

CHAPTER 1

CONTEXT AND BACKGROUND

1.1 Orientation and territorial demarcation

Water is life, and sanitation is dignity (City of Cape Town, 2008:1). According to Du Toit and Van der Walddt (1998:22), the most basic human needs for survival are water, food and shelter. Water and sanitation are indispensable basic services that every person needs for survival. Traditionally, many people in South Africa's rural areas had access to water supplies. In many cases these residents would, for example, dig wells to secure sufficient water supplies for their respective family units in the homesteads. Juuti, Katko and Rajala (2007:4) maintain that the relationship between settlements and the use of local water resources seems to be fairly universal. Residents of settlement have traditionally lived in close proximity to surface water resources. In such cases, water would typically be collected from a dam, stream, river or fountain.

As a result of urbanisation, especially in the 20th century, many unemployed people in the rural areas of South Africa migrated to the cities in search of work (Collins, 2001:2). Many were accompanied by their families. The shortage of accommodation in urban areas forced them to live in shack towns or squatter camps on open land owned by someone else. Over the past two decades, this trend has substantially increased. Collins (2001:2), furthermore points out that squatter settlements are seen to rise out of sheer desperation. In contrast to their counterparts in more formal townships, the residents of these informal settlements have limited access to water supply and sanitation which is, as a rule, provided by local authorities. These people have been subjected to the poor organisational structure of local government support in urban environments.

The local municipality, as a third tier of government, is entrusted with the responsibility of ensuring that services such as water supply and sanitation are provided in accordance with the stipulations of all relevant legislation.

Any deviation in this regard may result in a situation of conflict between the local authority and its residents. Public institutions have no reason to exist, other than to render services to the people as members of civil society residents within that political entity. This assertion is

supported by Pauw, Woods, Van der Linde and Visser (2002:7), who state that in this regard: “No agenda, other than service delivery, is legitimate.”

The essential problem in this study is that an apparent lack of service delivery exists in the informal settlement of Boiketlong in Emfuleni Local Municipality (Mathebula, 2007:4). Despite the prevalent tendency to neglect people in informal settlements, the Emfuleni Local Municipality has a constitutional obligation (Section 152 (b) and (d) of the Constitution of the Republic of South Africa, Act 108 of 1996) to do the following:

- ensure all its citizens have access to proper water and sanitation service delivery;
- “ensure the provision of services to communities in a sustainable manner”; and
- “promote a safe and healthy environment”.

This, in effect, means that the local municipality, as provider of services, must make provision for access to clean and safe water for its residents, and also provide sanitation to all of them, including those residing in informal settlements within its jurisdiction.

According Department of Water Affairs and Forestry (DWA, 1994) basic water supply is defined as 25ℓ per person per day. It further stipulates that a person should not carry water for a distance exceeding 200m from his/her dwelling. In addition, water must be available 98% of the time. In the case of service breakdown, there should not be more than one week’s interruption in the local water supply per year. Water quality should be in accordance with currently accepted minimum standards. It must conform to stipulated standards, in terms of permissible chemical and microbial contaminants. It should be acceptable to consumers in terms of its taste, odour and appearance

A basic sanitation service refers to both the provision of a basic sanitation facility that is easily accessible to a household, as well as to the sustainable operation of the facility. This includes the regulation of services necessary for the safe, hygienic and adequate collection, removal, disposal or purification of human excreta, domestic waste water and sewage, from both formal and informal settlements (Thompson, 2006:694).

The case study selected for this research project was the informal settlement area called Boiketlong, situated in the jurisdictional area of Emfuleni Local Municipality (ELM), one of the three local municipalities that constitute the Sedibeng District Municipality. ELM is situated in the westernmost part of the district, which covers the entire southern area of Gauteng, extending along a 120km axis from east to west. It covers a surface area of 987, 45 km². The Vaal River forms the southern boundary of ELM, and its strategic location

affords it many opportunities for tourism and other forms of economic development. Emfuleni shares boundaries with Metsimaholo Local Municipality in the Free State, Midvaal Local Municipality to the east, the City of Johannesburg to the north, and Westonaria and Tlokwe (Potchefstroom) local municipalities (North West Province) to the west. According to statistical estimates for 2007, the total population of ELM stood at 709 823 residents. The number of new residents has, up to the present, consistently been increasing, without a clear indication of the annual percentage increase in population, especially in the municipality's informal settlements (ELM, 2007:7).

1.2 Problem statement

The prevailing situation in informal settlements currently, in South Africa, is that residents are invariably faced with severe shortages of affordable and reliable water supplies and effective sanitation services (Lagardien & Cousins, 2005:10). Rapid urbanisation and population growth have resulted in informal settlements literally mushrooming in many parts of the country. Due to this uncontrollable increase, municipalities face the challenge of keeping abreast with the growing demand for basic services (Naidoo, Chidley & McNamara, 2008:1).

