

10

Strengthening and Embedding Accountability and Consequence Management in Local Government

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The Special Investigating Unit's (SIU) final report on Personal Protective Equipment (PPE) submitted to President Ramaphosa on 21 December 2021 reveals the number of referrals of municipal managers and senior managers for disciplinary action and possible and serious accountability regressions, recurring poor audit outcomes and non-implementation of audit recommendations. The purpose of this paper is to analyse and situate the crucial issue of accountability and consequence management within the prism of the impetus to construct a capable, developmental and ethical state in South Africa. Literature and documentary reviews point out that the net effect of governance lapses in local government leads to abuse of authority, misappropriation of funds, impunity, erosion of public confidence, trust deficit, lack of consequences and provincial intervention in terms of section 139(1)(a),(b) (i)-(iii) and (c) of the Constitution of the Republic of South Africa, 1996.

These governance lapses impede the sphere of local government to effectively contribute to socio-economic development and provision of municipal basic services to local communities in a sustainable and efficient manner. These reports conclude that the picture of accountability, oversight and consequence management in the sphere of local government remains disturbing, appalling and on a downward spiral. Furthermore, the Economic Reconstruction and Recovery Plan introduced by the national government in 2021, clearly asserts that the economic recovery of the country hinges on a developmental, ethical and capable state. Finally, this study elucidates recommendations with a view to help strengthen, bolster and embed accountability and consequence management in the sphere of local government.

Keywords: Accountability, Consequence management, Oversight, Material irregularity, Local government.

Introduction

Accountability in the sphere of local government is non-negotiable since one of the objectives of local government laid out in section 152(1) of the Constitution of the Republic of South Africa, 1996, states that municipalities must provide democratic and accountable government for communities. This constitutional provision is peremptory in

nature and not subject to discretion. In other words, it is not optional for municipalities to be accountable to local communities. Section 36 of the Local Government: Municipal Structures Amendment Act No. 3 of 2021, which lays out the preamble of the Code of Conduct for Councillors, in part provides that municipal councillors are elected to represent local communities in municipal councils to ensure that municipalities have structured mechanisms for accountability to local communities.

This study discusses the significance of strengthening and embedding accountability and consequence management in the sphere of local government and addresses the increasing governance lapses taking place in the sphere of local government arising from the recurring poor audit outcomes, accountability regressions, non-implementation of audit recommendations and lack of consequence management as evidenced by the Auditor-General's 2020-2021 Local Government Audit Outcomes report. The Special Investigating Unit's report on Personal Protective Equipment (PPE) submitted to President Ramaphosa on 21 December 2021 affirms the observation made in this study regarding the poor enforcement of accountability and consequence management in public sector institutions and the serious effect these have on the drive to construct a capable, developmental and ethical state as articulated and envisioned in the National Development Plan – Vision 2030 and the Economic Reconstruction and Recovery plan introduced by the national government in 2021, which in part is based on the premise that the successful economic recovery of the country's economy post COVID-19 pandemic hinges on a capable, developmental and ethical state.

Conceptualisation of Accountability, Oversight and Consequence Management

Fox and Meyer (1995:2) define accountability "as the responsibility of government and its agents towards the public to achieve previously set objectives and to account for them in public". It is also regarded as a commitment required from public officials individually and collectively to accept public responsibility for their action or inaction". Similarly, Dunn (2010:538) describes accountability as the assignment of responsibilities, with clear expectations or standards, by a person or body in authority to a specific person or body, who is obligated to answer for performance or non-performance. The King IV Report on Corporate Governance (2016:9) defines accountability as the obligation to answer for the execution of responsibilities. Accountability cannot be delegated, whereas responsibility can be delegated without abdicating accountability for that delegated responsibility.

Accountability refers to an obligation to expose, explain and justify actions (van der Nest, Thornhill & de Jager 2008:546). This view is consistent with the idea of accountability as pertinently related to responsibility of actions, decisions, outcomes and policies. At the same time, Ayeni (1998) defines public accountability as involving how those who exercise powers in the name of the public fulfil their duties and obligations, and the process by which they are made to answer and account for their actions. It concerns