

UNIVERSITY OF THE
FREE STATE
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**INTERGOVERNMENTAL RELATIONS AS A VEHICLE TO IMPROVE SERVICE
DELIVERY AND IMPLEMENT BACK TO BASICS (B2B) PROGRAMME IN
GAUTENG (CASE STUDY EMFULENI LOCAL MUNICIPALITY)**

By

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Submitted in partial fulfilment of the requirements in respect of the Master's Degree
Qualification Governance and Political Transformation in the Department
Governance and Political Studies in the Faculty of the Humanities at the University of
the Free State

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2021

DECLARATION

I, Jabulani Henry Kgomo, hereby declare that the mini-dissertation that I herewith submit for the Master of Arts in Governance and Political Transformation at the University of the Free State, is my independent work, and that I have not previously submitted it for a qualification at another institution of higher education. I also declare that all reference materials used for this study have been properly acknowledged.

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ACKNOWLEDGEMENTS

I would like to express my sincere gratitude to Dr Tania Coetzee for the assistance at every stage of the research study for her insightful comments and suggestions. The invaluable advice she gave me and continuous support for me to continue with each and every chapter of the study is invaluable. Her immense knowledge and plentiful experience have encouraged me at all times.

I would like to thank Ms Carmen Nel and Ms Michelle Woolley for their technical and language editing of the document. I would also like to express my gratitude to my wife Mokgadi Kgomo, my mother, Maria Kgomo, my sister Tetile Mkhwanazi, and my daughters, Naledi Kgomo, Moroshadi Kgomo, Mmaphuthi Kgomo and Lesedi Kgomo. Without their tremendous understanding and encouragement during my studies, it would have been impossible for me to complete my studies.

ABSTRACT

The Back to Basics (B2B) Programme was launched in September 2014 by the Minister of CoGTA and it classified municipalities into three categories, namely, municipalities that are doing well, municipalities at risk of dysfunctionality and municipalities that are dysfunctional. The B2B Programme's objective is to build a responsive, caring and accountable local government, which has the capacity to exercise its legislative imperatives effectively and efficiently. B2B operates within the framework of intergovernmental relations to achieve the objectives of service delivery. Intergovernmental relations is a platform that facilitates and coordinates the function of the B2B. The linkage between B2B takes place within the ambit of the applicable local government policy and legislation that guide implementation of programmes. The motivation of this study was underpinned by the relationship between intergovernmental relations and B2B to improve service in Emfuleni Local Municipality (ELM). The aims of the study were to investigate the role of intergovernmental relations as a platform to facilitate the implementation and improvement of service delivery. The research question is concerned with how effective intergovernmental relation structures are in achieving the objectives of the B2B Programme, which seeks to address service delivery challenges? The study combined an explanatory research and analytical research through a literature review of material on the same subject. The study discussed the profile of Emfuleni Local Municipality in terms successes and failures of service delivery within the context of B2B. The analysis and interpretation of the study were informed by the research objective and compliance with the Constitution no.108 of 1996 of the Republic of South Africa and applicable legislation. The focus was particularly concerned with service delivery to communities in a sustainable manner. The findings of the study indicated a lack of cooperation and ineffective intergovernmental relations structures. B2B could not achieve the objectives of service delivery through intergovernmental relations. The conclusion with the lessons learned, and the value of the study, recommend that all three spheres of government must collaborate in a coherent and a cohesive manner to deliver services within the context of B2B. Lack of cooperation and collaboration of intergovernmental relations structures in the implementation of B2B provide the answer to the research questions.

Key words: Back to Basics (B2B) Programme, Emfuleni Local Municipality; Intergovernmental Relations (IGR), Service delivery

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LIST OF ABBREVIATIONS

| | |
|---------|--|
| B2B | Back to Basics Programme |
| CoGTA | Cooperative Governance and Traditional Affairs |
| DWS | Department of Water and Sanitation |
| ELM FRP | Emfuleni Local Municipality Financial Recovery Plan |
| ELM IDP | Emfuleni Local Municipality Integrated Development Plan |
| ELM | Emfuleni Local Municipality |
| FRC | Financial Recovery Plan |
| IDP | Integrated Development Planning |
| IGR | Intergovernmental Relations |
| KPAs | Key performance indicators |
| MEC | Member of Executive Council |
| MFMA | Municipal Finance Management Act no.32 of 2000 |
| MIG | Municipal Infrastructure Grant |
| MinMEC | Minister and Member of Executive Council |
| MSA | Municipal Structures Act. No 117 of 1998 |
| MSA | Municipal Systems Act No.32 of 2000 |
| NCOP | National Council of Provinces |
| NEMWA | National Environmental Waste Management Act No. 59 of 2008 |
| PCF | Premier Coordinating Council |
| PCF | Presidential Coordinating Forum |
| SAHRC | South African Human Rights Commission |

CHAPTER 1 :

GENERAL ORIENTATION OF THE STUDY

1.1 INTRODUCTION

Intergovernmental relations (IGR) are about the relationships between spheres of government in planning, coordination and response to service delivery imperatives. The definition goes further to encompass government relations with external factors that are critical stakeholders in development and service delivery. The Constitution of the Republic of South Africa (Act 108 of 1996) states that IGR are the basic interactions within and between spheres of government with regard to exclusive and concurrent functional areas.

The reciprocal relationship between spheres of government in delivering services is defined as IGR. These relations and interaction are regulated by the supreme legislation referred to as the Constitution of the Republic of South Africa (van der Waldt, 2003:166). Van der Waldt (2003) cites Chapter 3 of the Constitution no.108 of 1996 of The Republic of South Africa, which provides the guidelines as enabler to deal with challenges of good governance, policy co-ordination, efficient and effective delivery of services and management of public resources. Phakathi (2016:20) concurs with van der Waldt (2003:166) that in a constitutional approach the constitution and legislative provision are crucial in governmental relations. The constitutional/legal approach entails analysis of structural and hierachieral analysis of the Constitution and legislations that concern relations between government institutions. IGR are enacted in section 40 of the Constitution no.108 of 1996 of the Republic of South Africa. This framework facilitated the enactment of Intergovernmental Relations Act no.13 of 2005 (IGFRA).

Phakathi (2016:23) articulates the four categories upon which IGR are divided: (1) IGR, which is a relationship between government departments; (2) Intra-governmental relations, which is a relationship within the government departments (3) Extra-governmental relations, which is a relationship between government departments and communities or civil society organisations (4) Interstate relations, which is a relationship between sovereign states.

Kahn, Madue and Kalema (2016:11-14) discuss the vertical IGR that is a relationship between different spheres of government. It involves the relationship between national government, provincial government and local government. Power relations form the bedrock of this relationship, given that the national government has dominant powers over the other two spheres of government. National government is in control of resources allocation and the priorities for delivery. Kahn *et al.* (2016:11-14) outline the intergovernmental horizontal relations, which entail relations between executive government institutions of equal hierarchic that are headed by the executive ministers. Intra-governmental relations are a relationship between the Executive Ministry and Cabinet. Extra-governmental relations entail a relationship in which government promotes and advances the norms of the society in engagement.

Gaoretelelwe (2017:47) concurs with Kanh *et al.* (2016) and cites Levy and Tapscott (2001:26) that the national-provincial, provincial-local and national-local constitute the vertical components of IGR as different spheres of government who engage to achieve their objectives and the objectives of municipalities. According to Levy and Tapscott (2001:17–26), it is the interaction between government institutions of the same level of hierarchy. Inter-provincial or inter-local government spheres are referred to as horizontal relations or IGR.

IGR are imperative to provide traction to service delivery in all spheres of government. Ile (2010:53) agrees with Levy and Tapscott (2001:17-26) that IGR and cooperative government provide a mechanism for different spheres of government to participate effectively in the execution of their constitutional responsibilities, however, the relationship is both vertically and horizontally.

Haurovi (2012:7) articulates that the 1994 democratic dispensation facilitated the establishment of three spheres of government that are interdependent, interrelated and distinctive. The national government carries more autonomy, power and authority over the other spheres of government, whereas the provincial government and local government have executive and legislative powers in their own respect. This arrangement has created a governance system which consists of one national government, nine

provincial governments and 283 municipalities that constitute local government in South Africa.

The three spheres of government are established in terms of Chapter 3 of Section 140 of the Constitution no.108 of 1996 of the Republic of South Africa, which provides for IGR.

Leonard and Brand (2010:657) emphasize the view of three spheres of government and that the Constitution no. 108 of 1996 of the Republic of South Africa provides for provincial government to have its own constitution and exclusive powers on concurrent functions. However, if there is a conflict between national legislation and provincial legislation, the national legislation prevails in terms of section 146,148 and 150 of the Constitution no.108 of 1996 of the Republic of South Africa.

Kahn *et al.* (2016:31) argue that the power and authority is centralised at the national level in a unitary state system. Provincial government and local government are subjected to national control through legislation and policies. However, the South African governance system has both features of a unitary state and a federal state. However, Kahn *et al.* (2016:31) put emphasis that it is difficult to determine whether the Republic of South Africa is a unitary or federal system, given that provinces have strong federal features, e.g. provincial governments can exercise legislative authority and collect revenue for some services rendered to the public.

Sokhela (2006:62) illustrates examples of federal features in the Constitution no.108 of 1996. The Constitution establishes all spheres of government and gives them powers in terms of Section 40(1) and Section 41 of the Constitution no. 108 of 1996 guarantees autonomy of each sphere. In contrast, Section 155(7) of the Constitution no.108 of 1996 states that national and provincial government have legislative and executive powers over municipalities in respect of matters related to schedule 4 and 5.

Provincial government and local government have powers to legislate on concurrent functions, such as health, housing and education. National government passes legislation and policies. The provincial government has an equal responsibility to pass legislation and policy frameworks for implementation of service delivery in conjunction with local government.

Levy and Tapscott (2001:67) stipulate Section 40(1) of Constitution no.108 of 1996 of the Republic of South Africa, which stipulate three spheres of government, national government, provincial government and local government and that each sphere of government is distinctive, interrelated and interdependent. Schedule 4 and 5 of the Republic of South African Constitution no.106 of 1996 provide for concurrent function and powers between spheres of government.

Craythorne (2006:14-15), as cited in Pietersen (2017:2), gives clarity that the different spheres of government are 'distinctive' as they function separately from each other, "interdependent" as they should respect each other's roles and responsibilities and interdependent, as each sphere has links with different spheres in the country to function. Section 41(1) of the Constitution of the Republic of South Africa no. 108 of 1996 states that the different spheres of government must give support to the other spheres. Geldenhuys (2005:54) cites Section 40(1-2) in Chapter 3 of The Constitution no. 108 of 1996 of The Republic of South Africa that explains that government in South Africa is constituted of national, provincial and local spheres of government. Geldenhuys (2005:54) affirms the view that the three spheres are distinctive, interdependent and interrelated. In their specific environments, they must comply with the principles of Chapter 3. The principle of co-operative governance should guide the conduct their activities of government and IGR.

Section 41(1) of the Constitution of the Republic of South Africa no. 108 of 1996 is the pinnacle of Section 154 that stipulates that "The national government and provincial government, 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". Hence, Dlanjwa (2013:12) insinuates that national priorities and developmental objectives find expression at local government. Local government should facilitate national plans and strategies as it is the sphere that is closest to the people. It is therefore of paramount importance for national and provincial spheres to have suitable conditions and commitments to facilitate the national objectives (Dlanjwa, 2013:12)

Craythorne (2006:14-15), as cited in Pietersen (2017:2), refers to Section 155 (6) of the Constitution of the Republic of South Africa that the provincial sphere should support local

government. Section 155 of the Constitution no. 108 of 1996 of The Republic of South requires the provincial government to monitor the performance of municipalities. “Monitoring occurs when one sphere measures the compliance of another sphere with legislative directives. Both national and provincial governments have a constitutional duty to monitor local government. The Constitution no. 108 of 1996 provides in Section 155 (6) (a) that provincial governments must provide for the monitoring and support of local government in the province. Section 155 (7) of the Constitution provides that national and provincial governments must see to the performance of municipalities”.

Whereas Section 105 (1) of the Municipal Systems Act no. 117 of 2000 stipulates that “[t]he MEC for local government in a province must establish mechanisms, processes and procedures in terms of Section 155(6) of the Constitution to -

- (a) Monitor municipalities in the province in managing their own affairs, exercise their powers and perform their functions;
- (b) Monitor the development of local government capacity in the province; and
- (c) Assess the support needed by municipalities to strengthen their capacity to manage their own affairs, exercise their powers and perform their function” (Mdliva, 2012:34).

Hattingh (1998:4) emphasizes that as the responsibility of spheres of government increases, the more relations internally and externally of government become more complex and complicated to manage. These complex relations necessitate cooperative governance between spheres of government in the execution of service delivery.

Gildenhuys (1993:409) puts emphasis that cooperative governance is a mechanism through which IGR find expression between different spheres of government. Integration and alignment of service delivery programmes are an essential element to ensure an effective intergovernmental relation. Motingoe (2012:59) shares the view that cooperative governance and IGR are a mechanism that coordinates and integrates government departments, organs of state and municipal service delivery activities.

An effective intergovernmental relation requires spheres of government to establish partnerships in a spirit of cooperation. Van der Waldt (2018:17) affirms that the

establishment of the principles of cooperative governance are an essential element to protect the local government being reduced into an agent of the national and provincial government. It makes reasonable sense to give more powers and authority to local government as it is closer to communities compared to the other two spheres of government.

Gildenhuys (1993:409) supports the assertion that the roll-out of bulk service delivery of differentiated nature that are executed by various government departments, cannot be done in a silo approach or disintegrated fashion. It is therefore noted that service delivery requires coherent planning, budgeting, alignment and proper coordination.

Parnell, Pieterse, Swilling and Wooldridge (2002:80) refer to the autonomous system of local government that provides bulk infrastructure, economic development programmes, provision of subsidies and spatial planning to address human settlements.

Human settlement is often confused and specifically defined within the connotation of housing delivery, however, human settlement is about the availability and provision of integrated services and development within a particular space. This encompass on the availability of schools, clinics, libraries, police stations, emergency services, etc. Senoamadi (2014: iii) emphasizes in his abstract that human settlement improves the lives of communities, as it brings along integrated services like education, recreation, healthcare, electricity, economic opportunities and other community amenities.

