



## **MUNICIPAL PUBLIC ACCOUNTS COMMITTEE (MPAC)**

Private Bag X 5017, Klerksdorp, 2570, Tel: +27 18 473 8000, Fax: +27 18 473 8094

Website: [www.kaundadistrict.gov.za](http://www.kaundadistrict.gov.za), Civic Center, Patmore Road, Orkney

# **TERMS OF REFERENCE FOR MUNICIPAL PUBLIC ACCOUNTS COMMITTEE (MPAC)**

### **Mission**

To exercise oversight over the structures and annual report of council and to ensure: -

1. good governance;
2. public accountability of the Executive, administration, and reports to council;
3. that all function to serve the community impartially

### **Vision**

To ensure accountability through oversight on performance and financial resources of the municipality without fear, favor, bias, or prejudice.



## MPAC TERMS OF REFERENCE AND MANDATE

### AUTHORS

This document was prepared by:

Committee Members	MPAC Support
Cllr – Chairperson (Vacant)	Mr. V.M Taunyane – Acting MPAC Manager
Cllr J.J. Lourens	Ms. N.R Gaaname – MPAC Administrator
Cllr S Jonas	
Cllr I Mokhele	
Cllr L Shuping	
Cllr M.D DE Bruin	
Cllr J.F Terblanche	
Cllr IT Meya	
Cllr M Mokone	
Cllr JN Tsolela	
Cllr F Kasonkomona	
Reviewed By: Raj P Kowlessar (NW CoGTA Governance Expert) 2024	



## MPAC TERMS OF REFERENCE AND MANDATE

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2023	3.0	Document revised to minimize duplication of duties	Brenda Roberts- Tebejane	Cllr M Mangesi	Document not tabled in council.
14 February 2025	4.0	The document was revised to align it with the amended Section 79A of the Local Government: Municipal Structures Amendment Act 3 of 2021 and to standardize it as per Cogta's recommendations.	V.M Taunyane	Cllr JN Tsolela	

**THIS MPAC TERMS OF REFERENCE ONCE ADOPTED & APPROVED BY COUNCIL REPLACES ALL PREVIOUS VERSIONS**



# MPAC TERMS OF REFERENCE AND MANDATE

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## MPAC TERMS OF REFERENCE AND MANDATE

### PART 1

#### 1. Legal Status

- 1.1 In accordance with the provisions of Section 79 (1) (a) and (b) of the Municipal Structures Act 117 of 1998 (hereinafter referred to as the Structures Act), a municipality may establish one or more committees necessary for the effective and efficient performance of any of its functions or the exercise of any of its powers and appoint the members of such committee from among its members.

The establishment of a Municipal Public Accounts Committee (hereinafter referred to as the MPAC), is a statutory obligation of Council in terms of Section 79A the Local Government: Municipal Structures Amendment Act 3 of 2021.

The municipal council should establish such a committee within 120 days of the council being declared elected.

In terms of the amended act:-

1. A municipal council **must** establish a committee called the municipal public accounts committee.
2. The mayor or executive mayor, deputy mayor or executive deputy mayor, any member of the executive committee, any member of the mayoral committee, speaker, whip and municipal officials are **not allowed** to be members of the municipal public accounts committee.
3. The municipal council **must** determine the functions of the municipal public accounts committee, which **must include** the following:-
  - (a) **review** the Auditor-General's reports and comments of the management committee and the audit committee and **make recommendations** to the municipal council;
  - (b) **review** internal audit reports together with comments from the management committee and the audit committee and **make recommendations** to the municipal council;
  - (c) **initiate and develop** the oversight report on annual reports contemplated in section 129 of the Local Government: Municipal Finance Management Act;



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- (d) **attend to and make recommendations** to the municipal council on any matter referred to it by the municipal council, executive committee, a committee of the council, a member of this committee, a councilor and the municipal manager; and
  - (e) on its own initiative, **subject to the direction of the municipal council**, investigate and report to the municipal council on any matter affecting the municipality.
- 4. Reports of the municipal public accounts committee **must be submitted to the speaker who must table** such reports in the next meeting of the municipal council.
  - 5. (a) For the purposes of this section 'audit committee' means the audit committee envisaged in section 166 of the Local Government Municipal: Finance Management Act.  
(b) The municipality and each entity must establish an audit committee in accordance with that section.

Section 129 of the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003), (hereinafter referred to as the MFMA), deals with the oversight report on the annual report and refers to an oversight committee that can assist council in dealing with the annual report.

The MPAC serves as an oversight committee to exercise oversight over the executive obligations of council. The MPAC will assist council to hold the executive to account, and to ensure the efficient and effective use of municipal resources.

Also, the MPAC would help to increase council and public awareness of the financial and performance issues of the municipality.

**1.2** This MPAC was established by council resolution **A.02/01/2022** in terms of Section 79 of the Municipal Structures Act, 1998.

**1.3** These terms of reference give expression to the requirement contained within Section 79 (2) of the Municipal Structures Act, 1998 which requires that the council shall set out the framework and guidelines within which such committees of council shall operate.

## **2. Purpose of the MPAC Terms of Reference**

2.1 In accordance with Section 79(2)(a) of the Structures Act, a municipal council **must** determine the functions of a committee.

2.2 This Terms of Reference sets out the specific responsibilities delegated by the Council to the MPAC and spells out the manner in which the MPAC will operate as the Council's oversight committee.



### 3. Delegation to MPAC

The municipal system act provides in section 59 that the council must develop a system of delegations that will maximize administrative and operational efficiency and provide for adequate checks and balances. The municipal systems act prescribes a wide range of powers and functions that may or may not be delegated. Councils may in terms of section 79 have MPACs in line to principle 8 of King iv to promote independent judgement and assist with balance of power and effective discharge of its duties and delegate according to its systems of delegations.

In accordance with the provisions of Section 79 (1) (a) (b) and (c) of the Municipal Structures Act 117 of 1998 a municipality may establish one or more committees necessary for the effective and efficient performance of any of its functions or the exercise of any of its powers and appoint the members of such committee from among its members. Furthermore Section 79 (2) of the Municipal Structures Act, (Act117 of 1998) provides adequate framework and guidelines within which such committees of council shall operate.

