's period of study, with a maximum period of 3 years and communication will be kept for progress tracking purposes.

Congratulations and best of wishes with the completion of your study.

Sincerely,



Dr Vhumani Magezi  
BaSSREC Co-Chairperson

## ETHICS APPROVAL CERTIFICATE OF STUDY

Based on approval by the Basic and Social Sciences Research Ethics Committee (BaSSREC) on 20/07/2017 after being reviewed at the meeting held on 18/07/2017, the North-West University Institutional Research Ethics Regulatory Committee (NWU-IRERC) hereby approves your study as indicated below. This implies that the NWU-IRERC grants its permission that, provided the special conditions specified below are met and pending any other authorisation that may be necessary, the study may be initiated, using the ethics number below.

<b>Project title:</b> The Impact of Oversight Mechanisms on Service Delivery in the Midvaal Local Municipality
<b>Project Leader/Supervisor:</b> Prof. Lukamba
<b>Student:</b> Ms L. Kolsang
<b>Ethics number:</b> <b>N W U - H S - 2 0 1 6 - 0 2 0 4</b>
<b>Application Type:</b> Single study
<b>Commencement date:</b> 2017-07-20 <b>Expiry date:</b> 2020-07-20 <b>Risk:</b> <b>Low</b>

### Special conditions of the approval (if applicable):

- Translation of the informed consent document to the languages applicable to the study participants should be submitted to the BaSSREC (if applicable).
- Any research at governmental or private institutions, permission must still be obtained from relevant authorities and provided to the BaSSREC. Ethics approval is required BEFORE approval can be obtained from these authorities.

### General conditions:

While this ethics approval is subject to all declarations, undertakings and agreements incorporated and signed in the application form, please note the following:

- The project leader (principle investigator) must report in the prescribed format to the NWU-IRERC via BaSSREC:
  - annually (or as otherwise requested) on the progress of the study, and upon completion of the project
  - without any delay in case of any adverse event (or any matter that interrupts sound ethical principles) during the course of the project.
  - Annually a number of projects may be randomly selected for an external audit.
- The approval applies strictly to the proposal as stipulated in the application form. Would any changes to the proposal be deemed necessary during the course of the study, the study leader must apply for approval of these changes at the BaSSREC. Would there be deviation from the study proposal without the necessary approval of such changes, the ethics approval is immediately and automatically forfeited.
- The date of approval indicates the first date that the project may be started. Would the project have to continue after the expiry date, a new application must be made to the NWU-IRERC via BaSSREC and new approval received before or on the expiry date.
- In the interest of ethical responsibility the NWU-IRERC and BaSSREC retains the right to:
  - request access to any information or data at any time during the course or after completion of the study;
  - to ask further questions, seek additional information, require further modification or monitor the conduct of your research or the informed consent process.
  - withdraw or postpone approval if:
    - any unethical principles or practices of the project are revealed or suspected,
    - it becomes apparent that any relevant information was withheld from the BaSSREC or that information has been false or misrepresented
    - the required annual report and reporting of adverse events was not done timely and accurately,
    - new institutional rules, national legislation or international conventions deem it necessary.
- BaSSREC can be contacted for further information or any report templates via [Charmaine.Lekonyane@nwu.ac.za](mailto:Charmaine.Lekonyane@nwu.ac.za) or 018 210 3483.

The IRERC would like to remain at your service as scientist and researcher, and wishes you well with your project. Please do not hesitate to contact the IRERC or BaSSREC for any further enquiries or requests for assistance.

Yours sincerely

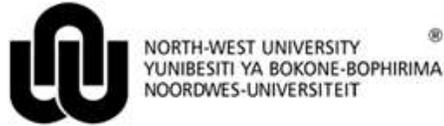
**Prof LA  
Du Plessis**

Digitally signed by  
Prof LA Du Plessis  
Date: 2017.09.01  
09:56:57 +02'00'

Prof Linda du Plessis

Chair NWU Institutional Research Ethics Regulatory Committee (IRERC)

## Appendix D: Registration of title



Web: <http://www.nwu.ac.za>

**Higher Degree Administration**  
Tel: 016 910 3033  
Email: [Jenna.Wilson@nwu.ac.za](mailto:Jenna.Wilson@nwu.ac.za)

03 October 2017

Dear Ms ML Kolisang (24102997)

### REGISTRATION OF TITLE

At the Faculty Board, Humanities meeting, your title was approved as follows:

**The impact of oversight mechanisms on service delivery in the Midvaal Local Municipality**

The above-mentioned title may under **no circumstances** be changed without consulting your supervisor/promoter and obtaining the approval from the Faculty Board.

Your attention is drawn to the following publications / web addresses:

- A Rules:  
[http://www.nwu.ac.za/sites/www.nwu.ac.za/files/files/i-governance-management/policy/7P-Arules2015\\_e\\_1.pdf](http://www.nwu.ac.za/sites/www.nwu.ac.za/files/files/i-governance-management/policy/7P-Arules2015_e_1.pdf)
- Manual for Postgraduate Studies:  
<http://www.nwu.ac.za/sites/www.nwu.ac.za/files/files/i-research-support/Manuals/ICRI/2016-04-06%20ICRI%20Manual%20for%20M%20and%20D%20students.pdf>

We wish you a pleasant and successful period of study.

Yours sincerely

**Ms J Wilson**  
**FOR REGISTRAR**

Original details: (22989064) C:\Users\22989064\Desktop\Labels and Templates\Title registration.docm  
3 Oct 2017

File reference: 7.1.11.1

## Appendix E: Letter from the Language Practitioner



One Stop Solution  
24 Firenze Gardens  
Warbler Road  
Cotswold Ext  
Port Elizabeth  
6045

[www.onestopsolution.co.za](http://www.onestopsolution.co.za)

### TO WHOM IT MAY CONCERN

I, Marina Els, declare that I have done the language editing for the dissertation of:

Name: Lillian Kolisang  
Student Number: 24102997

entitled:

### **The Impact of Oversight Mechanisms on Service Delivery in the Midvaal Local Municipality**

Submitted in partial fulfilment of the requirements for the degree of Masters in Development and Management in the School Of Government Studies at the North-West University.

I cannot guarantee that the changes that I have suggested have been implemented nor do I take responsibility for any other changes or additions that may have been made subsequently.

Any other queries related to the language and technical editing of this treatise may be directed to me at 076 481 8341.

Signed at Port Elizabeth on 18 October 2018

  
.....  
Marina Els