Human settlement therefore calls for the role of other spheres of government to deliver on their mandate within the local government's spatial planning and integrated development.

Integrated development planning (IDP) is a five-year vision that specifically outlines the development traction of the Municipality in a holistic approach. Each sphere of government must align its development programmes in line with the municipal vision. Mbecke and Mokoena (2016:100) highlights that for IDP to be successful, it requires collaboration, coordination and cooperation of different spheres of government. This includes civil society organisations and the communities.

Solomons (2016:12) articulates the legislative provision for municipalities to develop IDP in their area of jurisdictions. Solomon (2017:12) further refers to Section 29(1) (b) (i) and (II) of the Municipal Systems Act no. 117 of 2000, which states that:

- (a) The local communities should be consulted on its development needs and priorities; and
- (b) The local communities to participate in the drafting of the integrated development plan.

Different spheres of government have a constitutional responsibility to deliver on their mandate. Each sphere cannot carry out its mandate in isolation, however, it needs to collaborate with other spheres to partner in the implementation of development programmes and service delivery. However, Cloete and Thornhill (2005:58) refer to Section 41 (i)(e) of the 1996 Constitution no.108 of the Republic of South Africa, which provides for the respect of status of each sphere of government, irrespective of the requirement for national coordination to prevent conflict of interest and policies.

IGR in a nutshell, is fundamental to bring about planning, budgeting, coordination, alignment and streamlining service delivery in a coherent and cohesive manner, e.g. IDP's are a critical instrument of alignment and coordination between spheres of government and other development agents. IGR planning processes take place within the context of Back to Basics (B2B) Programme.

The Minister of the Department of Cooperative Governance and Traditional Affairs, Mr Pravin Gordhan's, presentation (2014b) indicates five pillars of B2B Programme. The following are the pillars of B2B.

1.2 BACK TO BASICS (B2B) PILLARS

1.2.1 Putting people first and engaging with communities

This about meeting the needs of the community and participation of communities in governance matters, e.g. establishment of ward committee systems in municipalities.

1.2.2 Delivering basic services

Municipalities should provide basic services like electricity, water, sanitation, solid waste removal, provision of road infrastructure and social infrastructure.

For instance, refuse removal, grass-cutting and road maintenance are some of the basic services that municipalities are mandated to provide.

1.2.3 Good governance

This entails regular meetings of the council, functioning of portfolio committees, ethical conduct of councilors and officials, as well as accountability, transparency and the rule of law in council decision making, e.g. portfolio committees deliberating on matters and making recommendations to council for a resolution.

1.2.4 Sound financial management

This entail the passing of the council budget, proper, financial reporting systems, internal controls systems, internal auditing, revenue collection, supply chain management, e.g. the council must pass the budget before the beginning of the financial year in July.

1.2.5 Building capabilities

This is about filling of vacant positions at a senior management level and at lower level of service delivery. It is also about the availability of financial management skills, technical skills and engineering skills. The development of human resources policies and strategies, e.g. municipalities should recruit competent and skilled staff to serve the communities. The aforementioned pillars form the foundation for B2B Programme. The pillars were developed in line with the vision of White Paper on Local Government.

1.3 MOTIVATION FOR THE STUDY

There is a reciprocal relationship between intergovernmental relations and B2B. Service delivery can be improved if there are effective IGR structures. The research study on IGR as a vehicle to B2B is important to improve cooperation of different spheres of government to build the capacity of local government to meet the needs of the community. This entail good governance, viable financial status, competent and skilled human resources, infrastructure development and maintenance, service delivery, responsiveness and meaningful public participation. The research on this topic could assist to find a solution to the IGR capacity challenges faced by local government in Gauteng.

This could overcome the obstacles that hamper B2B Programme to become an effective intervention and support mechanism to turn around the status quo in municipalities. The findings of the study could shape IGR to become an effective platform for B2B in Gauteng to make a positive impact in municipalities. This can lead to further research based on the recommendations of the study.

The study would assess the structures, systems and processes of IGR to support the roll-out of B2B Programme in Emfuleni Local Municipality (ELM). IGR and cooperative governance facilitate a platform for B2B Programme to achieve the indicators of the B2B pillars. IGR could facilitate cooperative agreement between government organs, while cooperative governance forms a conduit for B2B Programme to propel faster. IGR structures form a bedrock for B2B Programme.

The President Coordination Committee, the Premier Coordination Forum, MinMeC, and Provincial Executive Councils are the highest structure of intergovernment in which B2B Programme finds expression. However, Kahn *et al.* (2016:123) are of the view that the Promulgation of Intergovernmental Relations Act no. 13 of 2005 could not resolve some of the challenges of IGR, e.g. the role of provincial government in monitoring and supporting municipalities, as at times it is very murky, particularly the role of provincial government in supporting municipalities, given the reality that municipalities have a myriad of challenges that require interventions of the national government and the provincial government.

White Paper on Local Government (1998) states that “It is clear that national government is increasingly looking to local government as a logical point of coordination and a necessary vehicle for the implementation of policies and programmes. Provincial governments are also decentralising certain functions to local government. At the same time, local government is constitutionally obliged to participate in national and provincial development programmes. It is also clear that the policies and programmes of other spheres have wide-reaching implications for local government, and can potentially have a positive impact on municipal capacity and a strong synergy with municipal programmes. National and provincial government can build local government capacity through the way they execute their own programmes, and enhance the effectiveness of both. Some of the ways in which this can happen are:

- Working with local government directly: If national and provincial departments commit themselves to working through local government directly, substantial resources could be made available to municipalities to conduct their constitutionally assigned powers and functions. Depending on the nature of the funding, it may contribute significantly to local government’s institutional development, as well as general development and delivery programmes. Municipalities often find themselves working in parallel with a range of local offices of government departments. The activities of these parallel structures are sometimes difficult to incorporate into integrated development plans, and may also undermine the authority of local government to govern within its area of jurisdiction. If local government is to govern effectively and play an integrating, coordinating role at the local level, some of the activities of these structures may need to be brought under local government authority.
- Integrating programmes into municipal integrated development plans: Municipalities are expected to develop local infrastructure investment plans on the basis of integrated development plans. However, national and provincial departments have major infrastructure programmes of their own, which are not always executed with the active and informed participation of municipalities. Some of these national and provincial investments may impose unforeseen future costs on municipalities. Integrated planning is needed to coordinate national, provincial

and local investments in municipal areas of jurisdiction, to ensure that scarce resources are utilised for maximum impact.

- Coordinated decentralisation and the assignment of powers: National and provincial government are constitutionally permitted to devolve powers and functions to local government. While decentralisation is often desirable to improve the effectiveness of government as a whole, it is not without problems. The devolution of a new function to local government may occur without it being accompanied by the financial and administrative capacity required to sustain it, what is termed an unfunded mandate. Unfunded mandates strain local government's limited resources and, ultimately, result in a lack of delivery.”

The Practitioner's Guide to Intergovernmental Relations (DPLG, 2008), outlines the constitutional imperatives to create harmonious relations through the channels of communication as a primary reason of the overall IGR structures to exist. Critical to the goal of the structures is to reach a common goal through cohesion in the execution of a common economic plan. Due to the silo approach of provincial departments, coherence is a far-fetched idea. Cooperative forum is of vital importance to discuss inconsistent departmental policies or practice, decentralization, consultation on monitoring policies and procedures, and issues of autonomy like powers and functions. Inclusive approach can be attained by all stakeholders as a consultative body rather than a governing structure.

Ramogayane (2019:4) postulates a compelling case about the significance of IGR and indicates that IGR was a consequence of failure of a centralization system and centralization is of vital importance to promote government responsiveness and effectiveness in delivery of services in the public service sector. Ramogayane (2019:4) further explains the theory and significance behind IGR, as well as the efficiency and economics of public service. The theory identified important consideration in the design of government systems and allocation of functions between spheres of government. The baseline of this theory is fiscal decentralization that is underpinned by a decentralized system of government. Firstly, the rationale behind this theory is that decentralization promotes efficient allocation and use of resources at a local government level to meet the

needs of the community and improve service delivery. Secondly, decentralization promotes good governance to satisfy the community needs. Ramogayane (2019:4) emphasizes that the case for decentralization enhances experimentation and learning. The question of allocation of powers and functions are succinctly defined for effectiveness and better service delivery to communities.

1.4 THE RESEARCH PROBLEM

Local Government SETA Research Report (2019) explains the reciprocal relationship between IGR and B2B Programmes. However, the Parliament Select Committee on Cooperative Governance and Traditional Affairs Report (2018) paints a bleak picture on the affairs of ELM. The ELM has been facing major economic, financial, governance, institutional and service delivery challenges over the past few years.

The Select Committee Report (2019) explains that ELM is beset by major economic, financial, governance, institutional and service delivery challenges over the previous years. This compelled the Gauteng Cabinet to implement a mandatory Section 139 (1)(b)(i) and Section 139 (5) (a) of the Constitution, in conjunction with Section 139(1) of the MFMA. The Section 139 intervention took place without dissolving the existing council.

1.4.1 Research questions

- (a) How effective are intergovernmental relations (IGR) structures and functionality in the Municipality?
- (b) What is the role of other spheres of government in service delivery in Emfuleni Local Municipality (ELM)?
- (c) To what extent has the implementation of the B2B Programme in Emfuleni Local Municipality (ELM) been addressed the long-standing challenges of service delivery?

1.5 AIMS AND OBJECTIVES OF THE STUDY

The aims of the study were to investigate the role of IGR as a platform to facilitate the implementation and improvement of service delivery and to establish the impact made by the intervention through B2B Programme. The aims combined an explanatory research and analytical research. Babbie and Mouton (2001:81) postulate that the explanatory questions seek a detailed explanation of why things occur in the situation or the phenomenon. It attempts to find the reasons as to why things occur and find a solution. Sarma and Misra (2006:1-2) articulate that the analytical question collates information and analyses it and critics the information in comparison to what is already researched in the study. The study sought to interrogate collaboration, coordination, cooperation, planning, budgeting and responsiveness between spheres of government in the implementation to improve service delivery and how is B2B Programme implemented.

The objectives of the study were the following:

1. To identify a conceptual and legal framework for cooperative governance and intergovernmental relations (IGR) and the relationship with Back to Basics (B2B) Programme in Gauteng.
2. To assess the effectiveness and functionality of intergovernmental relations structures in Emfuleni Local Municipality (ELM).
3. To investigate the challenges and problems of intergovernmental relations (IGR) on service delivery.
4. To establish on how effective Back to Basic (B2B) Programme is.
5. To identify mechanisms that can be appropriate for intergovernmental relations (IGR) and implementation of Back to Basic (B2B) Programme.

1.6 RESEARCH METHODOLOGY

Research methodology refers to how the research is to be conducted and would ultimately influence the research methods and techniques. Sarma and Misra (2006:3) explain that research methodology defines the whole process on how is the research is to be conducted. In a nutshell it is a blueprint of research. The research tradition to be

applied in this study is interpretivism, as it is about meaningful understanding and the subjective interpretation of the phenomenon. The assumption is based on the past experiences and knowledge of social interaction. It is therefore based on epistemological interpretivism. It is about knowing and understanding the situation based on a real situation and environment. Maree (2016:61) outlines the following assumption of the interpretivist perspective.

1.6.1 Human life can only be understood from within

It focuses on how people interpret the world subjectively from their own experiences and interpretation of the social world. Different spheres of government tend to interpret IGR and cooperative governance according to their political perspective, e.g. the relationship between the Gauteng Provincial Departments and Municipalities that are dominated by the ruling party is sometimes compromised by political party patronage. Issues of service delivery are subjectively approached.

1.6.2 Social life is distinctively a human product

Every situation is unique and therefore, it is imperative to understand the situation with its context and to interpret the meaning as constructed. B2B uses a differentiated approach to ensure that support is tailor made according to the need of the municipalities, e.g. support given to metros is different compared to support given to smaller local municipalities.

1.6.3 The human mind is the purposive source or origin of meaning

This is based on exploration of the depth complexity of the study. Understand the meaning of different parts and the how, constitute the whole phenomenon. The different spheres of government have power and authority. The combination of all these spheres constitutes the state, e.g. the Republic of South Africa is established by national government, provincial government and local government.

1.6.4 Human behavior is affected by knowledge of the social world

There are multiple ways to explain the phenomenon as it changes over time, given the place, as well as the circumstance. Changes in life could definitely affect human behavior and attitude. The support and interventions in municipalities by national government and provincial government have evolved over time, based on the prevailing circumstances, e.g. changes in political and economic situations would influence the relationship between spheres of government.

1.6.5 Social world does not exist independently of human knowledge

This assumption is closely linked to the ontology of the real world the way we perceive it and learn from it and the epistemology of knowledge and experience that arise from learning. Knowledge and experience should be drawn from previous turnaround support strategies in terms of the failures and success that are based on the real situation, e.g. lessons should be drawn from the Local Government Turnaround Strategy (LGTAS) to improve on the implementation of B2B Programme.

The research used a deductive approach to research. The investigation started broadly with developmental local government, IGR and moved to specific B2B hurdles and challenges.

The cognitive interest is historical hermeneutic, which is based on in-depth understanding of the phenomenon. McBurney and White (2004:216) postulate that the task of the scholar is to find the original meaning of the text.

The research type is a combination of explanatory research and analytical research of ineffectiveness of B2B Programme within IGR' space and attempt to find the reasons and answers to the question. An explanatory research attempts to explain the nature of the situation as per the status quo and attempts to find the reasons why things occur the manner in which they do. More emphasis would be on analysis of information from B2B reports and performance of local government. Sarma and Misra (2006:1) highlight that analytical research involves that the obtaining of information and the relationship of

variables are established through a critical analysis through the available information that has been researched in the topic.

It is a qualitative research in nature, which attempts to get a meaningful understanding of the phenomenon in its context. Welman, Kruger, and Mitchell (2005:183) explain that qualitative research is an overarching approach that covers a range of interpretative techniques that aim to describe, decode and translate the meaning of the phenomena in its natural environment. In this study, we investigated challenges and problems of IGR and B2B in its natural environment and sought to get a solution to those problems.