Boiketlong informal settlement in ELM is no exception in this regard. The settlement is rapidly expanding, and local residents are experiencing a serious backlog of water supply and sanitation. According to Makhanya (cited by Mathebula, 2007:4), there are no sanitation facilities provided by the local authority at Boiketlong informal settlement. For example, the most common sanitation facility in Boiketlong informal settlement is self-constructed, simple pit latrines without ventilation.

In terms of water supply, residents of Boiketlong informal settlement rely on a few communal taps in the area. Most of the time, some of these taps are not in proper working order. For obvious reasons, residents, under these circumstances, become frustrated. They dislike standing for hours in long queues for water. They have to travel considerable distances to collect water. Some pay R3.00 for 25ℓ to water vendors in the area. They also consider the absence of proper sanitation services as an affront to their basic human dignity.

To all intents and purposes, the living conditions of the residents of Boiketlong informal settlement violate the stipulations of Chapter 1, section 3 (1) of the Water Services Act (108

of 1997), which stipulates that everyone has the right of access to basic water supply and basic sanitation.

Typically, a local authority has the constitutional obligation to provide basic services, but poor people are the most vulnerable section of the population, in that services fail to reach them, both in terms of quantity and quality (Hemson, Shirley & Munthre, 2008:1). In many informal settlements, inadequate access to water supply and sanitation is a challenge.

The residents have lost trust in their local authorities. This has been evident in the spate of public protests in the country since 2004 (COGTA, 2009:11). In 2009, residents of townships, mainly in the Gauteng and Mpumalanga provinces, took to the streets to express their frustrations and anger about lack of service delivery.

In Mpumalanga, the residents of a number of townships resorted to violent protest marches. Most prominent were the protests in Thandukukhanya near Piet Retief, Machadodorp (near Nelspruit) and Sakhile (near Standerton) (Mahlangu, 2009a:4). In Gauteng, residents of Palm Ridge in Ekurhuleni and Eldorado Park, near Johannesburg, followed suit (Mahlangu, 2009b:30). In Diepsloot, the community raised their concerns over empty election promises for clean water, electricity and better roads (Pather, 2009:13).

Since 1999, Boiketlong residents have been voicing their frustrations and concerns with the local authority over the lack of proper infrastructure and poor service delivery. The unsatisfactory response from ELM subsequently resulted in the eruption of protest marches in Boiketlong informal settlement in August 2007 (Mathebula, 2007:4). As a way of pledging solidarity, people from Soweto and Thokoza joined Boiketlong informal settlement residents for protest march over sluggish service delivery (Mathebula, 2007:4). The living conditions in Boiketlong are still characterised by inadequate access to water supply and sanitation. It is apparent that the local authority is indifferent towards the plight of Boiketlong residents, as their needs seem not to be taken seriously. Their aspirations, needs and plight seem to be neglected by the local authorities.

Despite the current situation on basic service delivery in the area, residents have resorted to self-help strategies for survival. Negative perceptions of local residents on service delivery, can give rise to social and political unrest (Mahlangu, 2009a:4). It is evident that the problem of a potential escalation of violent protests is an ever-present reality, and the matter should be addressed in due time (Mahlangu, 2009a:4).

Challenges experienced by informal settlement residents from different parts of the country are invariably in housing and basic services. The challenges identified in Boiketlong informal settlement are specifically those of water supply and sanitation, and they are outlined as follows:

- Lack of proper sanitation, and use of pit latrines in the yards;
- Households without pit latrines, and the use of the veld by some residents for sanitation purposes;
- Few communal taps, the distance travelled to fetch water, and the condition of some of the taps;
- Residents who buy water from water vendors in the area; and
- Lack of trust, on the part of residents, in community leaders and ELM authorities.

This study endeavoured to investigate the perceptions and attitudes of residents with regard to water supply and sanitation. The study further tried to discover the feelings of the residents, and the local government authority, towards sustainable strategies for water supply and sanitation. The study aimed to outline the strategies which the residents utilise to access water and sanitation.

1.3 Hypothesis

Informal settlement residents have the perception that a lack of participation in issues affecting their livelihood and basic services results in a lack of trust in local authority and this state of affairs could lead to service delivery protest activities.

1.4 Research questions

Resulting from the orientation and problem statement, the research project was focused on answering the following questions:

- What are the legal requirements for the provision of service delivery to informal settlements in South Africa, in a locality such as Boiketlong?
- What strategies and procedures are employed to provide water and sanitation in Boiketlong informal settlement of ELM?
- How do residents of Boiketlong informal settlement perceive and respond to the local municipality's water and sanitation service delivery?