### 4. Composition and term of office of the MPAC

- 4.1** The MPAC will comprise solely of councilors appointed by resolution of a full council meeting.
- 4.2** However, in terms of Section 79 (2) (d), the council also authorizes the MPAC to co-opt advisory members who are not members of council but who possess special expertise or experience which will benefit the MPAC. Consideration shall be given by the Accounting Officer to the cost implications of such co-option.
- 4.3** Appointments to the MPAC shall reflect the proportional representation of political parties represented on council and shall not exceed 11 members (See 4.11 below). In making such appointment council shall consider the experience and qualifications that may usefully serve the MPAC's objectives.
- 4.4** For the purposes of continuity and promoting experience and expertise within the MPAC, council is advised to ensure that whenever possible, MPAC nominations have previously served on the MPAC or have similar experience.
- 4.5** The names of the MPAC councilors, their party affiliation and a brief profile covering their professional qualifications / experience shall be published on the municipal website and in the Annual Report.



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- 4.6** Council must adopt nomination procedures that ensure that all MPAC members shall be councilors of demonstrable integrity and of independent mind.
- 4.7** The Chairperson of the MPAC will be appointed by council as per the provisions of Section 79(2) (c) of the Municipal Structures Act. In making this appointment council is advised to consider appointing a member of the opposition party to the MPAC Chair as this has been shown to promote independence and credibility of the MPAC in the eyes of the public. If the chairperson of the MPAC is absent from a specific meeting of MPAC, the members present must elect a chairperson from the members present to act as chairperson for that meeting, subject to the meeting having the required quorum per councils Standing Rules of Order. (see 22 below for further details on the functioning of such)
- 4.8** Compilation of hearing reports are drafted by MPAC support staff who must also draft hearing recommendations for consideration, rejection, ratification or approval by MPAC Councilors once considered.
- 4.9** No executive councilors (Executive Mayor or Deputy Executive Mayor, Mayor or Deputy Mayor, Speaker, Chief Whip, a member of Mayoral Committee or member of the Executive Committee) may serve on the MPAC.
- 4.10** The MPAC will be appointed for a term which corresponds to the term of council. Principal 7 of King iv states that council should be comprised of the appropriate balance of knowledge, skills, experience, diversity and independence for it to discharge its governance role and responsibilities objectively and effectively. The principle suggests that political parties should deploy councilors with the necessary skills and competency, there should be inductions, and that council should make use of external expertise on specific matters outside the knowledge, skills and experience of councilors.
- 4.11** The following guideline (Department of Co-operative Governance and National Treasury 2012) shall be used when deciding on the number of councilors to serve on the MPAC:
- Municipalities with less than 15 councilors may nominate up to 5 councilors;*  
*municipalities between 15-30 councilors may nominate up to 9 councilors;*  
*municipalities between 31-60 councilors may nominate up to 11 councilors; and*  
*municipalities with more than 60 councilors may nominate up to 13 councilors.*



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**4.12** In accordance with section 79(1) (c), of the Structures Act, council may dissolve the MPAC at any time.

**4.13** In accordance with section 79(2) (e), of the Structures Act, council may remove a member of the MPAC at any time.

### **5. Expectations of Council pertaining to MPAC**

**5.1** To exercise oversight as legislated and delegated by Council,

**5.2** to promote transparency,

**5.3** improve public accountability and

**5.4** ensure good governance in the municipality as in terms of Section 53 and 59 of the Local Government: Municipal Systems Act, Act 32 of 2000.

### **6. Authority and powers of MPAC**

**6.1** In terms of section 79A of the Structure Act, as amended, the MPAC will assist Council to exercise its functions and powers effectively and efficiently;

**6.2** MPAC shall **function as a sub-committee of Council**, and therefor adhere to the Council's Rules of Order;

**6.3** MPAC will **not** perform any management functions or assume any management responsibilities;

**6.4** MPAC will **make recommendations to management via Council**, resulting from activities carried out by the Committee in terms of its delegated authority; and

**6.5** MPAC **will not interfere** in the administration affairs of the municipality that is controlled and managed by the Municipal Manager.

### **7. Roles and Responsibilities of the MPAC**

**7.1** The MPAC has no executive powers.

**7.2** The oversight role of MPAC is to:

7.2.1 review the Auditor-General's reports and comments of the management committee and the audit committee and make recommendations to the municipal council;

7.2.2 review internal audit reports together with comments from the management committee and the audit committee and make recommendations to the municipal council;



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- 7.2.3 review the Municipality's Annual Report and compile an Oversight Report with specific focus on the financial aspects as contained in the Auditor-General's Report on the Annual Financial Statements of the Municipality as envisaged in Section 129 of the MFMA that is prepared for adoption by Council by following due process.
- 7.2.4 attend to and make recommendations to the municipal council on any matter referred to it by the municipal council, executive committee, a committee of the council, a member of this committee, a councillor and the municipal manager; and
- 7.2.5 on its own initiative, subject to the direction of the municipal council, investigate and report to the municipal council on any matter affecting the municipality.

### **8. MPAC's due process entails that-**

- 8.1** they must review, consider and evaluate the annual report and prepare a draft oversight report to be submitted to the council for purposes of adopting the oversight report;
- 8.2** in preparing the draft oversight report, the MPAC must consider all representations in connection with the annual report received from the local community;
- 8.3** it considers and make recommendations on the report to Council regarding specific reports of the Auditor-General; and queries, comments and responses in respect thereof;
- 8.4** it makes recommendations on any proposals in respect of the oversight process for improving efficiency, effectiveness, economy in the financial sphere of the Municipality, promote good governance, transparency, accountability and value for money in the use of municipal resources;
- 8.5** it liaises with the Audit Committee and any other relevant combined assurance committees and role-players;
- 8.6** it reviews the monitoring by the Audit Committee of the External Audit Action Plan progress made on resolving the issues raised by the Auditor-General;
- 8.7** it reviews the reports prior to submission to Council by the Audit, Risk and Performance Audit Committee and makes recommendations. This relates to Internal Audit reports, current in-year financial, performance & risk reports, including the quarterly, mid-year and annual reports;
- 8.8** it tracks and monitor those corrective actions resolved by council has been taken in respect of the comments and recommendations of MPAC during the oversight reporting process. In the case of matters not finalized, information relating to past recommendations made on the