The study used literature reviews to collate information. Quinlan (2011:152) highlights the purpose of literature for researchers as the following:

- To develop their own knowledge and experience on the study of phenomenon;
- Determine what has been researched and still needs to be investigated in the discipline;
- Close the gaps that exist in the field of study. The research can contribute to the body of knowledge; and
- Create a theoretical foundation for the study on the research topic.

The study used secondary data sources. The study entailed the desktop review through analysis of documents and other relevant credible sources, such as electronic journals, newspaper articles, academic articles, government policies, intergovernmental reports, the Constitution of the Republic of South Africa's Policies and Acts of Parliament. Other sources were local government reports, auditor general reports on financial performance, speeches of prominent politicians in conference and summits. The topic of research was used to obtain credible sources of information. Libraries were visited to search for information from authors on IGR. Informal discussions were held with colleagues who are IGR practitioners who work directly with the selected municipality.

1.7 LAYOUT OF PRELIMINARY OF CHAPTERS

This study is divided into the following five chapters.

Chapter 1: General orientation of the study

This chapter outlines the introduction and the rationale behind the study in terms of factors that contribute to the study's problem statement, highlights challenges and lack of service delivery problems and their impact to communities. Research methodology entails qualitative research through a desktop literature review of material that is written about the study, and research questions that relate to the problem statement of the study. Aims of the research are outlined and the specific objectives that the study sought to achieve.

Chapter 2: The conceptual foundation, legislative and policy for intergovernmental relations (IGR) and Back to Basics (B2B) Programme

This chapter discusses the evolution of IGR, Section 140 of the Constitution no.108 of 1996 of The Republic of South Africa. Other points that are discussed are: the legislative framework governing IGR that guide the study; the policy prescript that inform IGR; the principles of IGR; the challenges that are inherent in IGR; IGR structures and their functions; as well as the concept of IGR service delivery. The municipal infrastructures grant allocation for infrastructure improvement in municipalities is explained. Relationships between IGR and B2B Programme are discussed. The implementation process of IDP is lastly summarized.

Chapter 3: Back to Basics (B2B) Programme

The chapter outlines what B2B Programme entails. The reason behind the programme is discussed, as well as the aims and the objectives of the programme, the legislative framework and policies that guide the programme. The concept of B2B Programme is discussed and the strategies to roll-out the programme. The previous support programmes that were put in place to support municipalities and the achievements and the challenges of B2B Programme are deliberated.

Chapter 4: Profile of Emfuleni Local Municipality (ELM)

This chapter discusses the profile of ELM in terms of the geographical area, the category of the Municipality and governance system, population of the region, as well as the socio economic status of the region. The functions of political spheres and the administration of the Municipality are discussed, different departments of the municipality, as well as the intergovernmental relation system in the municipality.

Chapter 5: Analysis of the institutional challenges and IGR interventions in the Municipality

Analysis of the functioning of the Municipality and the institutional challenges of ELM in terms of service delivery, the Financial Recovery Plan (FRP) and implementation of Section 139 of the Constitution of the Republic of South Africa to turn around the Municipality are discussed. Budget and IDP implementation, evaluation on how effective are IGR structures, and a look at the implementation of B2B Programme, are discussed.

Chapter 6: Findings recommendations and conclusion

Findings, recommendations and the conclusion of the study of IGR as a platform to implement to improve service delivery, are discussed. B2B Programme's findings are critical to establish the status quo in the Municipality. A conclusion is drawn and proposals are made on the impact of IGR on B2B Programme. The conclusion is based on the findings of the study and a way forward is suggested.

CHAPTER 2 :

THE CONCEPTUAL FOUNDATION, LEGISLATIVE AND POLICY FOR INTERGOVERNMENTAL RELATIONS (IGR) AND BACK TO BASICS (B2B) PROGRAMME

2.1 INTRODUCTION

This chapter is a culmination of all the facts in chapter 1. The chapter focuses on IGR and cooperative governance. The specific focus is on historical development of IGR, as well as on IGR during the interim phase of the transformation of local. The objectives of IGR are outlined in detail in terms of what it seeks to achieve. The principles of IGR that guide the interactions between the spheres of government, as outlined in the Constitution no.108 of 1996 of the Republic of South Africa, as set out. The chapter outlines the IGR structures, such as the Presidential Coordination Committee, Premiers Coordinating Committee and the District Forum.

The Constitution no.108 of 1996 of the Republic of South Africa explains the objects of local government as a guidance for developmental local government. The White Paper of Local Government (1998) forms the foundation for all legislative prescripts for developmental local government. The study looks at legislative prescriptive on IGR. Legislative framework covers the Republic of South Africa Constitution no.108 of 1996.

The Municipal Structures Act 117 of 1998 (MSA) on how municipal structures interact and relate to other spheres of government, are discussed. The roles and functions of the Municipality and the monitoring and support function of other spheres of government, as outlined in the Municipal Systems Act 32 of 2000 (MSA), are discussed, as well as the Municipal Finance Management Act 1 of 1999 (MFMA), as embedded in the White Paper on Local Government of 1998. The Intergovernmental Relations Framework Act no.13 of 1995(IGRFA), as the key legislation for IGR and cooperative governance, is deliberated. The Public Finance Management Act No. 1 of 1999 that explains the fiscal, budgetary and financial relations, is explained. This act explains the process on how equitable share

is distributed between and amongst the spheres of government. The National Environmental Management Waste Act No. 59 of 2008 (NEMWA) is discussed, as it makes provision for the regulating and development of measures of waste management to prevent pollution, land degradation, as well as to promote health and safety of the public.

Service delivery forms the foundations for the existence of spheres of government. Legislations prescribe on spheres of government, more especially local government on the purpose of why certain types of services are delivered and which pieces of legislations gives mandate in that respect. IGR are an essential part of service delivery.

Definition of IGR in terms its meaning, definition of cooperation between government departments and between spheres of government in terms of how they relate and interact with each other, is discussed.

The relationship between IGR and B2B Programme is clearly explained in terms of systems and processes. IGR as an integral part of the IDP, as vision for the development in the municipality, is explained, as well as the challenges of IGR in relation to the grey areas that arise from the Constitution no. 108 of 1996 of the Republic of South Africa.

The phases of the IDP planning process as a guide for the preparation of implementation of IDP, is deliberated on. The chapter ends with governance as part of the theoretical foundation and as a critical part of IGR and B2B Programme.

2.2 HISTORICAL CONTEXT OF INTERGOVERNMENTAL RELATIONS (IGR) IN SOUTH AFRICA

Sithole and Mathonsi (2015:11) cite Ngubane (2002) and Powell (2012) that the history of local government emanated from 17th and 18th centuries, during the era of Dutch and British settlers in the Cape Colony. The development of a hybrid system of local government was a consequence of significant influence of the Dutch and the British system. In the 18th century the white regime brought about improvement of local government with the introduction of three tiers of government. The tiers of government

were part of the apartheid system that discriminated against blacks, as it was a racially-based separate local government with authorities for different racial groups. This kind of racial separation resulted into rural areas without a local government. This also resulted in a creation of a Bantustans system of government.

Worral (1971:32) as cited by Kahn *et al.* (2016:75), articulate that the system of governance continued with the promulgation of the South African Act of 1909 that established the three tiers of government that is constituted of the national government, provincial government and local government. However, the new system accorded powers, functions and resources to central government with some federal features in which some powers were devolved to lower tiers. The lower tier of government was a subordinate to the central government of the regime. Tabscott as cited by Kahn *et al.* (2016:75), further gives clarity that the South African Act of 1909 was enacted to bring about a compromise between the British interest and the interest of the Dutch system, hence the introduction of a second tier of government.

2.3 INTERGOVERNMENTAL RELATIONS (IGR) DURING THE INTERIM PHASE OF DEMOCRATIC NEGOTIATIONS

The promulgation of the Constitution no. 200 of 1993 of the Republic of South Africa, brought the provisions of IGR. The provincial sphere of government came into place on the basis of the principles of a federation system. This was followed by the establishment of intergovernmental forums that have the role of coordination and consultation. The interim constitution brought significant changes in a governance system (de Villiers, 2012:675), according to the Constitution no. 200 of 1993 of the Republic of South Africa.

2.4 INTERGOVERNMENTAL RELATIONS (IGR) PHASES IN A DEMOCRATIC SOUTH AFRICA

According to the DPLG Inaugural Report 2005/06 and 2006/07, the development of the nascent IGR system in South Africa can be categorised into three main phases:

1. Restructuring of the governance system of the state (1994-2000). This resulted in the creation of a single public service. This constituted the amalgamation of ex-homeland governments, the establishment of nine provincial governments, the introduction of a cluster system, end of local government transformation, as well as the establishment of 284 municipalities in South Africa. Special attention was given to the formation of IGR forums and processes and the ultimate enactment of legislation on IGR for dispute settlement in IGR.
2. During the 2001-2004 era, the IGR were implemented with less regulation. The process gave effect to the concept of intergovernmental government. This culminated in the creation of non-statutory national and provincial IGR structures. The outcome was an active involvement of organized local government in IGR and engagement of all spheres of governance through collaborative joint working programmes.
3. In 2005 the Intergovernmental Relations Act no.113 of 2005 provided a framework for consolidation of the IGR system. The IGR Act facilitated for the establishment of local government forums, settlement of disputes and created a conducive regulatory environment for the formalization of IGR practice (DPLG Inaugural Report 2005/06 and 2006/7).

Kanyane (2016:92) affirms that Section 41(2) of the Constitution provides for an act of Parliament that should establish structures and institutions to promote and facilitate IGR and provide the relevant mechanisms for dispute settlement between spheres of government. The Intergovernmental Relation Act no.13 was promulgated to give effect to Section 41(2) of the Constitution to promote local government participation in IGR.

2.5 OBJECTIVES OF INTERGOVERNMENTAL RELATIONS (IGR)

Intergovernmental relations need institutions, officials and resources to formulate a policy, render services and promote general welfare and sustainable development. This relates to the actions, attitudes and the conduct of officials and politicians (Malan, 2005:229). Malan (2005:229) outlines six main objectives that cooperative government requires:

- (a) The provincial and local circumstance should inform the objective that is based on the achievement of key national policy goals.
- (b) Accessibility to all and responsiveness to community needs in a manner that is cost-effective and to effect sustainable development.
- (c) State organs to function in a clearly demarcated area of responsibility and accountability.
- (d) Devolution to provincial and local government systematically while exploring alternatives of disintegration due to lack of capacity.
- (e) Enhance the capacity of distinctive spheres to perform in an accountable way and promote innovation for collaborative partnership.
- (f) Manage efficiency and unnecessary duplication that leads to a silo approach.

2.6 THE PRINCIPLES OF INTERGOVERNMENTAL RELATIONS (IGR)

Section 40(2) of the Constitution no. 108 of 1996 of the Republic of South Africa emphasizes that all spheres of government must observe the principles of cooperative governance as provided in the Constitution. The following principles should be observed by all spheres of government:

- (a) preserve the peace, national unity and the indivisibility of Republic;
- (b) secure the well-being of the people of the Republic;
- (c) provide an effective, transparent, accountable and coherent government for the Republic as a whole;
- (d) be loyal to the Constitution, the Republic and its people;
- (e) respect the constitutional status, institutions, powers and functions of government in other spheres;
- (f) not assume any power or function except those conferred on them in terms of the Constitution;
- (g) exercise their powers and perform their functions in a manner that does not encroach on the geographical, functional or institutional integrity of government in other spheres; and
- (h) co-operate with one another in mutual trust and faith by:

- i.) fostering friendly relations;
- ii.) assisting and supporting one another;
- iii.) informing one another of, and consulting one another on, matters of common interest;
- iv.) co-ordinating their actions and legislation with one another;
- v.) adhering to agreed procedures; and
- vi.) avoiding legal proceedings against one another.

Botha, Brand, Engelbrecht and van Eijbergen, (2015:177-178) explain that the principles of cooperative government are based on a German concept, called 'Bundestreue' or Federal Loyalty. These principles were adopted in Switzerland. These principles have been approved as relevant for cooperative government by the Constitutional Court of South Africa. The concept is based on the basis of shared governance between different spheres of government in a country. Botha *et al.* (2015) emphasises that Chapter 3 of the Constitution no.108 of 1996 of the Republic of South Africa, creates a conduit of IGR and cooperative government in South Africa. All spheres of government must adhere to the principles of cooperative governance and should operate on the grounds of mutual relations and respect.

2.7 INTERGOVERNMENTAL RELATIONS (IGR) STRUCTURES

Haurovi (2012:81-92) explains and discusses the IGR structures as prescribed by the Intergovernmental Relations Framework Act no.13 of 2005.

2.7.1 Presidential Coordinating Forum (PCF)

The forum is constituted of the President, Deputy-President, Premiers, Minister of CoGTA, SALGA, Minister of Public Service and Administration and Minister of Finance. The function of PCC is to address common problems of the Premier's as articulated, synergising the relationship between provinces and other spheres of government. It should discuss matters of national interest that affect provinces and SALGA. It should

engage on policy matters and strategize priorities, evaluate performance of programmes and strategies. It is the highest national and provincial forum structures.

2.7.2 Minister MEC (MinMEC)

MinMEC is established by Ministers, Nine MEC's of provinces, officials and SALGA of concurrent functions in terms of schedule 4 of the Constitution no.108 of the Republic of South Africa. The concurrent functions entail housing, health, transport and social development. It deals with peculiar matters of provinces, shares knowledge and experiences, discusses national policies and priorities. It makes a proposal for policy and legislation and identifies areas of disputes and problems for resolutions.

2.7.3 Premier Coordinating Council (PCC)

Haurovi (2012:85) refers to the Intergovernmental Relations Act (2005), which states that "this forum facilitates and promote intergovernmental between the provinces and local government in the province". The forum is constituted of the Premier of the Province who is the Chairperson of the forum, MEC of CoGTA, Executive Mayors of the District Municipalities and Metro Municipalities, South African Local Government Association, any other member that is appointed by the Premier, as well as the Section 139 Administrator of the Municipality. The forum deals with intergovernmental relation matters that impact on local government, policies and legislation, affecting local government, matters of interest to the forum, coordination of planning and implementation between province and local government, as well as any other matter that is of interest to the forum, and the alignment of performance plans, priorities, strategies and objectives.

