

# MORETELE LOCAL MUNICIPALITY



## DELEGATION OF POWERS POLICY

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## **1. PURPOSE**

To introduce a system that will lead to effective segregation of duties ranging from the Municipal Council to Municipal Administration in ensuring that community needs are attended with diligence and a high level of responsibility and accountability. This Delegation of Powers System replaces the one that was developed in 1996 which was not adopted by Council.

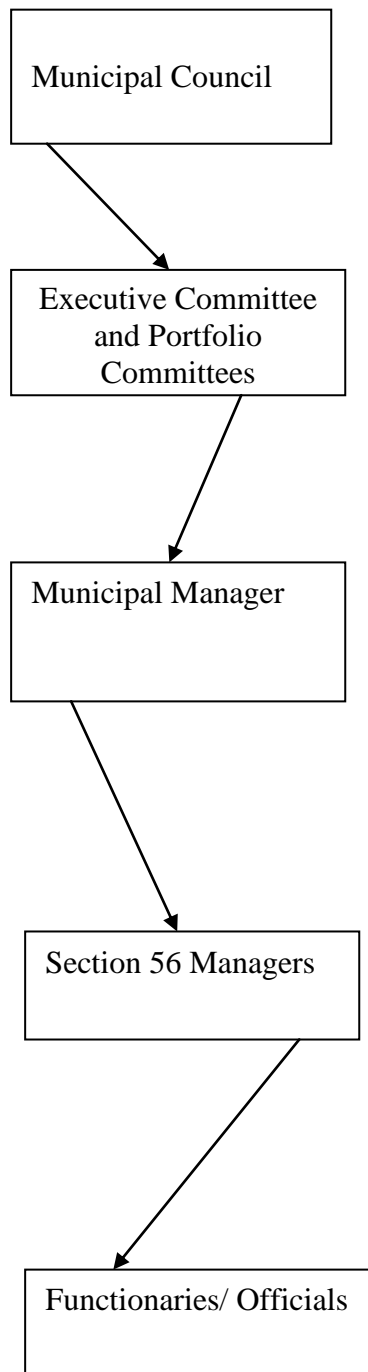
## **2. PRINCIPLES**

- ✓ To come up with clear lines of segregation of duties;
- ✓ To maximise administrative and operational efficiency
- ✓ To provide adequate checks and balances on municipal performance
- ✓ To improve institutional protocol, performance and level of reporting

## **3. LEGAL FRAMEWORK**

- ✓ Constitution of the Republic of South Africa, Act No. 108 of 1996
- ✓ Local Government: Municipal Structures Act, No. 117 of 1998
- ✓ Local Government: Municipal Systems Act, No. 32 of 2000
- ✓ Municipal Finance Management Act, No. 56 of 2003

**FRAMEWORK: MUNICIPAL STRUCTURE**



## **DELEGATION OF POWERS**

Section 59 of the Local Government: Municipal Systems Act 32 of 2000 outlines a municipal system of delegation that a municipal council must develop a system of delegation that will maximise the administrative and operational efficiency and provide for adequate checks and balances, and in accordance with that system that will-

- a) Delegate appropriate powers, excluding powers mentioned in section 160(2) of the Constitution and the power to set tariffs; to decide to enter into a service delivery agreement;
- b) Instruct any political structure, political office bearer; councillor ; or a staff member to perform any of the municipality`s duties; and
- c) Not be in conflict with the Constitution
- d) Must be made in writing.

## **POWERS AND RESPONSIBILITIES DELEGATED TO THE MUNICIPAL COUNCIL**

Moretele Local Municipality consist of political office bearers who are democratically elected by the local residents entrusted with the responsibility of ensuring that their needs are met through officials who are responsible for the administration.

The following powers and functions are assigned to Council and may not be delegated as outlines in the following pieces of legislation:-

### **5.1 Section 160 (2) of the Constitution of the Republic of South Africa , (Act No. 108 of 1996):**

- ✓ Passing of by-laws;
- ✓ Approval of budgets;
- ✓ Imposition of rates and other taxes, levies, duties and
- ✓ Raising of loans.