- What recommendations can be made to sensitise residents on water supply and sanitation?
- How can water supply and sanitation in ELM, particularly in the informal settlement of Boiketlong, be improved upon?

1.5 Research objectives

From the research questions above, the objectives of the research were the following:

- To provide a comprehensive overview of the provision of service delivery to informal settlements in South Africa, particularly in an area such as Boiketlong.
- To give an exposition of the strategies and procedures employed to provide water and sanitation in Boiketlong informal settlement of ELM.
- To shed light on how residents of Boiketlong informal settlement perceive delivery of water and sanitation services in and by ELM.
- To provide recommendations on how to sensitise residents on water supply and sanitation, and how the two basic services provided by the ELM in Boiketlong informal settlement can be improved upon.

1.6 Research methodology

The following methods have been used to address the questions and objectives of the study:

1.6.1 Literature review

The researcher conducted a literature review based on water supply and sanitation services publications, government reports and gazettes, periodicals, policy documents, newspaper articles, books and electronic databases. These included the following:

- Literature on informal settlements elsewhere in SA;
- Water supply and sanitation development (WSSD) in informal settlements in SA;
- Policies in respect of WSSD in informal settlements; and
- Sensitising strategies for WSSD.

1.6.2 Empirical study

The scope of the empirical study was limited to Boiketlong informal settlement in ELM. The study used interviews and questionnaires to obtain data from the respondents of this study. The study worked primarily on empirical evidence.

1.6.3 Interviews

The following research method was followed:

Interviews were conducted with selected respondents. An oral archive was created to store data on each interview conducted. In this regard, the following individuals (with specific managerial and/or leadership responsibilities) were interviewed:

The chief engineer of Metsi-a-Lekoa, Mr M. Maboya.

The supervisor of maintenance and operations, Mr A. Nyathi.

The deputy principal of Boiketlong Christian Primary School, Ms T. Hlongwane.

The ward councillor of Boiketlong, Ms S. Nkomo.

A community leader of Boiketlong, Mr M. Ntjama.

The foreman of electrical maintenance of Metsi-a-Lekoa, Mr. B. Mashinini.

The project manager at Moreki Distributors, Mr. P. Lubile

The cashier at Sedibeng District Municipality, Mr. J. Ndindwa.

There were also a number of interviews with ordinary people at grassroots level. In addition to the abovementioned respondents, a secondary schoolboy and schoolgirl, seven primary school children, a focus group of eight adults, one water vendor, and three residents of Zone 20 Extension 2 informal settlement, were interviewed.

The respondents were randomly selected at the water points and at some houses in the study area. Throughout the interaction with the respondents, the researcher was attentive and willing to listen, showed an interest in what was said, encouraged a wide range of opinions, and allowed the respondents to explore their ideas further, in line with the research focus, as recommended by Struwig and Stead (2001:100).

The oral archive interview documents were useful sources of information, garnered at the time from free, unstructured interview questions with a variety of respondents.

1.6.4 Structured questionnaire

A structured questionnaire was submitted to 100 respondents that included girls, women, boys and men.

1.7 Definitions of key concepts used in this study

A number of definitions need to be listed, for certain terms used in this study:

1.7.1 Perception

Weiten (2001:168) defines perception as an active process in which people organise and interpret the information received by the senses. It is of vital importance to highlight the fact that environmental factors play a vital role in helping to understand the feelings of residents about service delivery and their day-to-day life.

Kreitner and Kinicki (1998:156) define perception as a cognitive process that enables people to interpret and understand their surroundings. The study focused on residents of Boiketlong informal settlement, as they have first-hand experience of life in that locality.

1.7.2 Informal settlements

Tshikotshi (2009:04) defines informal settlements as illegal and spontaneous shanty towns lacking decent services and infrastructure.

1.7.3 Sanitation

The Water Service Act (108 of 1997) defines (basic) sanitation as the minimum standard of services necessary for the safe, hygienic and adequate collection, removal, disposal or purification of human excreta, domestic waste-water and sewage from households, including informal households (section 1 (ii)).

1.7.4 Water supply

The Water Services Act (108 of 1997) further, defines (basic) water supply as the prescribed minimum standard of water supply services necessary for the reliable supply of a sufficient quantity and quality of water to households, including informal households, to support life and personal hygiene (section 1(iii)).

1.8 Outline of chapters

To achieve the above objectives, the chapters of this dissertation have been structured in the following manner:

Chapter 1: Orientation and problem statement.