2.7.4 District Forum

The District IGR Forum is constituted of the District Executive Mayor, Executive Mayors of Local Municipalities, Administrator of a municipality under Section 139, and any other person who may be invited by the chairperson. The forum deals with matters of interest

in the District, serves as a consultation forum on matters of the District, can deal with any other matter that affects the District and local municipalities, discusses policy and legislation that affect the District, deals with matters that arise from the PCC that affect the District and coordination and alignment of cohesive planning in the district and alignment of performance plans, priorities and objectives.

2.8 LEGISLATIVE FRAMEWORK ON INTERGOVERNMENTAL RELATIONS (IGR)

Mdliva (2012:24) refers to the White Paper on Local Government (1998) that the system of local government commenced in 2000 as guided by the Constitution no.108 of 1996 of the Republic of South Africa that provided a framework for this system. This culminated in the promulgation of pieces of legislation governing local government. Paulson (2016:70-72) supports Mdliva (2012:24) and outlines some of the legislation governing IGR in local government. The foundation of IGR emanates from Chapter 3 of the Constitution of no. 108 of 1996 of the Republic of South Africa and the White Paper on Local Government of 1998.

Paulson (2016:70) argues that Section 41(h) of the Constitution no.108 of 1996 of the Republic of South Africa provides guidelines and principles for the co-operations in IGR and Section and section 41(2) makes provision for an act of parliament to be promulgated. The Constitution no. 108 of 1996 of the Republic of South Africa lacks clarity to give direction, except to provide a broader principle that sets out a framework on IGR. Paulson (2016:70) cites Friedman (1993:3) who further outlines that the Constitution is not specific on how three spheres of government should coordinate and integrate their activities. The gray area in IGR is a subject of further research, as argued by different academic scholars, however in this context the principles of IGR and cooperative governance are interpreted literally.

The White Paper of Local Government (1998) is a local government policy framework that creates a bridge between the Constitution and the legislation on local government.

The White Paper on Local Government (1998) gave birth to the following pieces of legislation that governs local government in South Africa.

2.8.1 Intergovernmental Relations Act no. 13 of 2005

Section 41 (2) of the Constitution (Act 108 of 1996) of The Republic of South Africa states that an act of Parliament must be promulgated to:

- (a) Establish or provide for processes, structures and institutions to promote and facilitate intergovernmental relations (IGR);
- (b) and provide appropriate mechanisms and procedures to facilitate settlement of disputes.

Intergovernmental Relations Act no. 13 of 2013 was promulgated to give effect to Chapter 3 of the Republic of South African Constitution no. 108 of 1996. Mohale (2013:48) articulates the aims of the act to promote and facilitate IGR between spheres and provides mechanisms and disputes settlement procedures. The Intergovernmental Relations Framework Act 13 of 2005 intends:

- (a) To establish a framework for the national government, provincial governments and local governments to promote and facilitate IGR;
- (b) To provide for mechanisms and procedures to facilitate the settlement of intergovernmental disputes; and
- (c) To provide for matters connected therewith.

2.8.2 The Local Government: Municipal Structures Act 117 of 1998

“The purpose of the act is; to provide for the establishment of municipalities in accordance with the requirements relating to categories and types of municipality; to establish criteria for determining the category of municipality to be established in an area; to define the types of municipality that may be established within each category; to provide for an appropriate division of functions and powers between categories of municipality; to

regulate the internal systems, structures and office-bearers of municipalities; to provide for appropriate electoral systems; and to provide for matters in connection therewith.”

The Act provides for the establishment of municipalities, their internal structures, governance structures, and the division of powers between local and district municipalities.

Section 2 of the Municipal Structures Act no.117 of 1998 clarifies the categories of municipalities in terms of category A, being Metro Municipalities that have exclusive municipal executive and legislative power in its area of demarcation. Metro Municipalities manage highly commercialized and industrialised city regions with high economic activity and that are densely populated.

Section 3 prescribes that a category C municipality is a District Municipality that has executive and legislative power within its area of demarcation with more than one municipality and a category B is a local municipality that has executive and legislative powers in its area of demarcation within the District area. These categories of municipalities do not meet the requirements of Section 2 of the Act to become a Metro Municipality.

Section 7 of the Municipal Structures Act no. 117 of 1998, defines the types of municipalities that are firstly, the executive mayoral committees that has an executive mayor who is elected by the council, who has powers to appoint a mayoral committee that consists of not more than 10 members. Secondly, is the executive committee system in which the mayor and the executive committee are elected by the council. Thirdly, the executive committee can be constituted by members of different political parties on basis of proportional representation. Fourthly, is a plenary system in which the mayor is elected by the council and has no executive powers to run the municipality. In this case, the executive powers are vested with the whole council. Fifthly, a sub-council participatory system is one that allows powers to be delegated to the sub-councils established for parts of the municipality.

Lastly, the act prescribes for the establishment of a ward committee system that is elected from the different sectors of the community to represent the community and participate in

council matters and interest. The ward committees are established by not more than 10 members and the term of office of ward committees is linked to the term of the council. Ward committees are required to hold monthly meetings and submit reports on their activities.

Section 79 (1) of the Act prescribes for the council to establish committees amongst its members to function and exercise its powers as delegated. These committees can be disestablished when it is necessary. Section 79 (2) stipulates that the council can determine the functions of the committee, co-opt a person to the committee and remove a person from the committee.

Section 80 of the Act prescribes for the executive committee or the mayoral committee to establish a committee in terms of Section 79 to assist in the work of the council. The committee members cannot be more than the members of the executive or mayoral committee. The chairperson of the committee is appointed from the executive committee or the mayoral committee. The executive committee or mayoral committee may delegate functions to the committee to exercise functions and report back. However, the decision of the committees can be reversed by the executive committee or the mayoral committee.

2.8.3 The Local Government: Municipal Systems Act 32 of 2000

“The purpose of the act is to provide for the core principles, mechanisms and processes that are necessary to enable municipalities to move progressively towards the social and economic upliftment of local communities, and ensure universal access to essential services that are affordable to all; to define the legal nature of a municipality as including the local community within the municipal area, working in partnership with the municipality's political and administrative structures; to provide for the manner in which municipal powers and functions are exercised and performed; to provide for community participation; to establish a simple and enabling framework for the core processes of planning, performance management, resource mobilisation and organisational change which underpin the notion of developmental local government; to provide a framework for local public administration and human resource development; to empower the poor and ensure that municipalities put in place service tariffs and credit control policies that take

their needs into account by providing a framework for the provision of services, service delivery agreements and municipal service districts; to provide for credit control and debt collection; to establish a framework for support, monitoring and standard setting by other spheres of government in order to progressively build local government into an efficient, frontline development agency capable of integrating the activities of all spheres of government for the overall social and economic upliftment of communities in harmony with their local natural environment; to provide for legal matters pertaining to local government; and to provide for matters incidental thereto.”

Section 3(1) of the Municipal Systems Act no.32 of 2000 requires municipalities to exercise their executive and legislative power within the co-operative governance that is provided in Section 41 of the Constitution no. 108 of 1996 of the Republic of South Africa. Whereas Section 3(2) of the Municipal Systems Act no. 32 of 2000 provides for the national and provincial spheres of government to exercise their executive and legislative powers within the co-operative governance that are provided in Section 41 of the Constitution no.108 of 1996 of the Republic of South Africa and in a manner that does not impede or compromise the municipalities to exercise their rights and perform their functions.

Section 3(3) provides for organized local government through a co-operative governance system to develop an approach for the local sphere of government, promote cooperation and sharing of resources amongst municipalities, find solutions to challenges and problems and facilitate compliance with the principles of cooperative governance and IGR.

Section 105(1) prescribe for the MEC of local government in a province in terms of Section 155 (6) of the Constitution no.108 of 1996 of the Republic of South Africa to establish mechanisms, processes and procedures in line with Section 155(6):

- (a) Monitor municipalities in the province in managing their own affairs, exercising their powers and performing their functions;
- (b) Monitor the development of local government capacity in the province; and
- (c) Assess the support needed by municipalities to strengthen their capacity to manage their own affairs, exercise its powers and perform its functions.

Section 105 (2) makes provision for the MEC of local government to request municipalities to submit information as requested on regular intervals and account for information contained in the annual performance reports of the municipalities.

Section 106 may require the MEC of local government to conduct an investigation if the municipalities fail to fulfil their obligations to exercise their powers and functions. The MEC of local government can appoint any person to conduct that investigation and submit a report for further actions.

Section 5(1) provides for public participation for communities to participate in decision making of the council through systems and processes that have been established for that purpose. Also prompt response to written submissions and complaints, regular disclosures of the affairs of the municipalities and for the communities to demand access to municipalities' council meetings and municipal services in an accountable and transparent manner in congruent with Section 152 of the Constitution no. 108 of 1996 of the Republic of South Africa, which clearly prescribes for community involvement in the affairs of the municipality.

Section 38 (1) requires the Municipality to establish a performance management system that is tailored and responds to prevailing circumstances in terms of available resources in the municipalities. The performance management system should be developed in accordance with the priorities, objectives, indicators and targets contained in its integrated development plan. The Municipality must create a culture of performance amongst the political structures, office bearers, councilors and administrative officials of municipalities.

Section 51 stipulates that the municipalities must establish its administration within the available financial resources to meet the community needs. This requires filling of all the vacant positions for Section 57 for managers who report directly to the municipal manager in line with Section 56(a) that states that the managers appointed must have the relevant skills and competencies to deliver services. It must also design an organigram and departments that are linked to the priorities and the strategic objectives of the municipalities. They should administer the performance management systems according the principles of good governance that entails efficiency, effectiveness, economically and accountability.

A culture of performance management and accountability must be created by the municipal manager for an efficient and effective administration. The municipal manager must also see to the development of capacity of staff administration in terms of Section 68 of the act.

Section 73 (1) requires the municipalities to provide services in line with Section 152 of the Constitution no.108 of 1996 of the Republic of South Africa. This include provision of services to meet the needs of the community, and to promote economy. Whereas Section 73 (2) makes provision for the municipalities to provide service in a manner that is equitable and accessible. The services provided should take into account the available resources of the municipalities and be availed to in an efficient, effective and economical manner. The provision of services should be financially sustainable to improve the quality of life of the citizens and safeguard the environment. The services provided should be reviewed on a regular basis to bring improvement.

Section 80 (1) provides for the Municipality to enter into a service agreement with a service provider or an organ of state to provide a municipal service. Section 80 (2) requires community consultation for appointment of service providers. Section 83 (1) prescribes that if a municipality provides a service through a service provider, it should enter into a service delivery agreement with service provider:

- (a) who are competitive, fair, transparent, equitable and cost- effective;
- (b) allow all prospective service providers to have equal and simultaneous access to information relevant to the bidding process;
- (c) minimise the possibility of fraud and corruption;
- (d) make the Municipality accountable to the local community about progress with selecting a service provider, and the reasons for any decision in this regard; and
- (e) take into account the need to promote the empowerment of small and emerging enterprises.

2.8.4 The Local Government: Municipal Finance Management Act 56 of 2003

The purpose of the act is to “secure sound and sustainable management of the financial affairs of municipalities and other institutions in the local sphere of government; to establish treasury norms and standards for the local sphere of government; and to provide for matters connected therewith.”

Section (2) of the Municipal Finance Management Act no.56 of 2003 requires the provincial treasury to play an oversight over the budgets of the Municipality and check whether they are compliant with the national government’s fiscal and national treasury and promote a good budget, fiscal management by municipalities and monitor compliance by municipalities with general standard of accounting system. They should recommend improvements based on investigation of any financial management and internal control systems that may be lacking where necessary.

Section 37 of the Municipal Finance Management Act 56 of 2003 provides for the national and provincial government to go through a cooperative government system to support the building of capacity of municipalities for efficient and effective functioning. It should identify and resolve the financial problems of the municipalities that are detected through assessment. In executing its functions in terms of Section 155(6) of the Constitution no. 108 of 1996 of the Republic of South Africa, the provincial government must share the results of assessment for financial management improvement. Non-compliance with this act by national and provincial government does not absolve the Municipality from compliance.

Section 35 of the Municipal Finance Management act. No. 56 of 2003 (MFMA) makes provision for the national and provincial departments and public entities to have cooperative governance in their fiscal and financial relations with the local spheres of government in line with chapter 3 of the Constitution no.108 of 1996 of the Republic of South Africa. The national and provincial sphere of government should meet their commitments towards municipalities as expected, provide support and real-time information to facilitate proper planning and the development and revision of the IDP. It should make budgetary preparations in line with the Public Finance Management Act

No.1 of 1999, the Division of Revenue Act 9 of 2021 and the Intergovernmental Fiscal Relations Act, 1997 of 1997. These acts make provision for IGR with municipalities.

Section 36 of the Act requires the accounting officer of national department, provincial department or organ of state, to notify the national treasury of any allocation or projected allocation for the next three years that is due to the municipality, and not later than 20th January. The minister or MEC responsible for finance must table in Parliament or provincial legislature, the amounts that are due be allocated to municipalities and those that have to be transferred for the next three applicable years.

Section 36 compels the MEC of local government in a province to consult the mayor, assess the situation based on facts and make a determination for the provincial intervention as a result of the serious financial situation of the municipality. The MEC of local government can revoke Section 139(1) of the Constitution no. 108 of 1996 of the Republic of South Africa, based on the failure by the municipality. The following are the conditions for provincial intervention in terms of Section 139:

- (1) Serious financial situations due to poor management.
- (2) Lack of compliance with its executive obligations, which resulted in a worse financial position.
- (3) Failure to approve the budget and revenue measures and
- (4) Serious material; breach to meet the obligations to provide basic services to the community or to meet its financial commitments.

The Constitution no.108 of 1996 of the Republic of South Africa provides for five methods of interventions in terms of Section 139. The following methods are applicable:

- Section 139(1a), which requires that the provincial government issue a directive to the municipalities to exercise its powers and obligations.
- Section 139(1)(b), which requires the provincial government to assume responsibility to manage and run the affairs of the Municipality as it could not fulfil an obligation.
- Section 139(1)(c), which requires relevant provincial executives to dissolve the Municipality and appoint an administrator to manage and run the municipality.