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Annual Report, must also be reviewed. This exercise must be geared to the remedy of problems rather than simply reporting on issues that remain persistently unresolved;

- 8.9** It must also assess the extent to which the Audit Committee's and the Auditor-General's recommendations have been implemented and seek explanation when no or ineffective actions have followed;
- 8.10** It may recommend to the council to undertake any investigation in its area of responsibility, after reviewing any investigation report already undertaken by the municipality or the Audit Committee;
- 8.11** It performs any other functions assigned to it through a resolution of Council within its area of responsibility; and
- 8.12** may monitor tracking of the implementation of the Council resolutions by the Office of the Speaker.
- 8.13** Reports of the MPAC must be submitted to the speaker who must table such reports in the next ordinary meeting of the municipal council.
- 8.14** MPAC may request the speaker to convene special meetings to consider urgent matters if the need arises.

### **9. Attendance of meetings**

- 9.1** Council's Rules of Order will apply in terms of the functionality of the MPAC.
- 9.2** The MPAC must hold quarterly meetings prior to ordinary Council meetings, after portfolio & other committee meetings, or as may be necessary.
- 9.3** Special meetings can be called by the Chairperson of the MPAC when circumstances warrant.
- 9.4** The Municipal Manager must attend MPAC quarterly meetings in accordance with section 129(2)(a) of the MFMA or on invitation for special meetings.
- 9.5** Senior Managers must on invitation attend the meetings of the MPAC as and when necessary.
- 9.6** The Chief Financial Officer (or delegated nominee) is expected to attend all meetings of the MPAC to assist the committee.
- 9.7** The Municipal Manager is expected to ensure that administrative capacity is made available for the functioning of the MPAC.



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- 9.8** The Chairperson of the Audit Committee will avail their selves on invitation when clarity on their reports is required.
- 9.9** A quorum shall be in accordance with council rules.
- 9.10** The quarterly meetings of MPAC will be included in the annual calendar schedule of Council and the notice requirements should be similar to those of other committees of Council taking into consideration the timeframes in the MFMA for preparation and early adoption of the Oversight Report on the Annual Report. A guideline is attached as **ANNEXURE “A”**.
- 9.11** Notice of a MPAC meeting shall be given at least 7 days prior to the meeting.
- 9.12** The agenda shall be distributed at least 4 days prior to the meeting and urgent documentation can be tabled at the MPAC meeting on approval by the chairperson.

### **10. Reporting and Accountability**

- 10.1** The MPAC will report to council as and when required on the activities of the committee.
- 10.2** The MPAC minutes will be tabled to Council as part of the reports in paragraph 8.13 above.
- 10.3** The Council should deliberate on the recommendations from the MPAC, and may approve, with or without amendments, reject or refer back for further attention.
- 10.4** The MPAC may be able to communicate freely with the Municipal Manager, Senior Managers, Audit Committee, the Mayor, the Mayoral Committee, Chairpersons of Council Committees and the Speaker.

### **11. Administrative support**

- 11.1** In order for the MPAC to be effective in executing its functions, the Council must ensure that the MPAC is supported by officials to coordinate and undertake research activities as required by the committee work programme.
- 11.2** They should not be political appointees. Their sole responsibility is to ensure the proper functionality of the committee at all times. Necessary tools of trade should be given to the office to ensure they perform their duties diligently. The committee's support staff should ensure that institutional memory of MPAC is kept safe in order to assist new members when the term of the previous committee ends.
- 11.3** The staff should be discreet and not divulge matters of the committee unless instructed so by the committee. They report to the Accounting Officer administratively e.g., leave. The work performed is on behalf of the committee therefore all reports, plans, memorandums should be considered by the committee.



**PART 2**

**12. Financial aspects addressed in the Municipal Finance Management Act (MPAC functions):**

**12.1 Unforeseen and unavoidable expenditure (Section 29 of the MFMA) Oversight:**

- I. Any unforeseen and unavoidable expenditure incurred must be reported to the MPAC for oversight purposes;
- II. Proof of the necessary appropriation in an adjustment budget; where the necessary adjustment budget has not been prepared, the MPAC must report same to the council.

**12.2 Oversight on Unauthorized, irregular or fruitless and wasteful expenditure (Section 32 of the MFMA):**

- I. Any unauthorized, irregular or fruitless and wasteful expenditure by the council, the executive mayor, the executive committee or any political office-bearer of the municipality must also be reported to the MPAC to conduct oversight after all the administrative investigations are done by the Accounting Officer; Internal processes and policy which protect person liable for the transgression should be formulated as they may implicate other people and be in danger.
- II. The Municipal Manager must report to the MPAC on all steps taken to either authorize or certify the payment or to recover or write off the expenditure;
- III. The Municipal Manager must report on whether any criminal action or financial misconduct was committed in this regard;
- IV. The MPAC must report to the council as to the appropriateness of the criminal, civil or disciplinary steps taken and report where no further action was taken and why?
- V. The MPAC should monitor the Disciplinary Board resolutions tracking & reporting on the matters progress.

**12.3 The quarterly report of the mayor on the implementation of the budget and the state of affairs of the municipality / SDBIP (Section 52 (d) of the MFMA)**

- I. A copy of the quarterly report of the mayor on the implementation of the budget and the state of affairs of the municipality must be submitted to the MPAC by the Audit Committee together with its assurance report for comments;



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- II. When the quarterly report is not submitted to the MPAC for its comments, the MPAC must report this to council;
- III. The MPAC must oversight that the Mayor has attended to the necessary amendments to the SDBIP, Performance Contracts and proposals for the adjustment budget and that the Accounting Officer has submitted same to the audit committee for assurances.
- IV. The MPAC must report any matter of concern regarding the functionality of the councils section 79 committees.