Chapter 2: Legal requirements for the provision of service delivery.

Chapter 3: Strategies and procedures employed in delivery of water and sanitation.

Chapter 4: Empirical research on the local residents' perceptions on water supply and sanitation, and also on how service delivery can be improved upon.

Chapter 5: Findings, recommendations and conclusion.

CHAPTER 2

LEGAL REQUIREMENTS FOR THE PROVISION OF SERVICE DELIVERY

2.1 Introduction

The 1994 democratic elections ushered in hope to the poor, in terms of service delivery. The focus of the new government was mainly on expanding access to services and resources to those who had been denied such in the past (White Paper on Local Government, 1998). The inherited pieces of legislation were often applied differently in different parts of the country, resulting in considerable confusion and uncertainty. The transformation process in South Africa necessitated the review and revision of every aspect of public service delivery system by the government. A new Constitution (1996), the White Paper on Local Government (1998), and a range of municipal legislation were developed after 1994, to transform local government.

The policy framework for a new system of local government for South Africa was consolidated into a legal regulatory aimed at empowering local government to realise and fulfil its developmental mandate (DWAF, 2002:3). The focus of this chapter is on the status, powers, functions, systems and structures of local government.

The understanding has been that efficient and effective governance at local government level can only be achieved by the careful implementation of the following pieces of legislation:

- The Local Government Municipal Demarcation Act (27 of 1998);
- The Local Government Municipal Structures Act (117 of 1998);
- The Local Government Municipal Systems Act (32 of 2000);
- The Water Services Act (108 of 1997), and
- The National Water Act (36 of 1998).

The passing of the legislation on local government, as a third tier, smoothed the way for municipalities to operate fairly independently under the auspices of their own jurisdiction. Emfuleni Local Municipality (ELM) heeded to the stipulations of the Constitution, and other

relevant pieces of legislation, in its handling of issues relating to governance and delivery of services. As a result, much progress was made in various informal settlements of ELM. Reconstruction and Development Program (RDP) houses, water supply, proper sanitation and electricity were delivered to the residents. Despite progress made in ELM, the prevailing situation in Boiketlong, one of the many informal settlements in the area, has, up to the present, been characterised by a lack of water supply and improper sanitation services.

In this chapter, the legal requirements (statutory framework), as outlined in the legislation, is analysed and discussed, in order to highlight the legal obligations of local government management, in terms of the delivery of services to the communities within their respective jurisdictions.

2.2 Constitution of the Republic of South Africa, 108 of 1996

The Constitution provides a vehicle for local government, as service provider, to examine its status, powers and functions, in order to deliver services effectively.

2.2.1 Status of local government

The Constitution states that the government in South Africa is made up of national, provincial and local spheres. It further states that these spheres are distinctive, interdependent and interrelated. It is clear that the three spheres have an obligation to ensure that the citizens of the country receive services in their respective residential areas. Section 151 (3) of the Constitution explicitly states that a municipality has the right to govern, on its own initiative, the local government affairs of its community, subject to national and provincial legislation, as provided for in the Constitution.

The other two spheres of government should recognise the status, powers and functions of local government. The national, and a provincial, government may not compromise or impede a municipality's right to exercise its powers or perform its functions (section 151 (4)). The local sphere of government consists of municipalities, which must be established throughout the Republic in terms of section 151 (1) of the Constitution. Section 151 (2) provides that the executive and legislative authority of a municipality is vested in its municipal council.

Section 154 (1) states that both national and provincial governments, by legislative and other measures, must support and strengthen the capacity of municipalities to manage their own affairs, to exercise their powers, and to perform their functions accordingly.

2.2.2 Objectives of local government

In order to achieve the objectives outlined below, local government should strive to work within its financial and administrative capacity, to –

- provide democratic and accountable government for local communities;
- ensure the provision of services to communities in a sustainable manner;
- promote social and economic development;
- promote a safe and healthy environment; and
- encourage the involvement of communities in local government affairs (section 152 (1) of the Constitution).

2.2.3 Developmental duties of municipalities

It is the duty of a municipality to structure and manage its own administration and planning processes. Such processes will enable the municipality to prioritise the basic needs of the community, and to promote the social and economic development of the community under its jurisdiction (section 153 (a)). The municipality has a constitutional obligation to participate in national and provincial development programmes (section 153 (b)).

Section 154 (1) suggests that co-operative government is functional when the national and provincial governments support and strengthen the capacity of the local government sector to manage their own affairs, exercise their powers and perform their functions. Section 154 (4) states that the core function of a municipality is to take into account the need to provide services in an equitable and sustainable manner. The Constitution is clear on the fact that all communities, within any given municipality, must receive services. Both formal and informal settlement residents must enjoy water and sanitation as a basic service for any community.