- Section 139(4), which requires the relevant provincial executive to take appropriate steps to ensure that a municipality adopts the budget, or those revenue-raising measures as approved.
- Section 139(5), which requires the provincial government to impose a recovery plan to secure the municipality's ability to meet its obligation, which may also lead to the dissolution of a municipality.

When the provincial government imposed a recovery plan in terms of Section 139(1)(b) of the Constitution no. 108 of 1996 of the Republic of South Africa, the provincial executive council had to inform the provincial legislature, the Minister of Department of Cooperative Governance and the National Council of Provinces (NCOP), all within 14 days, after which within 28 days, the Minister had to approve or disapprove and within 180 days the NCOP had to also approve or disapprove the intervention.

Section 137 of the Municipal Finance Management Act no 56 of 2003 determine that "(1) If the conditions for a provincial intervention in a municipality in terms of Section 139(1) of the Constitution are met and the provincial executive decide in terms of Section 136(2) of this Act to intervene in the municipality, the provincial executive may take any appropriate steps referred to in Section 139(1) of the Constitution, including:

- (a) assessing the seriousness of the financial problem in the municipality;
- (b) seeking solutions to resolve the financial problem in a way that would be sustainable and would build the municipality's capacity to manage its own financial affairs;
- (c) determining whether the financial problem, singly or in combination with other problems, is sufficiently serious sustained that the Municipality would benefit from a FRP and, if so, requesting any suitably qualified person-
 - (i) to prepare an appropriate FRP for the municipality;
 - (ii) to recommend appropriate changes to the municipality's budget and revenue-raising measures that will give effect to the recovery plan; and
 - (iii) to submit the recovery plan and any recommendations referred to in subparagraphs (i) and (ii) to the MEC for local government in the province within a period determined by the MEC; and

(d) consulting the mayor of the Municipality to obtain the municipality's co-operation in resolving the financial problem and if applicable, implementing the FRP.

The MEC must submit any assessment in term of subsection (l)(a) any determination in terms of subsection (l) (c) and a copy of any request in terms of subsection (l)(c), to the Municipality and the Cabinet member responsible for local government.

2.8.5 Public Finance Management Act No. 1 of 1999 (Fiscal Relations)

The purpose of the Act is to “promote co-operation between the national, provincial and local spheres of government on fiscal, budgetary and financial matters; to prescribe a process for the determination of an equitable sharing and allocation of revenue raised nationally; and to provide for matters in connection there with. It establishes the Budget Forum, in which local government issues are discussed as part of the national budget process. It also requires that a Division of Revenue Bill is tabled annually, setting out (among other things) the amounts to be transferred to each municipality.”

Section 2(1) provides for the establishment of the Budget Council that is constituted by the Minister of Finance, and the Finance MEC from each province. The Minister is the chairperson of the Budget Council.

2.8.5.1 Functions of the Budget Council

Section 3 of the Act prescribes for the national government and provincial government to establish a consultative body in a form of a budget council that is responsible for any fiscal, budgetary or fiscal matters that affect other spheres of government.

The Budget Council deals with any proposed legislation or policy that has financial implications on the provinces, monitoring of financial management of the finances of provinces and any other matter that the Minister of Finance would have referred to the Budget Council.

Section 5 (1) establishes a Local Government Budget Forum that is constituted by the Minister of Finance, and the MEC of Finance for each province, five representatives of organized government, and a representative of a provincial organization that is recognized in terms of the act. The Finance Minister chairs the Forum.

2.8.5.2 Functions of the Local Government Budget Forum

Section 6 of the Act stipulates that the national government, provincial government and organized local government should establish the Budget Forum as consultative forum. The Forum deals with any fiscal, budgetary or financial matter affecting local government, any legislation or policy that can affect local government, any matter concerning financial management or monitoring of finances and any matter that is referred to the Forum by the Minister of Finance.

2.8.5.3 Meetings of the Local Government Budget Forum

The meetings of the Forum are held once in a year and may extend the invitation to the chairperson of Finance and Fiscal Commission. Any other person may be invited to attend the meeting.

2.8.5.4 Process of equitable share

Section 8 of the Act refers to Section 214(1)(a) and Section 214(1)(b) of the Constitution no.108 of 1996 of the Republic of South Africa that guides the process for sharing of revenue between national, provincial and local government. This applies to any allocation of funds to the provincial and local government.

Section 9 (1) of Intergovernmental Fiscal Relations Act no.97 of 1997 states that the Minister of Finance and the commission should meet at least ten months before or at a later date agreed upon. It should table the equitable division of revenue, make determination of each province and municipalities' allocation that is raised nationally to

share amongst the national, provincial and local government. The equitable share allocation is tabled to the House of Parliament and provincial legislatures.

Section 10(1) of the Act prescribes that each year, when the annual budget is introduced, the Minister must table the Division of Revenue Bill for the financial year in the national assembly. The division of revenue must specify the allocation amongst the national, provincial and local sphere of government. The Minister of Finance should consult with the provincial government and organized local government before the Division of Revenue Bill is introduced in the National Assembly in line with Section 9(1) of the Intergovernmental Relations Fiscal Relations Act no. 97 of 1997.

2.8.6 National Environmental Management Waste Act No. 59 of 2008 (NEMWA)

The purpose of the act is to reform the law regulating waste management in order to protect health and the environment by providing reasonable measures for the prevention of pollution and ecological degradation and for securing ecologically sustainable development; to provide for institutional arrangements and planning matters; to provide for national norms and standards for regulating the management of waste by all spheres of government; to provide for specific waste management measures; to provide for the licensing and control of waste management activities; to provide for the remediation of contaminated land; to provide for the national waste information system; to provide for compliance and enforcement; and to provide for matters connected therewith.

Section 6 (1) of the Act provides for the Minister of Environment within two years to develop a waste management strategy of the promulgation of this Act.

The national waste management strategy should cover the objectives, plans, guidelines, systems and procedures relating to the protection of the environment and the generation (including the avoidance and minimisation of such generation), re-use, recycling, recovery, treatment, disposal, use, control and management of waste, in order to achieve the objects of this Act.

2.8.6.1 National waste norms and standards

Section 7 (1) of the Act requires the minister, by notice in the *Gazette*, to set national norms and standards for the classification of waste, as well as planning for and provision of waste management services. Also to set out storage, disposal of waste, planning and establishment of waste disposal facilities. The norms and standards guide minimization of waste, re-use, recycling, recovery and separation of waste. The regionalisation of waste management service, remediation and management of contaminated soil quality and land should be set out. In consultation with the minister of finance, the minister of environment set norms and standards on tariffs for waste service that need to comply with by municipalities.

2.8.6.2 Provincial waste norms and standards

Section 8 (1) provides for the relevant MEC to publish in the provincial gazette, the provincial norms and standards as contemplated in Section 6 and 7 of the Act. The MEC of the province should follow the process as outlined in Section 7(2)(3)(4) and (5) of the Act in his or her respective province. Section 8 (6) requires the MEC to conduct consultations with the stakeholders during the publishing or amendment of the provincial norms and standards.

2.8.6.3 Municipal waste service standards

Section 9(1) requires each municipality to exercise its executive authority and perform its duty in relation to waste services, including waste collection, waste storage and waste disposal services, by adhering to all national and provincial norms and standards; integrating its waste management plans with its integrated development plans; ensuring access for all to such services; providing such services at an affordable price, in line with its tariff policy referred to in Chapter 8 of the Municipal Systems Act; ensuring sustainable services through effective and efficient management and keeping separate financial statements, including a balance sheet of the services provided.

Sub-section (2) stipulates that each municipality must...

“exercise its executive authority and perform its duty in relation to waste services, including waste collection, waste storage and waste disposal services, by-adhering to all national and provincial norms and standards; integrating its waste management plans with its integrated development plans; ensuring access for all to such services; providing such services at an affordable price, in line with its tariff policy referred to in Chapter 8 of the Municipal Systems Act; ensuring sustainable services through effective and efficient management.”

In terms of Sub-section 2 of the Act, the municipalities, in exercising its executive authority as contemplated in Sub-section (1), may furthermore, amongst other things, set out local standards for the separation, compacting and storage of solid waste that is collected as part of the municipal service or that is disposed of at a municipal waste disposal facility; local standards for the management of solid waste that is disposed of by the Municipality or at a waste disposal facility owned by the municipality, including requirements in respect of the avoidance and minimisation of the generation of waste and the re-use, recycling and recovery of solid waste; local standards in respect of the directing of solid waste that is collected as part of the municipal services or that is disposed of by the Municipality or at a municipal waste disposal facility to specific waste treatment and disposal facilities; and local standards in respect of the control of litter.

Sub-section (4) of the Act compels that the minister or MEC must seek to support and strengthen the municipality’s ability or right to perform its functions in relation to waste management activities.

2.9 MUNICIPAL INFRASTRUCTURE GRANT

According to the DPLG (2007), the Municipal Infrastructure Grant (MIG) is a new mechanism of municipal infrastructure funding that combines all the existing capital grants for municipal infrastructure into a single consolidated grant. It consists of a consolidated municipal infrastructure grant, water service project, community based public works programme, local economic development fund, urban transport fund, building for sport

and recreation programme and national electrification programme. Sector department in this funding entails CoGTA, Department of Water and Sanitation (DWS), Department of Transport, Department of Sport and Recreation and municipalities.

2.9.1 Purpose of Municipal Infrastructure Grant (MIG)

The DPLG (2007: Online) articulates that the silo approach of different departments in the management of infrastructure grants in the past, resulted in the uncoordinated fragmented implementation of projects and municipalities had less influence in infrastructure projects in their area of demarcation. RSA CoGTA (2017) states that this approach failed the cost effective planning and integrated service delivery. MIG is adopted to solve these challenges. The rationale behind MIG is for the poor to access infrastructure as a basic water supply of 25 litres of potable water per person per day or 6000 liters per formal connection per month. MIG funding may be used to build a new infrastructure or upgrade the existing infrastructure. Basic household (residential) services are the targeted beneficiaries of MIG. This entails electricity, water supply, sanitation, storm water management, municipal roads, refuse removal and street lighting.

2.10 MUNICIPAL SERVICE DELIVERY

Section 152 of the Constitution no. 108 of 1996 of the Republic of South Africa prescribes the objects of local government to ensure provision of services to communities in a sustainable manner. The White Paper on local government (1998) prescribes that local government must provide services to meet the social and economic needs of the communities.

Chapter 8 of Municipal Systems Act no.32 of 2000 states that a general duty of a municipality “must give effect to the provision of the constitution and give priority to the basic needs of the local community by promoting the development of the local community through ensuring that all members of the community have access to at least the minimum level of basic municipal services”. The Municipal Systems Act no. 32 of 2000 further

prescribes that the municipal services must be equitable, accessible and be provided in a manner that is relevant to local needs, economic, efficient and the effective use of available resources and improving the quality over time. The services delivered must also be financially and environmentally sustainable, and reviewed regularly with an intention to improve and expand.

Different spheres of government play a significant role in the provision of services in terms of schedule 4 and 5. Schedules 4 and 5 of the Constitution no. 108 of 1996 of the Republic of South Africa prescribe a number of functional areas of concurrent national and provincial legislative competence and functional areas of exclusive legislative competence accordingly. The services range from housing, health, roads, sports and recreation, social services, environmental health and safety. The following are key municipal services that should be provided to citizens.

Table 2.1: Key municipal basic services

| Type of services | Purpose | Response to legislation |
|--|---|---|
| Water | Provision of water to satisfy community needs and for human survival. | Section 37 of the Bill of Rights in the Constitution no.108 of 1996 of the Republic of South Africa and National Water Act 36 of 1998 stipulate that everyone has a right to access water and sanitation. |
| Sanitation | Provision of a decent sanitation system to restore human dignity. | Section 37 of the Bill of Rights in the Constitution no.108 of 1996 of the Republic of South Africa and the National Water Act 36 of 1998 stipulate that everyone has a right to access water and sanitation. |
| Electricity | Provision of decent lighting for social and economic development. | Electricity Act 41 of 1987 provides for the generation and supply of electricity in a sustainable manner. |
| Roads and storm water drainage | Make provision for social and economic development through infrastructure installation. | Section 156 of the Constitution no.108 of 1996 of the Republic of South Africa provides for constructed and natural facilities. |
| Refuse removal | Promote an environment that is safe and healthy for the community. | Section 152 of the Constitution no.108 of 1996 of the Republic of South Africa provides for the safe and healthy environment. |
| Parks and recreational facilities | Provide facilities for peace and human development. | Schedule 5 of Constitution no.108 of 1996 of the Republic of South Africa provides for local amenities. |
| Streetlights | Contribute to crime prevention through provision of lights for the safety of the communities. | Section 152 of the Constitution no.108 of 1996 of the Republic of South Africa provides for the safe and healthy environment. |

(Source: Created by Author)

2.11 INTERGOVERNMENTAL RELATIONS (IGR) AND COOPERATIVE GOVERNANCE

The reciprocal relationship between spheres of government in delivering is defined as IGR. These relations and interaction are regulated by the supreme legislation referred to as the Constitution of the Republic of South Africa (Van der Waldt, 2003:166). Van der Waldt (2003) cites Chapter 3 of the Constitution no.108 of 1996 of the Republic of South Africa, which provides the guidelines as enablers to deal with challenges of good governance, policy co-ordination, and efficient and effective delivery of services and management of public resources.

Chapter 3 of the Constitution no. 108 of 1996 of the Republic of South Africa provides for the Intergovernmental Relations Act. No. 13 of 2005: “To establish a framework for the national government, provincial governments and local governments to promote and facilitate IGR; to provide for mechanisms and procedures to facilitate the settlement of intergovernmental disputes; and to provide for matters connected therewith.”