### **12.4 Monthly budget statements Oversight (Section 71 of the MFMA)**

- I. The monthly budget statements are submitted to the Audit Committee which in turn performs its assurance on it and such reports from the Audit Committee are submitted to the MPAC for comments. The function of the Audit Committee as an independent assurance provider should not be duplicated by MPAC as any interrogation is done by the Audit Committee.

### **12.5 Mid-Year budget and performance assessment (Section 72 of the MFMA)**

- I. The mid-year budget and performance assessment report are submitted to the Audit Committee which in turn performs its assurance assessments on it and such reports from the Audit Committee are submitted to the MPAC for comments. The function of the Audit Committee as an independent assurance provider should not be duplicated by MPAC as any interrogation is done by the Audit Committee.

### **12.6 Mid-Year budget and performance assessments of municipal entities (Section 88 of the MFMA):**

The mid-year budget and performance assessment report are submitted to the Audit Committee which in turn performs assurance assessments on it and such reports from the Audit Committee are submitted to the MPAC for comments. The function of the Audit Committee as an independent assurance provider should not be duplicated by MPAC as any interrogation is done by the Audit Committee.

### **12.7 Submission and auditing of annual financial statements (Section 126 of the MFMA):**

- I. Copies of the Annual Financial Statements tabled in council after the Audit Committee has reviewed them before the end of August annually and submitted to the A-G must also be submitted to the MPAC as well as the financial statements of any municipal entity under the control of the municipality. Proof of submission thereof to the A-G should also be



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submitted. This is to ensure that MPAC could commence with its oversight functions as reflected in the timelines in **‘Annexure A’** below.

### **12.8 Submission of the Annual Performance Report (Section 45 of the Local Government: Municipal Systems Act 32 of 2000 (MSA));**

12.8.1 Copies of the Annual Performance Report tabled in council after the Audit Committee has reviewed them before the end of August annually and submitted to the A-G must also be submitted to the MPAC as well as the performance reports of any municipal entity under the control of the municipality. Proof of submission thereof to the A-G should also be submitted. This is to ensure that MPAC could commence with its oversight functions as reflected in the timelines in **‘Annexure A’** below.

### **12.9 Submission of the annual report (Section 127 of the MFMA):**

- I. The annual report together with MPACs oversight report as concluded in terms of the timelines in **‘Annexure A’** may be submitted to the council on the early timelines as reflected in **‘Annexure A’**.
- II. Where the annual report is not submitted to the council as required, the MPAC must be provided with a copy of the written explanations of the mayor as submitted to the council;
- III. Where neither the annual report nor the explanation has been submitted, the MPAC must report same to the council;
- IV. The MPAC must monitor that the annual report has been submitted to the A-G, as well as the provincial government departments required and has been published for comment; and
- V. The MPAC must also ensure that all municipal entities have complied with the said requirements.

### **12.10 Oversight report on the annual report (Section 129 of the MFMA):**

- I. The MPAC must consider the annual report and prepare a draft oversight report to be submitted to the council for purposes of adopting the oversight report; In preparing the draft oversight report, the MPAC must consider all representations in connection with the annual report received from the local community;
- II. The meeting of the MPAC when considering the annual report must be open to the public and members of the local community must be allowed to make representations in connection with the annual report at the meeting;



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- III. National Treasury Circular 32 on the oversight report and Circular 92 on the MPAC toolkit provide guidance on the preparation of the oversight report and functioning of MPAC. Reference to the oversight committee must be read as the MPAC and the guiding toolkit developed on 19 April 2018 must be used considering the terms of the Local Government: Municipal Structures Amendment Act 3 of 2021 Section 79A to accommodate the changes as the toolkit was prepared before the amendments.

### **12.11 Issues raised by the Auditor-General in audit reports (Section 131 of the MFMA)**

- I. The MPAC must be provided with the report and be prepared to address issues raised by the Auditor-General;
- II. Where the Auditor-General report has been submitted, MPAC must comment on the report of the Audit Committee on the audit report and Post Action Audit Plan; and
- III. Where the Auditor-General report has not been submitted, MPAC should note such in its report this to council.

### **12.12 Audit Committee (Section 166 of the MFMA)**

- I. The MPAC must ensure that the municipality at all times has an operational audit committee;
- II. All reports of the audit committee need to be submitted to the MPAC for review and to make recommendations to the municipal council;
- III. Where no audit committee has been appointed or where the audit committee is not operational, the MPAC must report this to the council.

### **12.13 Disciplinary action instituted in terms of the MFMA:**

- I. All disciplinary processes instituted for the contravention of the MFMA must be reported to the MPAC by the Disciplinary Board;
- II. The Disciplinary Board must monitor progress on disciplinary processes and also submit its progress report & register to MPAC for comments.
- III. MPAC must monitor that all matters are brought to conclusion;
- IV. MPAC must report to council where matters are not dealt with effectively and on time.

### **12.14 The MPAC must conduct oversight on the following aspects addressed in the Municipal Systems Act.**



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- I. Review of the IDP post-elections has been done. **(Section 25 of the MFMA)**
- II. That the Executive mayor or the Exco has initiated the review of the IDP post-elections;
- III. Where the review is not done, the MPAC must report same to the council.
- IV. Annual review of the IDP has been conducted. **(Section 34 of the MFMA)**
- V. MPAC must monitor that the Executive mayor or the Exco has initiated the annual review of the IDP;
- VI. Where the review is not done, the MPAC must report same to the council.
- VII. That performance management plans are in place **(Section 39 of the MFMA)**
- VIII. MPAC must monitor whether the annual performance plan is being prepared within the timelines;
- IX. Where the plan is not prepared, the MPAC must report same to the council.

### **12.15 Monitoring that the annual budget is informed by the IDP (Regulation 6 of the Local Government: Municipal Planning and Performance Management Regulations)**

- 12.15.1 MPAC must review & comment on the draft annual budget report from the Executive Mayor or committee that it is informed by the IDP as adopted by the municipal council; but
- 12.15.2 Where the draft annual budget is not aligned with the IDP, the MPAC must report under it comments the same to the municipal council.