2.3 The White Paper on Local Government (1998)¹

The process of preparing and completing the White Paper on Local Government was inclusive, interactive and transparent. All stakeholders were included in the consultative process. The rationale behind the development of the White Paper was to empower local government by ensuring that the community and stakeholders within its jurisdiction

¹ . There are no page numbers in this report. Consequently, reference to the report is as follows: White Paper on Local Government, 1998.

participated and took decisions on affairs that affected them (White Paper on Local Government, 1998).

The White Paper on Local Government established the basis for a new developmental government system, committed to working with citizens, groups and communities to create sustainable human settlements which both provide for a decent quality of life, and meet the social, economic and material needs of communities in a holistic way. The White Paper was further divided into sections that attempted to map a way forward for the effective and efficient governance of local government as a sphere of government in relation to the national and provincial sphere of government.

2.3.1. Current reality

A brief history of local government under apartheid, and its concomitant problems facing the country at present, are outlined in Section A of the White Paper. A history of community mobilisation is highlighted, and the subsequent transitional process is located in its broader historical context. The purpose of this piece of legislation was primarily intended to shed light on the past governance of municipalities.

The challenges of past local government operations, and subsequent attempts at creating a transition, are also outlined. The Local Government Transition Act (1993) was essentially a locally negotiated transition, and it resulted in a diversity of forms of local government (White Paper on Local Government, 1998).

The Local Government Transition Act effectively de-racialised the system of local government through the amalgamation of former racially oriented systems of local government. The shortcomings of this Act are evident in its urban bias, and lack of structural support processes to enable municipalities to manage the process of change. This is reflected in the municipal system as it was up to the late 1990s (White Paper on Local Government, 1998).

It was hoped that with the newly elected councils in many areas, significant progress would be made in addressing the backlogs, and expanding services to other parts of the municipality. At the time, despite all the efforts to transform the operations of the local government, huge disparities and inequalities resulting from apartheid local government, still remained (White Paper on Local Government, 1998). In order to ensure effective delivery of services, it was crucial that new developmental mandates and systems be in place at local government level.

2.3.2 Developmental local government

In terms of developmental outcomes, local government is regarded as the core responsibility of the municipality, to local communities. It would typically characterise a local government which is committed to work with citizens and groups within the community, to find sustainable ways to meet their social, economic and material needs and improve the quality of citizen's lives (White Paper on Local Government, 1998). The visionary and innovative approach adopted by the national government to local government policy, was intended to reduce inequality and overcome past inequity (Parnell & Pieterse, 2002:89). To all intents and purposes, the municipalities were expected to focus their efforts and resources on the most marginalised groups, such as children, disabled people and the poor. In this instance, local governments were expected to provide services to existing, newly erected, as well as future informal settlements within its jurisdiction (IMCA International, 2010:14). It is important to point out that local government should be mindful of the fact that the provision of basic services is a human rights issue which must be upheld.

2.3.3 Co-operative government

Local government is situated in a system of co-operative government, and a preliminary outline of the roles and responsibilities of national and provincial government, with respect to local government, is provided in the White Paper on Local Government (1998). Some of the key aspects of this piece of legislation are deliberated on in the subsection that follows.

2.3.4 Principles of service delivery

Section F of the White Paper discusses how the national policies will have an impact on local government, as well as ways in which the other spheres of government can work with local government to enhance its effectiveness. This section also focuses on the principle of service delivery, to which all government departments, including municipalities, should adhere. These principles, which are key to effective and efficient service delivery are the following: accountability of services, affordability of services, good quality of products and services, and value for money. These are discussed in detail, below (White Paper on Local Government, 1998).

2.3.4.1 Accessibility of services

Municipalities must ensure that all citizens have access to a minimum level of services. Imbalances in access to services must be addressed through the development of new

infrastructure, rehabilitation and upgrading of existing infrastructure (White Paper on Local Government, 1998). Taps must be connected to low-income households, with VIP toilets made available to informal settlements as a means of extending access to services.

2.3.4.2 Affordability of services

Accessibility cannot be separated from affordability, in that if services provided are beyond the financial means of community revenue, collection could be impossible. In this regard, according to the White Paper on Local Government (1998), municipalities must ensure affordability through other means. This means should include among others, the setting of tariffs to levels which the poor can also access. To this end, appropriate levels of services to communities should be made available and accessible to all – including the poor (White Paper on Local Government, 1998).

2.3.4.3 Quality of products and services

Quality of services is attributable to suitability of purpose, timeliness, safety, convenience, continuity and responsiveness to service users. It also includes a professional and respectful relationship between service providers and service users (White Paper on Local Government, 1998).