Sokhela (2006:105) explains the objects and provisions of Intergovernmental Relations Act No. 13 of 2015. Sokhela (2006:105) outlines that Section 4 of the Act provides the context of the principles of co-operative governance entrenched in Chapter 3 of the Constitution no. 108 of 1996 of the Republic of South Africa. The three spheres of government and the organ of state are catered to facilitate co-ordination in policy implementation and legislation, coherent government, seamless delivery of services, monitoring and policy and legislation to achieve national goals.

Hatting (1998:23) defines IGR as a study of relations between officials and politicians and the relations between individuals and organs of state. There is a wider context on the definition of IGR. The Constitution is the foundation and other legislation provides a framework upon which the relations are determined and in which the organ of state is involved and the level of involvement.

Ile (2010:53) explains that an IGR system is a glue that pulls together units of government to interact and engage to exercise their functions in order to achieve their respective goals. This consist of instruments that are employed for executive coordination,

memorandum of agreements, law and legislative prescripts that facilitate the functioning of a governance system. IGR are magnets that pull activities of governance to the same direction. It entails the interactions and relationships that are horizontal and vertical aligned in a coherent manner to achieve the goals through respect and cooperation.

IGR seek to pull towards the same direction towards the common goals in a cohesive and respectful fashion in a horizontal and vertical way. IGR aim to promote alignment, as well as synergy in an efficient and effective seamless approach to observe democracy and sustain service delivery and to build capacity to deliver for the benefit of the society in general.

Malan (2005:232) explains measures that were taken by the executive of government at the highest level to strengthen IGR and cooperative governance at national level. This entails the establishment of the Presidential Coordinating Council, which consists of the President's Coordinating Council consisting of the President, Deputy-President, Minister in the Presidency, the Minister of Provincial and Local Government, the Minister of Finance, Minister of Public Service and Administration, the Premiers of the nine provinces and the Chairperson of the South African Local Government Association. This IGR structure was created to improve relations and coordination between spheres of government. It also serves to develop linkages between government institutions and structures. The agenda of the Forum is to address substantive issues and as a consultative forum for the President who sets the agenda of the Forum. The Presidential Coordinating Forum must meet at least twice in a year. This intergovernmental structure gives authority to all IGR structures in government to ensure uniformity, synergy and coherence between spheres of government.

According to Hassall (2010:2-3), as cited by Senoamadi (2014:27), he concurs that IGR is “the mechanisms by which different levels and branches of government interact with one another in the process of meeting the needs and interests of the public”. He further maintains that “since the state does not have any other interests other than public interest, it should be seen as the ‘agent’ of the people, for example members of Parliament are representatives of the people and public servants are their servants.”

The state seeks for the achievement of common goals through mutual relationships between and across vertical and horizontal governmental arrangements, alignment and cohesion across all spheres of government.

The aim of IGR therefore, is to enable governmental activities (primarily service delivery), through synergy, efficiency and effectiveness in delivering services, to sustain democracy and strengthen delivery capacity across all spheres of government for the common good.

Ille (2010:53) agrees and supports Thornhill and cites Kuye *et al.* (2002:33-38) and Botes, Brynard, Fourie and Roux (1996:100-108), who refers to Section 40 in Chapter 3 of the Republic of South Africa Constitution no.108 of 1996, which explains the structure of government that is divided into three spheres that are distinctive, interdependent and interrelated to exercise its powers and functions.

The three spheres of government consist of the National Government, Provincial Government and Local Government. Botes *et al.* (2002:33-38) outline that Parliament, which consists of the National Assembly and the National Council of Provinces are vested with the authority to exercise legislative powers and the executive authority is in the Cabinet.

The Intergovernmental Relations Framework Act 13 of 2005, in Section 4 provides for the principles of cooperative government. It provides for a mechanism for the three spheres of government and all other organs of state to enable coordination and seamless implementation of policy in a coherent fashion. This piece of legislation plays a critical role to transform the way in which different spheres of government and other organs of state interact with each other within the parameters of governance.

Cooperative governance concerns the relationship and cooperation between spheres of government in carrying their constitutional mandate to exercise their duties and functions.

Singh (2016:137) explains that in terms of constitutional spheres, government has three basic components:

- i.) Distinctive: refers to autonomy in which each sphere has the legislative and executive power to use according to its own discretion.

- ii.) Interdependent: national and provincial government has a constitutional obligation to supervise local government's sphere of government and its decision can be binding.
- iii.) Interrelated: each sphere of government can exercise its power and function with the cooperation of other spheres of government.

Thornhill (2011:34) also refers to Section 41(3) of the Constitution no.108 of 1996 of the Republic of South Africa, which requires each sphere of government to make a reasonable effort and absorb all the available dispute settlement mechanisms before the dispute is referred to the court of law. Gildenhuis and Knipe (2000:297) attest to the rational and the right of existence of each spheres of government through allocation of revenue and functions. They argue that the allocations of functions of each sphere should be conducted according to the capacity and the capability that exist in that particular sphere of government.

Gildenhuis and Knipe (2000:297) cite an example that the collections of fees, fuel levies, buildings and maintenance of the road should be exercised in terms of the capacity that exists in that spheres. However, it is imperative for other spheres to compliment the work that is done by the other through a cooperative arrangement.

All spheres of government have concurrent functions provided in terms of Schedule 4 of the Republic of South Africa Constitution no.108 of 1996. Concurrent functions of different spheres require coherent and cohesive planning in carrying out those function to minimize duplication or wastage of resources.

Pieterse (2017:22) refers to Malan (2014:56-57) and Mathebula (2011:840) that cooperative government is about the beliefs and values of government, expressed in a form of peace, unity, coordination and communication. IGR are the vehicles to facilitate institutionalisation, processes, and systems for implementation of cooperative government. Cooperate government is closely related to cooperate governance.

According to a strategy on a single public service (RSA, 2006: Online), cooperative governance is at the center of a governance system as a constitutional imperative. Spheres of government are expected to engage in a coherent approach to co-ordinate

their actions for the Republic of South Africa. Integrated service delivery and institutional integration are informed by this mandate. The constitution provides for the “distinctiveness, interdependent and interrelatedness”. A single public service would strengthen the inter relationships instead of undermining the cooperation of spheres. The Intergovernmental Relation Framework, 2005 would facilitate a conducive environment for IGR forums and dispute settlement vehicles. Seamless service delivery would require strengthening of IGR.

2.12 CHALLENGES OF INTERGOVERNMENTAL RELATIONS (IGR)

Molekane (2018:27) argues that although IGR forums bring about seamless operation, however it is noted that poor IGR coordination and integration is related to a capacity and efficiency issue. IGR forums require mandates and clearly articulated targets with efficient management of the agenda. This calls for a need for both human and financial capacity for spheres of government to roll-out and monitor decisions in an orderly fashion.

Molekane (2018:27) supports the views of Singh (2016:138) that although the Chapter 3 of the Constitution no.108 of 1996 of the Republic of South Africa puts emphasis on cooperative governance, however, its intentions have not been realized in practice, due to a lack of a properly structured relationship between spheres of government.

Consequently, this resulted in duplication of efforts, as well as a disjuncture of policies and strategies. The view of Singh holds water in a sense that there is a practice in government departments to implement projects at a local level without the involvement of local government. This silo approach in service delivery has resulted in a waste of effort, time and resources.

Senoamadi (2014:26) echoes the same sentiment in citing Mello and Maserumule (2009:47) who advance the view that this unitary approach in separateness of government spheres creates a challenge to integrated development. Mello and Maserumule (2009:47) explain that government entities operate in a fragmented and silo approach, with reference to the Constitution, no.108 of 1996 of the Republic of South African. They argue that the Constitution establishes the sovereign state, while on the

other hand it has established three spheres of government that have both the legislative and executive powers, which should be carried out without the encroachment of geographical, functional and institutional space.

The gap could be addresses through municipal representation in provincial structures to maintain a sound relation.

Malan (2006:71-72) indicates that effective IGR require planning, policy activities and budgets to be coordinated between spheres of government. There exists a lack of monitoring of performance and service delivery, due to an absence of indicators that are not clear. National government oblige other spheres of government to implement policy without the consideration of financial and organizational implications to provinces and local government.

2.13 THE RECIPROCAL RELATIONSHIP BETWEEN INTERGOVERNMENTAL RELATIONS (IGR) AND BACK TO BASICS (B2B) PROGRAMME

The Practitioner's Guide to Intergovernmental Relations in South Africa (2008:34), as cited by Motingoe (2012:62), articulates that support are mechanisms that are implemented to ensure that the sphere of government can exercise its functions. The Department of Constitutional Development (1999:6), as referenced by Motingoe (2012:62), clarifies that cooperative governance and IGR entail an obligation to strengthen other government spheres' structures, powers and functions to exercise its authority. Support may be in the area of policy development, integrated human settlement and local economic development. The specific focus of support is finance, human resources, governance and infrastructure to ensure that they carry out their mandate.

Motingoe (2012:62) persists that and refers to section 105 of the Municipal Systems Act no. 117 of 2000 that stipulate that national and provincial government must establish mechanisms, processes and procedures to assess the support that is needed by municipalities.

RSA CoGTA (2014a) explains that all three spheres of government have to ensure that municipalities are functional. This necessitate cooperation, collaboration and assignment of specific responsibilities to each sphere. MINMEC, as intergovernmental platform, should play a significant role to monitor and review progress. According to RSA CoGTA (2014b), B2B Programme is a mechanism to monitor and evaluate progress on a continuous basis instead of reliance on annual AG audits.

RSA CoGTA (2014a) states that the Department of Cooperative Governance has established a war room and monitoring system to track progress on performance to position intervention where it is necessary. All other spheres of government have replicated the same system to ensure a seamless flow and coordination of roles and responsibilities. Department of Cooperative Governance ensures a mainstream of support to municipalities by other sector departments that are coherent and cohesive.

Table 2.2: Roles and functions of spheres of government in Back to Basics (B2B) Programme

| Back to Basic pillar | National government | Provincial Government | Local Government |
|------------------------------------|---|--|--|
| Provision of basic services | CoGTA gives support to the development and implementation of infrastructure plans and ensures that municipalities at least allocate 7% of the budget to maintenance and infrastructure audits | Monitor implementation plans. Establish a rapid response team to monitor progress. | Municipalities must deliver the basic services, e.g. electricity, basic water, sanitation, waste removal, grass cutting, patching potholes, working robots and streetlights ,and consistent refuse removal. Sustainable and proper maintenance of infrastructure. Prompt response to electricity outages and water leakages. |
| Ensure good governance | Coordinate measures to ensure effective governance structures, manage political tensions and ensure a healthy political and administrative interface. | Provinces to strengthen monitoring and support of council meetings. Where there is evidence of dysfunctionality and to intervene. MEC to take action in terms of the Code of Conduct for councilors. | Municipalities must ensure that all council structures are functional and meet on a quarterly basis. Ensure that council committee are effective. Transparency and accountability is promoted through community engagements. |

| | | | |
|--|---|---|---|
| <p>Public participation: putting people first</p> | <p>CoGTA to conduct national citizen satisfaction surveys periodically.</p> <p>CoGTA to support municipalities in the development of public participation plans.</p> <p>National and provincial sector departments to participate in one stop shop Thusong Centres.</p> <p>CoGTA collaborates with GCIS to communicate successes in local Government.</p> | <p>Support municipalities to develop public participation plans.</p> <p>Provincial sector departments to participate in one stop shop Thusong Centres.</p> | <p>Implement community engagement plans, targeting hotspots and potential hotspots areas.</p> <p>Municipalities to implement responsive public participation mechanisms and processes with communities.</p> <p>Ensure that ward committees must be functional and councilors hold public meetings at least quarterly.</p> <p>Ward committees and CDW's facilitate community projects.</p> |
| <p>Sound financial management</p> | <p>National CoGTA, provincial CoGTA and provincial treasury to support municipalities to develop and implement audit and post audit plans.</p> <p>CoGTA and Treasury assess the capacity of municipalities to develop and implement debt and credit control policies.</p> | <p>National and provincial CoGTA and provincial treasuries to assess and support capacity deficiencies of municipalities to develop and implement Audit Post Audit Action plans and procurement plans.</p> <p>Provincial treasuries to support municipalities in the development and implementation of FRPs and assess the credit control and debt collection policies and by-laws.</p> | <p>Municipalities develop and implement financial management systems and internal controls.</p> <p>Develop procurement internal controls in terms of treasury regulations.</p> <p>Ensure that that there are sufficient funds for the budget.</p> <p>Implement plans on audit findings and address fraud and corruption.</p> |

| | | | |
|--|---|---|---|
| | | | Promote a culture of payment of services and prevent cable and electricity theft. |
| Building capable institutions and administrations | <p>Support the development and approval of the organigram.</p> <p>CoGTA and National Treasury to ensure the implementation of the Municipal Systems Act and the Municipal Financial Management Act.</p> <p>CoGTA to review the powers and capacity of the District municipalities in the roll-out of infrastructure projects.</p> | <p>Monitor and support the filling of vacant positions with suitable staff in the municipalities. Support with the development of the organigram.</p> <p>Work with SALGA to ensure a functional labour forum.</p> | <p>Municipalities implement a compulsory competency standard for managers and appoint persons with the requisite skills, competencies and qualifications.</p> <p>All municipal officials to sign performance agreements.</p> <p>Implement and manage performance management systems.</p> <p>Municipalities to consult labour on a regular basis on matters that affect workers.</p> |

(Source: Adapted from RSA CoGTA, 2014a)

2.14 INTERGOVERNMENTAL RELATIONS (IGR) AND INTEGRATED DEVELOPMENT PLANNING (IDP)

Hlongwane (2011:9) cites Rauch (2002) who describes integrated planning as a strategic planning mechanism that involves the whole municipality and its communities' plan and address the long-term development objectives. IDP ensures a comprehensive and a cohesive approach that covers all the sectors' needs of the communities, such as roads, schools, electricity, water and sanitation. This simply means that the different sectors of government that entail both provincial and national government departments play a role in planning efforts and local government to coordinate all the planning efforts of other spheres of government into one strategic plan. Hlongwane (2011:9) persists and refers to Geyer (2006:23) who affirms that the IDP consolidates a range of economic, social, environmental, legal, infrastructural and spatial planning to facilitate growth and development in a sustainable way to cater for short, medium and long term objectives.