### **5.2 Section 79 of the Local Government: Municipal Structures Act, No. 117 of 2000:-**

- ✓ The establishment of section 79 Committees

#### **Establishment**

( 1 ) A municipal council may—

- (a) 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;
- (b) appoint the members of such a committee from among its members; and
- (c) dissolve a committee at any time. 25

**The municipal council:**

- 1) must determine the functions of a committee:
- 2) may delegate duties and powers to it in terms of section 32:
- 3) must appoint the chairperson:
- 4) may authorise a committee to co-opt advisory members who are not members 30
- 5) of the council within the limits determined by the council;
- 6) may remove a member of a committee at any time: and
- 7) may determine a committees procedure.

**5.2 Section 82 ((a) and (b))of the Local Government: Municipal Structures Act, No. 117 of 2000:-**

***Part 7: Municipal managers***

**Appointment**

**82.** A municipal council must appoint:

- a) a municipal manager who is the head of administration and also the
- b) accounting officer for the municipality: and
- c) when necessary, an acting municipal manager.

**5.3 Section 59(1) of the Local Government: Municipal Systems Act, No. 32 2000**

- ✓ Setting of tariffs;
- ✓ Entering into a service agreement in terms of section 76 of the act;
- ✓ Approval or amendment of Council's Integrated development plan,
- ✓ Appointment of section 56 Managers in consultation with the Municipal Manager

**5.4 Local government: Municipal finance management act, no. 56 of 2003**

- ✓ A municipal Council has the right to make a decision on behalf of the municipality in conjunction with the Chief Financial Officer.

**6.0 POWERS DELEGATED TO THE MAYOR**

**6.1 Section 49 of the Local Government: Municipal Systems Act allows municipal council to delegate the Mayor to-**

- ✓ Preside at the meetings of the executive committee;
- ✓ Perform duties, including ceremonial functions, and exercise all powers delegated to him/her by the municipal Council.

**6.2 Section 52 and 53 of the Local Government: Municipal Systems Act, No. 56 of 2003**

1. Provide political guidance over the fiscal and financial affairs of the municipality;
2. Oversee the exercise of responsibilities assigned to the Municipal Manager and the Chief Financial Officer;

3. To take reasonable steps to ensure that the municipality performs its constitutional and statutory functions within the municipal approved budget;
4. Must within 30 days of the end of each quarter, submit a report to council on the implementation of the municipal budget and the financial state of affairs for the municipality
5. Must exercise the powers and functions as delegated by the municipal council.
6. Take reasonable steps to ensure that the municipality approves its annual budget before the end of the start of the budget year;
7. Must ensure that the municipality's service delivery and budget implementation plan is approved within 28 days after the approval of the municipal budget;
8. Ensure that service level agreements for the Municipal Manager and Section 56 managers comply with the promotion of sound financial management and are linked to the measurable performance objectives that were approved by Council.

## **7.0 POWERS DELEGATED TO THE EXECUTIVE COMMITTEE**

7.1 Executive Committees were established in terms of section 79 of the Local Government: Municipal Structures Act, no. 117 of 1998 as a sub-committee of the Municipal Council, established to ensure effective and efficient performance of any of its functions or the exercise of its powers.

### **7.2 Section 43 of the Local Government: Municipal Structures Act outlines**

#### **Council delegated functions to the Executive Committees as –**

1. to receive reports from other committees of Council and which must be forwarded together with recommendations to council;
2. identify municipal needs;
3. review and evaluate such needs in line of priority;
4. recommend to the municipal council strategies, programmes and services to address priority needs through the integrated development plan and estimates in revenue and expenditure;
5. evaluate progress against the key performance areas; and
6. review municipal performance

### **7.3 Section 60 of the Local Government: Municipal Systems Act entrust**

#### **Executive Committees with the following responsibilities:-**

1. To take decisions to expropriate immovable property or rights to immovable property and recommend to council for approval.

2. To make determinations or alterations of the remuneration benefits or other condition of service of the municipal manager or managers directly responsible to the municipal manager.

## **8.0 POWERS DELEGATED TO PORTFOLIO COMMITTEES**

8.1 Portfolio Committees were established in terms of section 80 of the Local Government: Municipal Structures Act.

8.2 Existing Portfolio Committees established in Moretele Local Municipality in terms of section 80 of the act:-

1. Special Projects Portfolio responsible for Youth, women, Gender, disabled, moral regeneration, HIV / AIDS.
2. Local Economic Development And planning Portfolio Committee responsible for job creation, economic development, town and regional planning, rural development, land use and agriculture, SMMEs, tourism and environmental management.
3. Land and Traditional Affairs responsible for land ownership and traditional affairs
4. Sports, Arts and Culture portfolio committee responsible for parks, sports, recreation and libraries.
5. IDP and PMS portfolio committee responsible for IDP, PMS, Communications, internal audit and Intergovernmental relations
6. Technical Services and housing portfolio committee responsible for Housing, water, sanitation, roads, waste management services and electricity.
7. Finance portfolio responsible for budgets, revenue, expenditure and supply chain management
8. Community Development Services responsible for social services, cemeteries, Environmental health, transport, safety and security and disaster/ risk management.
9. HR and Corporate Services portfolio committee responsible for Human Resources Management, human resources development, municipal administration, IT and Legal matters.