2.3.4.4 Accountability of services

Whichever delivery mechanism is adopted, the municipal council remains accountable for ensuring the provision of quality services that are affordable and accessible (White Paper on Local Government, 1998).

2.3.4.5 Integrated development and services

The municipality must adopt an integrated approach to planning and ensuring that service delivery is taking place. The service provision should be in line with policy objectives such as poverty eradication and spatial integration (White Paper on Local Government, 1998).

2.3.4.6 Sustainability of services

The effectiveness of sustaining service provision depends on financial and organisational systems that support sustainability. It is expected that the environment must be sound, and the society be just, in terms of using the resources (White Paper on Local Government, 1998).

2.3.4.7 Value for money

Value for money is regarded as cost of inputs, and the quality and value of the outputs. It is expected that the public resources must be utilised, to ensure that there is access to affordable and sustainable services (White Paper on Local Government, 1998).

2.4 The Local Government Municipal Demarcation Act, 27 of 1998)

The Municipal Demarcation Act (27 of 1998) provides criteria and procedures for the determination of municipal boundaries by an independent demarcation Board. In terms of section 24 of the Act (1998), when demarcating municipal boundaries, the Board must create an environment where municipal authority will be able to fulfil its constitutional obligations. The Act allows municipalities to be accountable for the delivery of basic services within their municipal boundaries.

The municipality must be in a position to provide services in an equitable and sustainable manner, to ensure promotion of social and economic development as well as a safe and healthy environment (section 24). The municipality must further adhere to the stipulation of the Act by ensuring that the tax base is as inclusive as possible of all service consumers. Residents of both formal and informal settlements must enjoy the services of the municipality in whose jurisdiction they belong. Water and sanitation must always be a priority for each local government.

2.5 The National Water Act, 36 of 1998

The National Water Act (36 of 1998) focuses on the use of the available water in a country, by all responsible bodies. The focus of the Act is on strategies that should be used to protect, develop, conserve, manage and control water resources within the country. The municipality, as a third tier, must adhere to the stipulations of the Act, in order to provide water and sanitation in a sustainable manner.

2.6 The Municipal Structures Act, 117 of 1998

The Municipal Structures Act (117 of 1998) was promulgated in 1999 to provide guidance on the types and categories of municipalities, as well as the role of existing structures within the municipalities. The Act indicates that it is the responsibility of the local government to deliver services to the community in accordance with their local needs. Although services such as housing, electricity, sewage and many others are important, water and sanitation

are most the basic services which no one can survive without. The Municipal Structure Amendment Act, 33 of 2000, section 84 (6), further indicates that it is the function of a district municipality to ensure access to water services, unless a local municipality is authorised to perform this function.

Within the municipalities, a structure such as a council is crucial for ensuring effective delivery of services to the community. Section 19 (2) stipulates that the responsibility of the council is to review the needs of the community on an annual basis. The executive committee, as an internal structure, must recommend strategies, programmes and service to the municipal council in order to address priority needs of the community. Such service delivery plans can be achieved through the Integrated Development Plan (IDP) and the appropriate budget (section 44 (2) (c)). Section 44 (e) further stipulates that it is incumbent on the municipality to improve its performance in terms of service delivery (water and sanitation in this study) by ensuring that services are provided in a sustainable manner.

2.7 The Local Government Municipal Systems Act, 32 of 2000

The Local Government Municipal Systems Act (32 of 2000) focuses on the internal systems and administration of a municipality. The Act also differentiates between the function of an authority and that of a provider, as well as identification of alternative mechanisms for providing municipal services.

Section 4 (1) stipulates that the municipal council has a right to handle all governance and finance issues of the municipality within which it operates. The Act further indicates that the municipality must charge fees for services provided. In exercising their function, municipalities must take into consideration the interests of the local community at large. The municipality must also encourage the involvement of the local community, and ensure that services are provided in a sustainable manner. The local communities are expected to consult for the quality of services or other options available. The local government must promote the safety and health (water and sanitation) of the community within its jurisdiction.

Section 6 (2) (e) states that the municipal administration must at all times be responsive to the needs of the community. It must also provide relevant information pertaining to the level and standards of services the community is entitled to receive. Section 18 highlights the fact that the municipality must promote communication of appropriate information to its community. The information supplied must be used to encourage community participation

as well as their rights and duties. Other needs and language preferences must be taken into consideration for the purposes of community participation.

Section 16 (1) stipulates that it is the responsibility of the municipality to develop a culture of municipal governance that complements formal representative government with participatory governance. The municipality must encourage participation by creating enabling conditions for local communities through communication of information related to municipal activities.