The IDP preparation follows the following phases that are summarised below in terms of the Department of Provincial and Local Government IDP's pack guide.

Table 2.3: IDP process

| Planning phase | Objective of alignment |
|-------------------------|--|
| Analysis phase | <ul style="list-style-type: none"> • Defining the role of different sectors and specify on what information is relevant to the IDP process and what would need to be carried-out in tandem with the sector planning process. • Sourcing of relevant sector departments' information and make it available to municipalities. |
| Strategies phase | <ul style="list-style-type: none"> • Legal compliance of specific sectors is aligned to become part of IDP priority areas |

| | |
|--------------------------|---|
| | <ul style="list-style-type: none"> Meeting the provisions and the principles of the Development Facilitation Act & the National Environmental Management Act |
| Project phase | <ul style="list-style-type: none"> Feasibility study of the projects is undertaken and technical specification of proposals that is in line with sector policies and requirements. Adapt sector plans and programmes to local IDP priority issues in line with the objectives and strategies. |
| Integration phase | <ul style="list-style-type: none"> A comprehensive masterplan of sector programmes/plans for each sector for operational management and delivery. Consolidate integrated programmes for mainstreaming of crosscutting issues of development to ensure consistency and sustainability. |
| Approval phase | <ul style="list-style-type: none"> All relevant sectors and stakeholders are provided with an opportunity to give input for the alignment in the draft IDP |

(Source: Adapted from IDP Guide Pack, 2000)

2.15 CONCLUSION

It is clear from this chapter that cooperative governance and IGR are two heads of the same coin. It would be very difficult to separate the two concepts from a theoretical viewpoint. Cooperative governance and IGR are mechanisms of service delivery between the different spheres of government. Gaoretelelwe (2017:90) concurs that any sphere of government cannot function in isolation, however to achieve good governance, effective decision making to deliver for the communities requires cooperative governance and IGR as key fundamentals. These fundamentals are a constitutional imperative and a

legislative requirement for different spheres to forge working relationships to ensure a coherent, cohesive and seamless service delivery. The principles of IGR provide a guidance on how the relationship needs to be conducted. Different spheres of government should respect these principles to sustain partnership. The principles give guidance to the relationships and interactions between IGR structures.

Intergovernmental relation structures are a vehicle to manage service delivery and a platform for planning, monitoring and decision making on implementation of programmes and projects. This ties with the vision of local government.

The vision of developmental local government as prescribed and outlined in the Constitution no.108 of 1996 of the Republic of South Africa and the White Paper on local government cannot be realized without a firm commitment of political leadership of local government. The legislative prescript serves as a reference point for policy and decision making to turn around and improve the situations in municipalities. Legislation gives a mandate for each sphere of government to deliver services. Service delivery is related to infrastructure development, which brings about interactions between spheres of government.

Conditional grants, such municipal infrastructures are earmarked to improve the lives of the poor through infrastructure development programmes that have spin-offs of job creations. This funding is critical for poverty alleviation in communities. B2B Programme cannot be implemented in isolation from IGR and cooperative governance. The five pillars of B2B Programme are embedded in the programme to improve service delivery and address the needs of the community. IDP encompasses all aspects of B2B Programme.

The IDP is an intergovernmental mechanism to bring about development in the municipality. Different spheres of government participate in this planning process. National and provincial spheres of government monitor and play a role in the coordination of municipal IDP. However, it is clear from this chapter that interaction between spheres of government has perennial challenges.

The challenges identified in IGR need further debate on whether the IGR framework needs to be reviewed and strengthened to close the gap that is identified in the National Constitution no.108 of 1996 of the Republic of South Africa.

Analysis and findings in Chapter 4 would be based on the theoretical foundation as contemplated in this chapter. It is of vital importance to analyse the situation in ELM, based on legislative prescript and the conceptual meaning of the terms used. The whole study would be guided by this chapter, given that this is a desktop study research.

CHAPTER 3 :

BACK TO BASICS (B2B) PROGRAMME

3.1 INTRODUCTION

RSA CoGTA (2014a) states that local government is at the center of service delivery where the communities and government are engaged. It is therefore a government closer to the people. The foundation of the reconstruction and development is based on a vision of a developmental local government system of the country and society where the citizens of our country could meaningfully participate directly with the institutions of the state.

Section 152 of the Constitution no.108 of 1996 of the Republic of South Africa prescribes that local government must ensure that they make provision of services in a sustainable manner. Section 154 of the Constitution no 108 of 1996 of the Republic of South states that “the national and provincial governments, by legislative and other measures, must support and strengthen the capacity of municipalities to manage their own affairs, exercise their powers and perform their functions”.

The White Paper on Local Government (1998) states that the development mandate of local government gives priority to service delivery over and the above the involvement of communities in local government. The mandate entails provision of safe water, quality sanitation, affordable energy and appropriate administrative services to communities in the jurisdiction of the municipality. Municipalities have an additional mandate to drive social and economic development to address poverty and inequality.

B2B Programme is about the quality of delivery of services in municipalities. The term itself have a direct meaning about revamping the culture of delivery of services. It is about the fundamentals of service delivery to address the community needs. The concept of ‘back to basics’ emanates from shortcomings and poor service delivery which result into community dissatisfaction and mistrust which result into a lack of confidence in government.

Crous (2004:18-19) cites The Universal Dictionary (1961:1394-1395), which defines service delivery as an act of performance of public activities that is exercised by officials to help the public in which power is inherent to manage the public resources through a public organization that provides services of value to the public.

The Universal Dictionary (1961:413), as cited by Crous (2004:18-19), outlines that service delivery entails production or performance, transfer of goods to the public or delivery of services as per the expectations of the public. Riekert (2001:90), as cited by Crous (2004:18-19), uses the definition of service delivery of The Universal Dictionary (1961:1394-1395) and gives an integrated definition of service delivery that is read as: 'Service delivery is concerned with the provision of a product or service, by a government or government body to a community that it was promised to, or which is expected by that community'. This chapter discusses and explains reasons for the existence of B2B Programme. It explains the meaning of the concept itself and what it seeks to achieve. It discusses what has been achieved by the intervention and what the challenges that face B2B Programme are. Other intervention programmes that preceded B2B Programme are also mentioned.

3.2 RATIONALE FOR IMPLEMENTATION OF BACK TO BASICS (B2B) PROGRAMME

The Constitution no.108 of 1996 of the Republic of South and White paper of 1998, has given local government a huge mandate, which amongst others is to address poverty and unemployment to the disadvantaged communities. Contrary to this, RSA CoGTA (2014a) indicates that local government has not been equal to the task at hand, due to governance challenges, the break-down of trust between communities that is reflected in an increase of service delivery protests, inadequate public participation and the municipalities' lack of competent human resources, financial challenges, poor service delivery and lack of infrastructure maintenance.

RSA CoGTA (2014a) indicates that numerous intervention and support programmes have been put in place in an attempt to improve service delivery in municipalities. Sithole

(2019:2) outlines the support measures by national government, such as Project Consolidate (2004), the Five Year Local Government Strategic Agenda (2006), and the Local Government Turn Around Strategy (LGTAS) (2009) to support and strengthen capacities of municipalities to be able to carry out their obligations to improve service delivery as prescribed by policies and legislation.

There are significant achievements that have been realised, although there is a serious governance system that need to be addressed. RSA CoGTA (2014a) explains the concerted effort for effective implementation. Functional municipalities are at the center of transformation of local government that is capable to provide a healthy and economically sustainable society.

3.3 CHALLENGES OF BACK TO BASICS (B2B) PROGRAMME

RSA CoGTA (2014b) clarifies that despite the delivery achievements, municipalities have been beset by numerous challenges that range from institutional incapacity and widespread poverty that have that have stalled the sustainability of the local government project, that resulted in a break-down of service delivery.

RSA CoGTA (2014b) raised a concern on the viability of the municipalities on the collection of revenue, which undermines the ability of municipalities to deliver services to communities. Human resources in another factor terms the required competencies and the correct placements of officials. Communities are skeptical about the capability of municipalities to deliver, as well as public representatives who are not accessible to communities and non-functional ward committee systems. Community unrest on service delivery matters is a demonstration that communities are dissatisfied with the performance of municipalities and that has created a negative perception on the image of municipalities. Rent seeking and allegation of corruption of councilors demonstrate the break-down of ethics and conduct of authorities. Sithole (2019:2) articulates a report by the National Department of Cooperative Governance and in 2009 noted the “unique challenges faced by weaker and more vulnerable municipalities.” Sithole (2019:2) refers to RSA CoGTA (2009:9) that funding and delivery capacity creates a massive

infrastructure backlog legacy and complex rural development problems that require extraordinary measure requirements.

Sithole (2019:2) supports the views of RSA CoGTA (2014) and further explains that South Africa's 278 municipalities have revealed that the envisaged transformed local government is a dream that cannot be realized in light of the current situation. CoGTA assessed and grouped municipalities into three categories for assessment. RSA CoGTA (2014a) states that the first group, of some 37% of all municipalities, comprise of cases where municipalities have got the basics right, although improvements are still necessary, and only 7% municipalities where found to be doing reasonable well and no intervention was required. RSA CoGTA (2014b) explains that these municipalities have the basics in place and implement creative means and innovations for sustainability. These are role models for the desired state of affairs. Secondly, the second group of some 32%, is almost dysfunctional and support intervention is required to put the basics right. Overall performance of the municipalities is reasonably average. Municipalities have the basics in place and can deliver on the basic services and functions of local government, although spots of degeneration and collapse have been noticed to be remedied.

RSA CoGTA (2014a) states that the third group of some 31% is dysfunctional and support intervention is required to get them to get the basics right. This category of municipalities need intensive care, given perennial corruption, dysfunctionality, lack of meaningful public participation, and negative audit outcomes, as a result of poor financial management. Demonstration of poor service delivery in terms of management functions, are such areas as fixing potholes, collecting refuse, maintaining public places, fixing street lights, etc. There is a lack of commitment to render the functions or maintain the systems, although resources are at their disposal. However, the basics are not in place. Intervention is required drastically, due to a lack of good record on service delivery and to manage the decaying system.

RSA CoGTA (2014b) explains that the National Department of Cooperative Governance and the Provincial Department of Cooperative Governance and Traditional Affairs (CoGTA) introduced the B2B Programme as a monitoring and support programme to

improve the functioning of the municipalities to get the basics right and better serve the communities.

The Department of Cooperative Governance and Traditional Affairs (2014) articulates B2B Programme as a differentiated approach that entails different thinking that emphasises a tailor-made support and intervention that speak directly to problematic areas. B2B is the support and intervention programmes to strengthen the capacity for development and service delivery in local government.

RSA CoGTA (2014:9, cited in Madumo, 2017:2018) states that the Back-to-Basics strategy is targeted at enhancing the key performance areas, which entails provision of basic services, governance within municipalities, public participation, financial management in municipalities and institutional capacity of municipalities to render services efficiently and effectively. Effectiveness of the pillars would reflect improvement of the performance and sustainability of municipalities.

The former Minister, Pravin Gordhan's presentation of B2B (2014b) defines B2B as a democratically elected and accountable government to communities on decision making. It is a local government that provides a prompt response to community concerns. It entails seamless provision of basic services in a sustainable manner without any disruption. It facilitates socio-economic development to raise the standard of living of citizens, as well as guarantees a safe environment without fear of crime and a healthy environment to live in. It ensures the involvement of communities in matters of local government that affect them and the public service of caring and serving communities.

RSA CoGTA (2014b) states that the B2B Programme is about working differently to bring about the desired outcome. In this instance a new mindset is required that gives priority to communities and not to political elites and organizations. This is at the center of back to basics approach. According to RSA CoGTA (2014b), the Municipality are fundamentally expected to put people and their concerns first and ensure regular engagement with communities through established public participation mechanisms, and to develop a climate of decent standard of living through the delivery of sustainable municipal service. This delivery is illustrated through planning and delivery of a social and

economic infrastructure. Maintenance and upgrading is necessary and therefore requires funding. Constant redress and swift restoration of failed municipal services are critical.

RSA CoGTA (2014a) asserts that good governance and administration is an essential part of accountability – economic management of resources, spending the public funds for the good of the society, securing skilled and knowledgeable staff and ensuring transparency in governance. It remains important to ensure sound financial management and proper control of the accounting system and economic management of resources to sustainably deliver services and better the lives of communities. Establishing a sound institution with administrative capabilities, that is composed of committed and competent personnel, is critical.

RSA CoGTA (2021) emphasizes that B2B Programme requires leadership and a political will that is driven by focused strategic change. Therefore, cooperation and collaboration of different spheres of government is of vital importance. Leadership should inspire for change for the common good and response to community needs. The administration of the Municipality should carry its mandate to provide services to communities.

3.4 AIMS OF BACK TO BASICS (B2B) PROGRAMME

Zengethwa, Thakhathi and Oyelana (2019) explain that The Cooperative Governance and Traditional Affairs Department, outlines B2B as a programme seeking to sort out all dysfunctional municipalities out of their state and to ensure that there are municipalities below the middle path. The aim is to maintain those municipalities that are average performers and to give the support to move them to top performers.

Open Government Partnership (2018:2-3) states that the B2B Programme seek to increase public confidence in the local government system, improved community engagement in service delivery, dealing with corruption and better relations with communities. It aims to give communities management tools to hold municipalities accountable. RSA CoGTA (2014a) articulates that the main objective of B2B Programme is to improve and respect the dignity of communities, encourage communities to play their role in local governance and pay for services that are due. It must empower citizens to

hold the government accountable, ensure that basic services are delivered, ensure oversight structures, audit committees, s79 committees and District IGR Forums are functional. It must ensure that ward committees are in existence and functional, ensure financial performance data is monitored and ensure appointment of competent and qualified personnel in the municipalities.