### **12.16 Monitoring that all declaration of interest forms are completed by councilors on an annual basis and recorded by the Speaker. (Section 54 read with Item 7 of Schedule 1 or Item 6, 7 & 8 of Schedule 7 of the Municipal Structures Amendment Act, 2021))**

- 12.16.1 MPAC must monitor whether all councilors have completed their declaration of interest forms and have updated them annually and recorded by the Speaker;
- 12.16.2 Where declaration of interest forms have not been completed or updated same must be reported to the municipal council.

## **13. Delegations**

Principle 8 of the King iv report states that council should ensure that its arrangements for delegation within its own structures promote independent judgments and assist with balance of power and the effective discharge of its duties. Therefore, MPAC will not be politically motivated.



### 13.1 Delegations to the MPAC

The following responsibilities of Oversight are to be delegated to the MPAC in terms of the provisions of **Section 59 of the Systems Act**. The authority to review the following documents and to make oversight comments and/or recommendations on the various reports to the municipal council in accordance with the terms of reference of those committees and responsible structure:

1. Unforeseen and unavoidable expenditure Oversight;
2. Unauthorized, irregular or fruitless and wasteful expenditure Oversight;
3. SDBIP Oversight;
4. Monthly budget statements Oversight;
5. Mid-year budget and performance assessment Oversight;
6. Mid-year budget and performance assessment of municipal entities Oversight;
7. Disclosures concerning councilors, directors and officials Oversight;
8. Annual financial statements Oversight;
9. Annual report Oversight;
10. Issues raised by the A-G in the audit reports Oversight;
11. The appointment of the audit committee Oversight;
12. Disciplinary steps instituted in terms of the MFMA Oversight;
13. The review of the IDP post elections Oversight;
14. The annual review of the IDP Oversight;
15. Performance management plan Oversight;
16. The draft annual budget with reference to the approved IDP Oversight; and
17. Declaration of interest forms submitted by councilors Oversight.
18. The authority to consider all presentations made by the community on the annual report and the authority to have interviews with members of the community to obtain input on the annual report, as well as the authority to prepare the draft oversight report on the annual report.
19. The authority to invite any member of the executive, chairs of council committees, the municipal manager or any other senior management official via concurrence of the accounting officer. to attend meetings of the MPAC to address matters specified by the MPAC and to provide the MPAC with copies of documents to be dealt with by the committee in terms of its terms of reference.



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20. The authority to invite any member of the board or the CEO of a municipal entity to attend the meeting of the MPAC to address matters specified by the MPAC and to provide the MPAC with copies of documents to be dealt with by the committee in terms of its terms of reference.
21. The authority to obtain legal, technical and other specialized assistance required to exercise its functions and duties within the budget approved for the committee and subject to councils approval and the supply chain management policy where applicable.
22. The MPAC to conduct oversight considering the reports of the portfolio/section 79 committees

### 14. Important considerations

- 14.1 The MPAC shall not perform any powers or functions that are of an executive nature or fall within the ambit of management.
- 14.2 In fulfilling its obligations and responsibilities, the MPAC reports directly to council via the office of the Speaker. The MPAC's report however is independent both in substance and procedural terms. This should be reflected in the Rules of Order of Council. In relation to the above consideration, Council is encouraged to develop a standard council agenda which includes a permanent item for the MPAC report.
- 14.3 In the case of unauthorized, irregular expenditure, fruitless and wasteful expenditure or any matter of financial governance, MPAC may call the accounting officer or other senior staff to provide additional information or clarity on reports submitted.
- 14.4 The MPAC may request the support of both the audit committee and the internal auditor / audit unit. Regularly engaging with the internal audit unit and the external auditors (AGSA), the chair of the audit committee, and others as appropriate, to discuss the effectiveness of internal control over financial reporting, performance reporting and compliance with legislation. The standing rules of order for the Council apply to MPAC.
- 14.5 Council must consider requests from MPAC, to initiate and report on any investigation on Council Matter as per sec 79(A) (3)(e) of the amended structures act of 2021, and **subject to the direction of the municipal council**, allow or reject MPAC to conduct such investigation and report to the municipal council on such matters affecting the municipality.
- 14.6 The Committee shall have referral of documents relating to:
  - (i) In-year reports of the municipality;
  - (ii) financial statements of the municipality as part of the Committee's oversight process;



## MPAC TERMS OF REFERENCE AND MANDATE

- (iii) audit opinion, other reports and recommendation from the Audit Committee;
- (iv) information relating to compliance in terms of sections 32, 128 and 133 of MFMA;
- (v) information in respect of any disciplinary action taken in terms of the MFMA where it relates to an item that is currently serving or has served before the Committee;
- (vi) any other audit report from the municipality; and
- (vii) performance information of the municipality.

**14.7** The MPAC may delegate any of its members to attend and observe any other section 79 committees of council. Such delegates however are not members of the other committees and have no voting rights.

**14.8** The MPAC must motivate to council via the office of the Speaker or Accounting Officer for the provision of staff, equipment, facilities and an operating budget commensurate with its obligations during the annual budget process. This must be undertaken in such a manner so as not to duplicate any functions already performed by municipal officials.

**14.9** That MPAC must not overtake the powers and functions of any portfolio committee. But conduct oversight on whether the portfolio committee is functioning.

## PART 3

### 15. MPAC work program and meetings

**15.1** The MPAC must prepare an annual work plan for approval by the municipal council prior to the start of the financial year.

**15.2** MPAC meetings shall be held as necessary in accordance with the approved work plan and program. The meetings of MPAC must be included in the annual calendar of Council and the same notice requirements apply.

**15.3** The MPAC work plan must align with other committees of Council and reflect the timeframes in the MFMA for planning and budgeting cycles and the preparation and adoption of the oversight report on the annual report.

**15.4** The annual work program must be approved by Council.

**15.5** The procedures of the MPAC are determined by Council as provided for Section 79 (2) (f) of the Municipal Structures Act, and these Terms of Reference..