Section 17 states that a municipality must establish mechanisms, processes and procedures to enable the local community to participate in the affairs of the municipality. It is also the responsibility of the municipality to take into consideration the special needs of the community.

In terms of section 26 of the Act, the municipality must develop an integrated development plan (IDP). The municipality must be developmentally oriented in its planning, in order to achieve its objective and give effect to its developmental duties as set out in sections 152 and 153 of the Constitution (Section 23 (1)). Section 26 states that the municipality must develop an IDP, which must reflect the following:

- the municipal council's vision for long-term developmental planning on the most critical developmental and critical transformation needs of the municipality;
- an assessment of the existing level of development in the municipality, and identification of communities which do not have access to basic municipal services;
- the council's development priorities and objectives for the elected term, including its local economic development aims and its internal transformation needs;
- the council's developmental strategies, which must be aligned with the national or provincial sectoral plans and planning requirements binding on the municipality, in terms of the legislation;
- a spatial development framework which includes the provision of basic guidelines for a land use management system for the municipality;
- the council's operational strategies;
- a financial plan which reflects budget projection for at least the next three years; and
- the key performance indicators and performance targets determined in terms of section 41.

Chapter 6 of the Act focuses on performance of municipal personnel, in terms of ensuring delivery of services. The key element of performance management is to ensure that the entire staff execute their duties and affairs as efficiently and effectively as possible. It is therefore imperative for the municipality to establish a performance management system (PMS) as a yardstick for monitoring performance of all staff members involved in administration.

Section 38 stipulates that the municipality should establish PMS that is commensurate with its resources and suited to its circumstances. The PMS should further be in line with priorities, objectives, indicators and targets, as reflected in the IDP. The political structures, political office bearers, as well as councillors, should be sensitised about PMS.

Section 73 of the Act focuses on the municipal services, and must give effect to the provisions of the Constitution. It emphasises the fact that a municipality has a duty to –

- give priority to the needs of the community;
- promote development of the local community; and
- ensure that all members of the local community have access to at least the minimum level of basic municipal services (section 73 (1)).

2.8 Water Services Act, 108 of 1997

The Water Services Act (1997) focuses on the obligation of the three spheres of government in ensuring delivery of water supply and sanitation to the community. It also provides guidelines to the municipality to ensure right access to basic water supply and sanitation. The Act makes it clear that it is the obligatory duty of a given local government to deliver services to communities within its jurisdiction, irrespective of whether they are staying in an informal settlement or not. The main objective of section 2 of the Act is to emphasise the following:

- The right of access to basic water supply and the right to basic sanitation necessary to secure sufficient water and an environment not harmful to human health or well-being;
- Water services development plans must be prepared and adopted by water service authorities;
- Duties and powers of water boards and water services committees are established;
- Norms and standards in respect of water services are set; and
- Water service providers must be accountable.

Section 3 of the Act highlights the right of access to basic services such as water and sanitation, and the constitutional obligation of the water service authority to realise these rights and to ensure that:

- everyone has a right of access to basic water supply and sanitation;
- every water service institution must make reasonable measures to realise these rights; and
- every water services authority must, in its water services development plan, provide for measures to realise these rights (section 3 (1) (2) (3)).

Section 5 of the Act stipulates that provision of basic water supply and basic sanitation must be given priority. It further cautions that if the water services provided by a water institution are unable to meet the requirements of all its existing consumers, it must give preference to the provision of basic water supply and basic sanitation to them. The service provider is therefore expected to ensure that such basic services are accessible to all. Section 11 (1) stipulates that the water service has a duty to all consumers or potential consumers in its area of jurisdiction, to progressively ensure efficient, affordable, economical and sustainable access to water services. Section 11 (2) further clarifies that the duty of the water service authority is subject to –

- the availability of resources;
- the need for an equitable allocation of resources to all consumer and potential consumers within its area of jurisdiction;
- the need to regulate access to water services in an equitable way;
- the duty of consumers to pay reasonable charges, which must be in accordance with norms and standards for tariffs for water services.

As it is the responsibility of the water services authority to ensure supply of basic water and sanitation, section 11 (4) states that consumers and potential consumers may not be denied, or fail to be given, access to water services. It is also the obligation of the water services authority to take reasonable steps to provide basic water supply and basic sanitation to any person within its jurisdiction at its own costs (section 11 (5)). Section 11 (6) states that the water services authority may impose reasonable limitations on the use of water services. Section 12 highlights the fact that the water services authority must draft a service development plan for its area of jurisdiction. Section 13 sheds light on the content of the water services plan. This plan is aimed at ensuring that there are plans in place that will

enable every person within the jurisdiction of the water authority, to have access to basic water and sanitation. The plan must entail the following:

- Size and distribution of population within the area;
- Prioritised programmes with the specific time frame;
- The unserved area and the population size;
- Strategic plans that will ensure that access to a basic service within five years;
- Financial arrangements for funding the water services; as well as
- Operation, maintenance, repair and replacement of existing and future infrastructure.