## **9. POWERS DELEGATED TO THE MUNICIPAL SPEAKER**

9.1 In terms of section 36 of the Local Government: Municipal Structures Act, each municipality must have a chairperson who is elected by a municipal council within its councillors, and that is the municipal speaker.

9.2 Delegated powers of the municipal speaker are outlined in section 37 of the local Government structures act as follows:-

1. To preside (serve as a chairperson) at the meetings of the municipal council;
2. Ensure that the municipal council meet at least quarterly;
3. Must ensure compliance in the council and council committees with the code of conduct set in schedule 5 of the act;
4. Must ensure that council meetings are conducted in accordance with the rules and orders if the council.
5. Develop a culture of community participation in conjunction with ward committees;
6. Develop mechanisms to consult with ward committees and
7. Ensure public access to Council meetings where the annual financial report is discussed.

## **10.0 POWERS AND FUNCTIONS OF THE MUNICIPAL MANAGER**

10.1 A municipal Council is made up of the Political structure headed by the Mayor generally responsible for policy making and the administrative arm headed by the Municipal Manager generally responsible for the execution of the decisions made by the political structure of the municipal council. In terms of section 59 of the systems act, municipal council delegates administrative responsibilities of council to the municipal manager as follows:-

**10.2 Section 82 of the municipal structures act, mandate a municipal council to appoint a municipal manager who is a head of administration and also the accounting officer for the municipality, and further to that:-**

**10.3 Section 55 of the systems act, indicates that the municipal manager as head of administration, subject to the policy directives of council is responsible and accountable for:-**

1. The formation and development of an economical, effective, efficient and accountable administration;
2. The implementation of the integrated development plan;
3. Operating in accordance with the municipal performance management system;
4. Responsive to the needs of the local community to participate in the affairs of the municipality;
5. The provision of services to the community in a sustainable manner;



6. The appointment of staff other than those referred to in section 56 of the act(Directors);
7. The management, effective utilisation and training of staff;
8. The promotion of sound labour relations and compliance to applicable labour legislation;
9. Advising political structures and political office bearers of the municipality;
10. Managing communications between the municipality`s administration and the political office bearers;
11. Carrying out decisions of political structures and political office bearers of the municipality;
12. The administration and implementation of municipality`s by-laws and other legislation;
13. Exercising any powers and the performance of any duties delegated by the municipal council;
14. Facilitating community participation;
15. The implementation of national and provincial legislation applicable to the municipality;

**10.4 Section 62 - 64 of the Local Government: Municipal Finance Management Act, no. 56 of 2003 the general financial functions delegated to the municipal manager to manage the financial administration of the municipality by ensuring:-**

1. That the resources of the municipality are used effectively, efficiently and economical;
2. That full proper records of the financial affairs of the municipality are kept in accordance with any prescribed norms and standards;
3. That unauthorised, irregular, wasteful and fruitless expenditure and other losses are prevented;
4. That disciplinary and criminal proceedings are instituted against any official of the municipality who allegedly committed to an act of financial misconduct;
5. The implementation of a tariff and rates policies as may be required by the applicable national legislation;
6. That credit and debt collection systems are put in place;
7. The safeguarding of municipal assets and liabilities;
8. That assets and liabilities are valued in accordance with the standards of generally recognised accounting practice,

9. That the municipality maintains a system of internal control of assets and liabilities
10. That the municipality has an effective revenue collection systems;
11. That revenue due to the municipality is calculated on a monthly basis;
12. That the municipality has and maintains a system of internal control in respect of debtors and revenue;
13. That all revenue received by the municipality is reconciled at least on a weekly basis;
14. Maintain an effective system of expenditure control;
15. Maintains a system of internal control in respect of creditors and payments;
16. Money owing by the municipality be paid within 30 days of receiving on invoice or statement;
17. That the municipality`s supply chain management policy be implemented fairly, equitably, transparently and in a competitive and cost effective manner; and
18. That all financial accounts of the municipality are closed at the end of each month and reconciled with its records.
19. Ensure that he reports to council on all expenditure incurred by the municipality on salaries, wages, allowances and benefits;
20. To assist the mayor in the facilitation of the budget process.