### 16. Public interaction and engagement

**16.1** Openness of meetings, there is a general trend to facilitate greater transparency in government. In most legislatures, Public Accounts Committee (PAC) hearings are open to the media and the public. There might be reasons for barring the public in exceptional circumstances, for instances in discussions that relate to a central intelligence agency or highly sensitive defense matters. But generally, there are few reasonable excuses to prevent open access of the media and the public to PAC sessions.

In Britain for instance the PAC of the House of Commons allows the chairperson 30 minutes for questioning at the beginning of a session. Afterwards, each ordinary member of the committee has no more than 15 minutes to pose questions. While this limitation has its disadvantages, it also ensures that hearings are concluded expeditiously (White et al 1999, p. 124). The chairperson will give direction in terms of time allocation to questions and responses to ensure time management and adherence to the agenda.

**16.2** The MPAC may engage directly with the public and respond to public comments and concerns that fall within its ambit of responsibility. The MPAC shall endeavor to ensure that important information related to the public engagement is communicated to the public prior to the engagement. Public hearings should be in line with PAIA where the public feel strongly about administrative injustice.

**16.3** All meetings of the MPAC shall be open to the public and the MPAC may issue invitations to special interest groups or stakeholders when pertinent matters are under discussion.

**16.4** All meetings of the MPAC shall be advertised on the municipal website including a brief outline of the agenda.

**16.5** When conducting in-field inspections or project site visits, the MPAC may invite interested parties / specialists from the community and to seek their insights and advice.

**16.6** The MPAC may attend all public meetings where the draft annual report is presented by the AC and to facilitate public input on the annual report.

**16.7** In order to facilitate meaningful public engagement in the procedures outlined above, the MPAC must request documents or evidence from the Accounting Officer of the municipality or municipal entity. When the annual report is tabled in council, the MPAC shall be afforded the opportunity to make a presentation on the oversight report and to take questions from the public for a period of not less than 30 minutes, also add a section on minutes of MPAC and reporting and recommendations.



## MPAC TERMS OF REFERENCE AND MANDATE

- 16.8** If minutes of evidence are published, witnesses should be given a chance to check these for accuracy before their publication. Usually, it is the responsibility of the chairperson to draft a report, with assistance from the committee clerk.

### **17. Marketing**

- 17.1** MPAC as the committee of the council to be introduced by the Executive Mayor to the community.
- 17.2** Embark on road shows campaigns (communities, councils and officials)
- 17.3** Use affordable media coverage (local radio stations, newspapers etc.)
- 17.4** Slots in the stakeholders' meetings
- 17.5** The community to be encouraged to give inputs on the Annual Report through social media such as Facebook, WhatsApp, etc. created for the municipality and by calling and e-mailing the office. The minutes of evidence of a particular hearing as well as the committee report should be published as promptly as possible after adoption. The minutes must be used to compile the quarterly report to ensure that MPAC sits and deal with that quarter's documents.
- 17.6** Notices to be published on local radio and local newspapers

### **18. Safety of committee members**

#### **18.1 Internal**

Insurance for life and properties of the MPAC members should be administered by the municipality through SASRIA. Members seconded to the District must be covered by their Local Municipalities.

#### **18.2 External**

The visibility of SAPS during community consultations should be applied for by the Municipal Manager and Office of the Speaker.

## **PART 4**

### **19. MPAC self-monitoring and monitoring of council actions**

The MPAC shall develop a monitoring and tracking mechanism that is aligned to its approved work program. This mechanism shall include:



## MPAC TERMS OF REFERENCE AND MANDATE

- 19.1** A record of the recommendation made to council, the date and the nature of the council response / resolution
- 19.2** The key respondents in the matter and the expected action
- 19.3** The outcome of the recommendation implemented / not implemented and any pertinent reasons for not implementing
- 19.4** When council has made a resolution on a matter raised by the MPAC, the speaker or accounting officer shall communicate that resolution to MPAC within 60 days of the date on which the resolution was decided.
- 19.5** The self-monitoring framework used by the MPAC should reflect the measures set out in its own performance report to council. Additionally, the MPAC may develop indicators based on the Key Attributes of its program.
- 19.6** These performance measures shall form part of the municipality's annual review of performance.

### **20. Monitoring of MPAC performance by council**

Principle 9 of the king IV report, council should ensure that the evaluation of its own performance and that of its committees, its speaker and its individual councilors, support continued impotent in its performance and effectiveness. The principal further recommends that the council and political parties collaborate on a manner and firm which the performance of council and councilors should be assessed and be reported to council.

Council must evaluate the performance of MPAC on a Bi-annual basis. The performance measures used for this process shall reflect the measures set out in the MPACs own performance assessment report to council. Where the MPAC has chosen to adopt indicators as set out in the Key Attributes framework, these may become part of the performance monitoring system.

### **21. Communication**

#### **21.1 Internal**

The speaker will communicate with the MPAC chairperson who will in turn communicate with the members on any matter that affects the MPAC member's tools of trade;

The Speaker should be the champion in building sound working relationship between the MPAC and all other committees of council;



## MPAC TERMS OF REFERENCE AND MANDATE

The Municipal Manager shall be the champion in building sound working relationship between the MPAC and the administration especially the senior management team;

All Committee correspondence should be through the office of the speaker to ensure efficiency and accountability

All Administration correspondence should be through the office of the accounting officer.

### **21.2 External**

All the MPAC in coming external correspondences will be addressed to the Speaker and a copy must be given to the MPAC chairperson politically and to the Municipal Manager administratively.

All communications for MPAC that may be addressed to the Municipal Manager must be submitted to the Speaker for further actioning as per above paragraph.

## **22. Quorum**

**22.1** The quorum of the meeting must be in terms of councils Standing Rules.

**22.2** If there are less members than the rules permit the meeting does not quorate, but the meeting may, at the discretion of members present, continue as a working session, however the recommendations will be adopted in the next meeting which has reached a quorum. In case where a member is unable to attend, the member must submit a written apology to be presented during the item of apologies.