2.9 The White Paper on Basic Household Sanitation (2001)

This White Paper focuses on the challenges faced by the country in ensuring that every household has access to adequate sanitation facilities. It acknowledges the fact that some communities in the country have inadequate sanitation. They may be using the bucket system, unimproved pit toilets, or the veld (White Paper on Basic Household Sanitation, 2001:4).

The inadequacy of sanitation, or the failing sanitation systems, has a negative impact on the community's health as well as the environment. South Africa's sanitation problem is attributable to inadequate sanitation facilities and infrastructure, combined with unhygienic practices. The following conditions are attributable to unhygienic practices:

- lack of health and hygiene awareness;
- lack of sanitation facilities;
- inadequate water supply;
- poor facilities for the safe disposal of waste water and other domestic waste; and
- inadequate toilets and hand washing facilities (White Paper on Basic Household Sanitation, 2001:4).

The policy focuses on the provision of a basic level of household sanitation to rural communities and informal settlements. The policy also deals with the need for an environmentally sound approach to providing sanitation services, as well as the need to protect surface and groundwater resources.

2.9.1 Policy principles

There are principles that guide the policy and intervention strategies, which can help in addressing the sanitation problem. The policy outlines the following principles and strategies:

- Sanitation improvement must be demand responsive, and supported by an intensive health and hygiene programme;
- Community participation;
- Integrated planning and development;
- Sanitation is about environment and health;
- Basic sanitation is a human right;
- The provision of access to sanitation services is a local government responsibility;
- “Health for all” rather than “all for some”;
- Equitable regional allocation of development resources;
- Water has economic value;
- Sanitation services must be financially sustainable; and
- Environmental integrity (White Paper on Basic Household Sanitation, 2001:12).

2.9.2 Strategic interventions

The policy spells out the strategic interventions which would address the sanitation problems in South African local governments. The following strategies should be used, in order to address the sanitation problems:

- facilitating the participation of communities;
- promoting health and hygiene awareness practices;
- development and use of local resources;
- upgrading of existing facilities;
- adopting an integrated environmental management approach; and
- undertaking specific programmes to clear the backlog (White Paper on Basic Household Sanitation, 2001:13).

This policy stresses the fact that the municipality is accountable for the provision of sanitation services, and must make use of its Environmental Health Practitioners (EHPs) to promote health and hygiene awareness and to monitor the health of its communities (White Paper on Basic Household Sanitation, 2001:21). It further states that it is the constitutional

obligation of the municipality to ensure an environmentally safe approach to sanitation, and also to monitor the impact of the sanitation process on the environment. The roles and responsibilities of other public departments are spelt out.

The public departments involved in this regard are the following: Department of Provincial and Local Government, Department of Health, Department of National Treasury, Department of Education, Department of Housing, Department of Environmental Affairs and Tourism and Department of Public Works (White Paper on Basic Household Sanitation, 2001: 22-24).

The final focus of the policy is on the sanitation developmental funding, which the municipality is expected to utilise to ensure that services are delivered effectively and efficiently to all communities within its jurisdiction.

2.10 Conclusion

The 1994 democratic elections ushered in a new era in respect of the powers and functions of the local government. Local government was given the authority to discharge certain responsibilities as mandated by the Constitution. This gave local government the autonomy to render services to its communities in accordance with its capacity. It must be emphasised that it is the obligation of the local government to deliver services and develop communities residing within its jurisdiction.

The White Paper on Local Government (1998) serves as an important policy document to promote efficient and effective delivery of services. It is a complete policy framework, in terms of giving life to the provisions of the Constitution, on the role and responsibilities of local government in terms of delivering services to their communities.

There are also numerous frameworks of legislation discussed in the paper, in an effort to clarify the importance of policy compliance and implementation. In fact, a clear understanding of the legislation, as outlined in the report, and its functional application, are indispensable for effective service delivery.

The focus of the next chapter, Chapter 3, falls on the strategies which local governments can and should implement, in order to ensure that residents under their jurisdiction have access to basic services such water and sanitation. The discussion will be based on the focus area of this study: Boiketlong informal settlement. The other focus of the chapter is on the strategies that the residents of Boiketlong employ in order to access water and

sanitation in the area. The chapter will conclude with strategies of local government (service authority) and residents (services users) around water supply and sanitation (basic service).