### **11.0 Municipal Directorates:**

11.1 Other than the appointment of the Municipal Manager as head of administration and the accounting officer of a municipality, a Municipal Council in consultation with the Municipal Manager has to appoint Managers directly accountable to the Municipal Manager as outlines or guided by section 56 of the Local Government: Municipal Systems Act, No. 32 of 2000. Moretele Local Municipality`s administration headed by the department of the Municipal manager, supported by 5 directorates, which are:

- ✓ Human resources and corporate services
- ✓ Finance
- ✓ Local Economic Development and planning
- ✓ Technical and housing services
- ✓ Community development services

Each having a responsible director appointed in terms of section 56 of the act and the tasks that they perform are delegated to them by the Municipal Manager in line with appropriate legislation and other relevant practices as follows:-

## **11.2 GENERIC\ COMMON FUNCTIONS OF DIRECTORS**

1. To exercise Strategic Leadership – Municipal and Departmental Planning
2. To ensure good Communication (Internal or External)
3. Good Customer Care Practices;
4. Good Project Management Practices and
5. Sound Financial Management practices.

## **11.3 SPECIFIC FUNCTIONS OF DIRECTORS**

### **11.3.1 Director: Human Resources and Corporate Services**

11.3.1.1 Objective: is to drive the planning and implementation of all duties that should enable the municipality to function effectively as an Institution and its typical functions are follows:-

1. Ensuring effective and efficient human resources management practices;
2. Ensure effective, efficient and economical human resources development;
3. Promote good working relations; and employee wellness
4. Establish and maintain a legislatively compliant Occupational health and safety function.
5. Ensure proper records management;
6. Ensure good maintenance of municipal fleet;
7. Ensure effective and efficient information communication and technology systems;
8. To ensure effective employee remuneration.
9. To ensure a well functioning secretariat unit.

11.3.1.2 The Director: HR and Corporate Services has to exercise powers vested in him/her by the municipal manager to propose or recommend additional staff which can be employed to his/ her office to assist him/her in the implementation of functions assigned to his/her directorate.

11.3.1.3 Staff Relocation and rotation be seriously considered and encourage good workmanship

### **11.3.2 Chief Financial Officer**

To drive the planning and implementation of all duties pertaining to municipal finances, focusing on both internal and external municipal institutions and this directorate is entrusted to ensure:-

1. The implementation of a tariff and rates policies as may be required by the applicable national legislation;
2. That credit and debt collection systems are put in place;
3. The safeguarding of municipal assets and liabilities;
4. That assets and liabilities are valued in accordance with the standards of generally recognised accounting practice,
5. That the municipality maintains a system of internal control of assets and liabilities
6. That the municipality has an effective revenue collection systems;
7. That revenue due to the municipality is calculated on a monthly basis;
8. That the municipality has and maintains a system of internal control in respect of debtors and revenue;
9. That all revenue received by the municipality is reconciled at least on a weekly basis;
10. Maintain an effective system of expenditure control;
11. Maintains a system of internal control in respect of creditors and payments;
12. Money owing by the municipality be paid within 30 days of receiving on invoice or statement;
13. That all financial accounts of the municipality are closed at the end of each month and reconciled with its records.
14. Ensure that he reports to council on all expenditure incurred by the municipality on salaries, wages, allowances and benefits;
15. To assist the mayor in the facilitation of the budget process.

## **12 Director :Technical Services**

### **Duties and Responsibilities**

- ✓ Ensure adequate provision of basic services: Water, Electricity and Sanitation
- ✓ Ensure installation and good maintenance of Roads and Storm-water drainage;
- ✓ Ensure good maintenance of roads;
- ✓ Ensure adequate provision of housing and other infrastructure;
- ✓ Ensure good Town Planning

**13 Director: Local Economic Development**

**Duties and Responsibilities**

- Establishment of SMME`s and Tourism
- Agriculture and Land Use
- Solis Waste Removal
- Ensure good environmental Management

**14 Director: Community Development Services**

- Sports, Arts and Culture;
- Poverty eradication
- Youth, women and people with Disabilities;
- Public Transport Management
- Fire and Disaster Management