**22.3** Meeting schedules must be developed and distributed in time to all MPAC members to secure optimal attendance.

**22.4** A committee meeting will continue as a working session if a quorum is not met however no decisions/resolutions will be taken in that meeting, MPAC support staff track the implementation of resolutions and report to the MPAC for ratification and approval. The Executive are then called to account for resolutions which were not fully implemented. MPAC table resolutions implementation progress report to the Municipal Council through the Speaker. Suggestion taken in a working session should be resolved in the next meeting where a quorum is met.



MPAC TERMS OF REFERENCE AND MANDATE

Municipal stamp

Acting Chairperson:

Municipal Public Accounts Committee

Annual Review

The MPAC Terms of Reference should be reviewed annually and tabled in council if there are any revisions or amendments.

Review	Resolution Number	Date



### ANNEXURE “A”

#### ANNUAL REPORT PROCESS PLAN – GUIDELINE FOR EARLY ADOPTION OF ANNUAL REPORT

##### Legislative mandate

Section 121(1) of the Local Government: Municipal Finance Management Act 56 of 2003 (MFMA) stipulates that: "Every municipality and municipal entity must for each financial year prepare an annual report in accordance with its guidelines."

##### The purpose of the annual report is to:

- (a) Provide a record of the activities of the municipal Councils during the financial year.
- (b) Provide a report on performance against the budget of the municipal Councils for the financial year reported on.
- (c) Promote accountability to the local community for the decisions made throughout the year by the municipality.

##### According to the MFMA, this report should include:

- (a) The **annual financial statements** of the municipality, and annual financial statements (consolidated for municipalities with entities), submitted to the Auditor-General for audit in terms of section 126 (1) of the MFMA
- (b) The **Auditor-General's audit report** in terms of section 126 (3) of the MFMA and in accordance with s45 (b) of the MSA; on the financial statements referred to in (a) above;
- (c) The **annual performance report** of the municipality as prepared by the municipality in terms of section 45(b) of the Local Government: Municipal Systems Act 32 of 2000 (MSA);
- (d) An **assessment of the arrears on municipal taxes and service charges**;
- (e) An **assessment of the municipality's performance against the measurable performance objectives** referred to in Section 17 (3)(b) of the MFMA **for revenue collection from each revenue source and for each vote in the municipality's approved budget** for the financial year



## MPAC TERMS OF REFERENCE AND MANDATE

(f) **Corrective action taken in response to issues raised in the audit reports** referred to in paragraphs (b) and (d);

(g) Explanations to clear issues on the AFS, and

(h) **Recommendations of the municipality's Audit Committee.**

The reports must also be submitted not only to the Auditor-General, but to the municipal oversight (MPAC), and risk & audit committees in order to **ensure early completion** of the process so that the new financial year's budget & IDP reviews are better informed.

Dr Kenneth Kaunda DM encourages the early conclusion of the Annual Report process as it adds value to the IDP & budget planning process as well as value to the community during the consultative process. The guiding timelines in this document is intended to assist to ensure early completion of the process.

### High Level Annual Report Process Guiding Timelines

#### JUNE - JULY

Briefing Sessions with internal stakeholders.

Submission of departmental contributions to performance management units.

#### AUGUST

Receive departmental contributions from Finance Cluster and other Municipal Clusters.

Submit draft AFS and performance report to Audit & Performance Committees for review and assurance.

Tabled AFS and performance report to Council.

Submit tabled AFS and performance report to Auditor-General, MPAC's and Audit & Performance Committees.

#### SEPTEMBER - NOVEMBER



## MPAC TERMS OF REFERENCE AND MANDATE

Receive comments/amendments from AG, check alignment of information between IDP, SDBIP and Annual Report.

Advertise invitation to public to attend MPAC meetings where Annual Report will be discussed.

Submission of Annual Report to COGSTA, AG, Provincial and National Treasury for inputs.

Distribute Annual Report and place on website for public viewing and representation.

Hold public participation meetings.

Provide MPAC with submissions from stakeholders for considered inclusion in Oversight report.

MPAC hold engagement with Auditor-General and Audit Committee to consider inputs for the Oversight Report & alignment.

Submit final draft to Municipal Manager.

Arrange for date to tabling the Annual and Oversight Reports to the Speaker.

### DECEMBER

MPAC submits Oversight Report with final Annual Report for adoption of Annual Report.

Advertise public viewing of oversight report

Adopted oversight report submission to COGSTA, AG, Provincial and National Treasury

Post oversight report on the web.

### Propose detail process timelines to guide municipalities

TASK	DEPARTMENT	RESPONSIBLE PERSON	START DATE /	DEADLINE	TEMPLATE REFERENCE
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## MPAC TERMS OF REFERENCE AND MANDATE

			<b>PROGRESS REPORT</b>		
First Department draft fourth quarter performance reports to PMS Manager (SDBIP)	All Departments	All Senior Managers led by the PMS Manager	1 July 20__	12 July 20__	
Final Annual Performance reports to PMS Manager	All Departments	All Senior Managers	15 July 20__	19 July 20__	
Prepare Fourth Quarter Financial Report to Council	Finance	CFO	1 July 20__	12 July 20__	
Commence 1 <sup>st</sup> Draft AFS	Finance	CFO	1 July 20__	31 July 20__	
Finalise 1 <sup>st</sup> AFS & Submit to I/A for quality review	Finance	CFO	1 August 20__	6 August 20__	
Finalise 1 <sup>st</sup> Draft Performance Report & submit to I/A for quality review	PMS	PMS Manager/ MM & Mayor	1 August 20__	6 August 20__	



## MPAC TERMS OF REFERENCE AND MANDATE

Submit 1 <sup>st</sup> Draft Performance Report with AFS to SMT/MM	Internal Audit	CAE	1 August 20__	6 August 20__	
Submit 1 <sup>st</sup> Draft Performance Report with AFS to A/C	Internal Audit	CAE	6 August 20__	9 August 20__	
Adjustments to Performance Report (Including AFS)	PMS Finance	PMS Senior Manager & CFO	12 August 20__	15 August 20__	
Submit AFS to NCPT & I/A for Quality Review Inputs	Finance	CFO	15 August 20__	19 August 20__	
Submit Final Draft Annual Performance Report & AFS to SMT (MM)	I/A	CAE	15 August 20__	19 August 20__	
Submit Final Draft Annual Performance Report to AC	I/A	CAE	19 August 20__	23 August 20__	
Draft MM's Report on State of Municipal Financial Affairs	Office of the MM	MM		26 August 20__	
Draft Mayors Report On		Mayor assisted by MM		26 August 20__	



## MPAC TERMS OF REFERENCE AND MANDATE

Municipal performance					
Draft CFO's Report on AFS	Finance	CFO		26 August 20__	
Adjustments to Annual Performance Report Including AFS	PMS  Finance	PMS Senior Manager CFO	19 August 20__	26 August 20__	
Submit those completed components of Annual Report including AFS to Mayco	Corporate Services	MM	26 August 20__	29 August 20__	
Final Adjustments to AR & AFS	ALL	MM with SMT	26 August 20__	29 August 20__	
Final Draft Annual Report Including AFS to Council for Tabling	Mayor	Mayor; Assisted by MM	29 August 20__	30 August 20__	
Submission of those completed portions of the Annual Report Including the AFS to the AG; NT; NWPT; NWCoGTA; MPAC; Audit Committee and	Corporate Services	Senior Manager & MM	30 August 20__	6 September 20__	



## MPAC TERMS OF REFERENCE AND MANDATE

published for community inputs					
Audit of AFS & those completed portions of the AR	AG	AG	1 September 20__	30 November 20__	
MPAC Oversight Process on AR	MPAC	MPAC	1 September 20__	25 October 20__	
MPAC First Oversight Report to Council on suggested amendments	MPAC	MPAC		31 October 20__	
MM's Proposed Amendments on AR to Council	MM	MM		31 October 20__	
MPAC's engagement with Audit Committee & AG for alignment	MPAC	MPAC by Invitation	15 November 20__	30 November 20__	
MPAC's Finalisation Oversight Process	MPAC	MPAC	1 November 20__	22 November 20__	
Submission of Performance Report to	MM	MM	1 November 20__	22 November 20__	



## MPAC TERMS OF REFERENCE AND MANDATE

Executive Committee					
Tabling Final Oversight Report on AR to Council	MPAC	MPAC	2 December 20__	13 December 20__	
Tabling Final Audit Report to Council	AG	AG	2 December 20__	13 December 20__	
Tabling of Audit Committee Annual Report to Council	AC	AC	2 December 20__	13 December 20__	
Tabling of MM's Report to Council on AR & AFS together with Audit action Plan	Mayor	Mayor	2 December 20__	13 December 20__	
Tabling of Evaluation Committees Report on Performance Bonuses to Council	Mayor	Mayor	2 December 20__	13 December 20__	
Publish Final Annual Report & Oversight Report	Corporate Services	MM	17 December 20__	31 December 20__	

### ANNEXURE "B"

#### Municipal Accountability Cycle



**MUNICIPAL ACCOUNTABILITY CYCLE**

The cycle begins with **Sectoral Plans**, which inform the **Spatial Development Framework**, **Ward – based Service Backlog Assessment & Eradication Planning**, **Vision, Development, Operational, Disaster Management Strategies & Plans**, and the **Institutional Framework, Financial Strategy and Plan**. These lead to **Community Consultation** and **Key Components of IDP ITO Chapter 5 of the MSA**, which feed into the **IDP Forums (External & Internal Stakeholders)**.

The **IDP Forums** produce the **IDP** (Integrated Development Plan), which is **COUNCIL APPROVES**. The **COUNCIL** also receives **S132 A/O submits adopted Annual & Oversight Reports to Provincial Legislature & Makes Public**. The **IDP** leads to the **MTREF & 3 YEAR CAPEX BUDGET**, which is then used to develop the **Annual SDBIP** (Strategic Development Budgetary Information Package). The **Annual SDBIP** includes IDP components: Strategic Targets, Service Delivery Targets, Financial Targets, and KPI's.

The **Annual SDBIP** leads to the **Annual Management Performance Agreements**, which are used to develop the **Performance: In – Year Reporting** and **Financial: In – Year Reporting**. These lead to **Monthly MSA Sec. 41 (e) Reports** and **Monthly MFMA Sec. 71 Reports**, which are then consolidated into **1st & 2nd Quarter MFMA Sec. 52(d) Reports**, **1st & 2nd Quarter Performance Reports**, **Quarter 3 & 4 MFMA Sec. 52(d) Reports**, and **Quarter 3 & 4 Performance Reports**.

The **Quarter 3 & 4 Performance Reports** lead to the **Annual Performance Report Sec 46 MSA & AFS**, which is then used to develop the **Mid-Year Budget & Performance Assessment MFMA Sec. 72**. The **Mid-Year Budget & Performance Assessment** leads to the **Unaudited Annual Report Submitted to Audit Committee Thereafter Mayor Table to Council & A/O makes public & submit to province S127**.

The **Unaudited Annual Report** is then used to develop the **AG's Audit Report (MSA s45 & MFMA s126(3))**, which is submitted to the **Auditor-General**. The **Auditor-General** also receives input from the **Committee of Council Recommendations on Management Performance Awards if Any**. The **AG's Audit Report** leads to the **Oversight Report**, which is then used to develop the **Annual Report Documents ITO MFMA s121 (AFS; Performance Report; AG Audit Report; A/O Assessment on Arrear Taxes, Service Charges & Revenue Collection; Corrective Actions to Audit Report; Explanations on AFS issues; Audit Committee Recommendations)**.

The **Annual Report Documents** are then used to develop the **Unauthorised, Irregular, Fruitless & Wasteful Expenditure** report, which is submitted to the **Council** for **COUNCIL APPROVES**. The **Council** also receives input from the **Community Participation, Performance Feedback IDP Review, Tabled Annual Report & Tabled Budget**, which is used to develop the **MPAC** (Municipal Performance and Accountability Committee). The **MPAC** leads to the **Oversight Report**, which is then used to develop the **Annual Report Documents**.