3.5 STRATEGIES TO IMPLEMENT BACK TO BASICS (B2B) PROGRAMME

RSA CoGTA (2014a) states that the B2B Programme would be implemented through the following strategies:

- (a) Give to municipalities of dysfunctional states and ensure that they are able to carry their mandate through enforcement of policies and legislations. Put mechanisms in place for management of performance and accountability. Implement consequence management where it is necessary for poor performance. Ensure provision of minimum services and functions. Maintain proper functioning of council structures and processes.
- (b) Those municipalities that display minimum levels of performance should be supported to progress to maximum performance. Strengthen strong municipal administrative systems and processes. Employment of skillful and knowledgeable officials in administrative positions and continue to monitor their performance. Development of a real-time monitoring system to play and oversee and tightly monitor the performance of local government. Elimination of incidences of fraud and corruption through a prompt response. Implementation of public participation processes. Facilitate local economic development to stimulate competitive, inclusive and sustainable economies.
- (c) Provide incentives through innovative ways, to those municipalities that are doing well.

3.6 LEGISLATIVE FRAMEWORK ON BACK TO BASICS (B2B) PROGRAMME

The Republic of South Africa's Constitution no.108 of 1996, lay a foundation for transformation of local government. B2B Programme is a mechanism to realise the objective of local government and the vision outlined in the 1998 White Paper on Local Government. Section 152 of the Republic of South Africa's Constitution no.108 of 1996, outlines the objectives of local government as "to provide a democratic and accountable local government, to provide services in sustainable manner, to provide safe and healthy environment, to provide for economic development and participation of communities in in local government affairs."

Vyas-Doorgapersad (2010:46-47) articulates that the White paper on Local Government of 1998 states that "local government must play a developmental role. Developmental role means a local government that is committed to work citizens and groups within the communities to find a sustainable way to meet their social, economic and material needs to improve their quality of their lives". The beneficiaries of the White Paper of 1998 should be the vulnerable and the poor.

The provision of Section 152 of the Republic of South Africa's Constitution no.108 of 1996 and Section B of the White Paper of Local Government form the pinnacle of developmental local government and set indicators upon which the envisioned development should be achieved.

Vyas-Doorgapersad (2010:46-47) concurs with the directives of the White Paper on Local Government (1998) that the development mandate of local government gives priority to service delivery over and the above involvement of communities in local government. The mandate entails provision of safe water, quality sanitation, affordable energy and appropriate administrative services to communities in the jurisdiction of the municipality. Municipalities have an additional mandate to drive social and economic development to address poverty and inequality.

Baadjies (2018:8) refers to the Municipal Structures Act (No. 117 of 1998) that defines basic municipal services as an imperative for an acceptable and reasonable quality of life, of which failure to provide can endanger the health and the safety of the public. Baadjies

(2018:8) further indicates that the Act derives from Section 152 of the Constitution of the Republic of South Africa. The constitutional obligation of municipalities is to provide services to communities that are:

a) “Equitable and accessible; and

b) Provided in a manner that is conducive to –

- the prudent, economic, efficient and effective use of available resources; and
- services that can lead to the improvement of standards of quality over time”

Baadjies (2018:8) emphasises that municipalities must comply with legislative requirement to provide services. Failure to provide basic service like water, sanitation, etc. could not only be a constitutional violation, but can result into mistrust, frustration and protest, particularly of the poor communities whose life and health can be endangered. The concept of service delivery is closer to the emotions of the poor, due the backlog and legacy of apartheid that left them without access to proper basics services.

According to Koma (2016:129), municipalities are obligated to provide services. The concurrent functions, in terms of part B and schedule 5 of the Constitution no.108 of 1996 of the Republic of South Africa, is the competence of national government and provincial government. The following functions fall within the mandate of local government. These include: municipal roads, licenses, fresh produce markets, parks and recreation and refuse removal. The following functions, as per the provisions of part B schedule 4, are competencies of local government: air pollution, building regulations, child care facilities, electricity and gas reticulation, local tourism, municipal airports, municipal planning, municipal health services, municipal public transport and municipal public works.

Mdliva (2012:21) refers to the Intergovernmental Relations Framework Act 13 of 2005 that aims “to establish a framework for the national government, provincial governments and local governments to promote and facilitate IGR; to provide for mechanisms and procedures to facilitate the settlement of intergovernmental disputes, and to provide for matters connected therewith”. Mdliva (2012:21) emphasises that the IRFA operationalizes the constitutional framework by enabling legislating that promotes IGR, as the development of mechanisms and procedures that encourage co-ordination between the spheres of government, and facilitate dispute settlement platform. Therefore, B2B Programme operates within the ambit of IGR.

Fourie and Opperman (2015:545) support the aforementioned view that the MEC of local government should provide funding and capacity building, if needed for the performance of the assigned function in terms of Section 9 and 10 of the Municipal Systems Act no.32 of 2000. Landsberg and Graham (2017:3) also refer to Section 139 of the of the Republic of South Africa's Constitution no.108 of 1996, which gives authority to the provincial government to take over the function of the municipalities if they fail to fulfill their constitutional and legislative mandate. Hence B2B is a support and intervention programme that was developed to ensure that the basics of service delivery are brought forward in municipalities to meet the need of the communities.

3.7 ROLE OF THE OTHER SPHERES OF GOVERNMENT IN BACK TO BASICS (B2B) PROGRAMME

Collaboration of all spheres of government is of utmost importance to ensure viable municipalities. Different spheres have a specific role to play over and above the role MinMEC that monitors and reviews the progress of local government. CoGTA, as the custodian of cooperative governance, has to lead the provincial governance programmes to alignment at a local level with local governance and local spatial development frameworks. This is to ensure that governance is democratic, effective, efficient and economic. A real-time monitoring system needs to be implemented (RSA CoGTA, 2014a).

RSA CoGTA (2014a) asserts that national and provincial government provide support to municipalities in terms of Section 154 of the Constitution no.108 of 1996 of the Republic of South Africa to strengthen and build the capacity of the municipality. Landsberg and Graham (2017:164) put emphasis that the provision of No. 154 of the Republic of South Africa's Constitution no. 108 of 1996, which empowers the provincial government to supervise local government.

Motingoe (2012:64) cites the Annual Report (2010:52) issued by the former national department of CoGTA. The report states that the mandate of the department is to coordinate cross-sectoral support, aimed at building the capacity of local government to

deliver on their Constitutional mandate and to meet the socio-economic development needs of the communities. Motingoe (2012:64) further refers to The Delivery Agreement for Outcome 9 (2010:7) ,issued by the Presidency, that identifies the sector of national and provincial departments, such as Treasury, Water Affairs, Human Settlements, Energy, Rural Development and Land Reform, and Environmental Affairs, which have a direct support to municipalities. It further indicates that these departments will have to collaborate and tackle the service delivery issues, such as coordination of infrastructure funding, capacity-building initiatives and integrated planning. Motingoe (2012:64) explains that the former department of provincial and local government has also developed the National Capacity Building Framework 2008/2011, which outlines the role of stakeholders to provide support to the targeted local government.

The context of IGR meant all spheres of government must collaborate to implement the pillars of B2B Programme. These pillars are putting people first, delivering services, good governance, sound financial management and capacity building (RSA CoGTA, 2014a). A set of indicators would set the standard for the success of the B2B Programme. These indicators entail an empowered citizen who holds the government accountable, delivery of basic services, functional oversight structures, audit committees, Section 79 committees, District IGR Forum, ward committees, effecting monitoring of financial information and appointment of competent and suitable qualified staff (RSA CoGTA, 2014a). The B2B Programme would track the performance of municipalities through reporting on a monthly and quarterly basis. The motivation behind the B2B Programme is a targeted and differentiated intervention approach

Koma (2010:117) states that the Provincial Department of Local Government and Provincial Treasury has to play a strategic role to capacitate municipalities in a form of training intervention in areas like supply chain management, financial management and the setting of performance management systems in the development of IDP. Koma (2010:117) quotes an example of intervention of the Provincial Government in Mpumalanga Province, Mbombela District Municipality. This was done in terms of Section 139 of the Constitution no.108 of 1996 of the Republic of South Africa. The MEC for local government appointed an administrator to fill vacant posts, as well as address financial

and service delivery challenges over a period of six months. Section 139 brought about huge improvements in Mbombela District Municipality.

Mathenjwa (2014:n.p.) emphasizes that supervision of local government is broader than intervention, in terms of scope in the amended Section 139 of the Constitution no.108 of 1996. This entails monitoring of local government, intervention in local government and support of local government.

The monitoring of local government determines the appropriate action to address the weaknesses in the functioning of local government. Addressing deficiencies takes place through intervention by taking over the functions of local government or providing support and resources to meet the needs. The B2B Programme has all the elements of monitoring, intervention and support of local government (Mathenjwa, 2014:n.p.).

However, Chapter 7 of the Constitution of the Republic of South Africa no.108 of 1996, provides a specific mandate in respect of powers in municipalities. This relates to the provisions of dealing with the issue of provincial oversight, monitoring and support that are found in Sections 154(l) and 155(6) and (7). The power to supervise municipalities is found in Section 139. This constitutional provision has created challenges of practical implementation of IGR between the province and municipalities in the same province (Mettler, 2003:217)

RSA CoGTA (2016) states that a war room system has been established. It consists of a national monitoring system to track performance and trigger the necessary intervention on municipal performance on key aspects of weaknesses. These systems are designed to constantly monitor service delivery interruptions. CoGTA is in collaboration with provinces and municipalities to put in place equivalent structures with respect to their own areas of mandate.

3.8 CHALLENGES OF BACK TO BASICS (B2B) PROGRAMME

RSA CoGTA (2014a) indicates that municipalities have to address a series of challenges that beset service delivery. Some of the shortcomings relate to institutional incapacity and

widespread poverty that have hampered sustainability of governance. The financial viability of some of the municipalities needs to be addressed as a matter of urgency. A lower rate of revenue collection compromises the ability of municipalities to deliver services. Poor responses to community concerns create a gap of mistrust between communities and municipalities. It also produces dysfunctionality of ward committees and lack of meaningful participation in municipal affairs. Service delivery protests is a form of expression of dissatisfaction with municipal performance. The break-down in values and principle in leadership is reflected in corruption in governance (RSA CoGTA, 2014a:5).

Masiya, Davids and Mazenda (2019:33) illustrate that there has been a significant increase in violent protests. The service protests lead to the destruction of public and private property, and in some instances resulted in a loss of life. The study by Lowland (2016:8) as cited by Masiya *et al.* (2019:33), demonstrate that service delivery protests have been on the rise and are becoming more violent. Masaya, David and Mazenda (2019:33) cite Alexander (2012:2), who postulate that South Africa is the “protest capital of the world.” Swart (2013, as cited by Masiya *et al.*, 2019:33), argues inadequate or total lack of municipal service delivery has leading to communities protesting violently in a vehement demonstration of dissatisfaction with the poor quality of service.

Mukwevho and Mtapuri (2014) attest and illustrate to a number of protests and marches that pertains to the state of service delivery in ELM. Linked to the marches are communities who have written petitions complaining about the state of affairs on matters of service delivery, lack of maintenance of infrastructure, and poor performance of the municipality. Mukwevho and Mtapuri (2014) cite Harrison (2003), who point to the evaluation conducted on IDP by the GTZ and provincial government. The evaluations’ findings demonstrate a success of IDP’s in spite of challenges of services delivery.

Tshishonga (2019:161-69) expresses the view that poor service delivery is the reflection of failure of municipalities to uphold the constitution and other local government prescripts. Poor service delivery is challenge that is broadly faced by all spheres of government as indicated in reports from scholars and government. Challenges of lack of skills and capacity in staff, lead to poor service delivery. Another factor is a lack of local democracy in local government through the participation of citizens.

Masuku and Jili (2019:02) unpack some of the reasons for poor service delivery and cite Kanyane and Koma (2014), who reveal that weak leadership in strategic management, including corporate governance, as well as a lack of the required skills in financial management, is prescribed by legislation and misplacement of staff, political patronage in the appointment of senior managers with the relevant qualifications, which contribute to poor performance. Therefore, political favor can compromise the performance of administration tremendously. Heywood (1997:335) as cited by Masuku and Jili (2019:02), corroborates the view of Kanyane and Koma (2014) and puts emphasis on the manner in which the senior bureaucratic are appointed, as a strategy to exert control over bureaucrats and civil service. Most unfortunately this conduct has a negative ramification for the performance of the municipality.

Contrary, Mafunisa (2003) as cited by Masuku and Jili (2019:02), argues and emphasises the politicised bureaucratic model that gives politicians the power to determine how bureaucracy in public sector operates. Mafunisa (2003) is of the view that politicized officials are under the manifesto and the policies of the ruling party, thus it therefore makes sense to have politicians that are dominant and lead the administration within the context of the politicised bureaucratic model.

Tshishonga (2019:161) cite Ismail *et al.* (1997) and Tapscott (2008), who explain that the challenges range from a lack of implementation of policies and the legacy of apartheid's red tape and autocracy. Boosen (2011) as cited by Tshishonga (2019:161), states that some of the reasons for non-delivery of service relate to nepotism and cadre deployment of incompetent personnel in strategic areas of delivery.

Tshishonga (2019:161) is emphatic that corruption and mismanagement are rife in local government; hence this compromises the capacity to deliver service. Funds that are earmarked for service delivery and development are diverted for personal aggrandizement. Poor revenue collection, due poor socio-economic conditions in some municipalities, results in a failure to meet urban needs. Tshishonga (2019:161) argues that extensive research has been done in local government that indicate multiple challenges, particularly the challenges relating to lack of finance, lack of personnel capacity and assets, which form the bedrock of failure of service delivery. Linked to lack

of capacity is poor strategic thinking and operations, which results into poor service delivery outputs. Mukwevho and Mtapuri (2014) highlight the view that one of the challenges of service delivery is the unrealistic targets that are brought about by the provincial and national plans. These plans and strategies do not take into account the human and financial capacity of local government. Local government does have funds to carry out some of the unfunded mandates that are presented by other spheres of government.

Maharaj (2008:197) as cited by Tshishonga (2019:161), express their views that the lack of connection between capacity development and IDP is due to poor alignment between budgets and human resources development.

Parliament (2020:8) highlights the political instability, due to continued infighting among councilors, prominently from the ruling party. This has resulted into political factions that had a snowballing effect in the administration of the municipality. Parliament (2020:08) refers to the Auditor-General's report that raised serious concerns about poor internal controls, due to neglect that resulted into irregular, wasteful, fruitless and unauthorised expenditure, amid acts of irregularities in supply chain management and corruption. National and Provincial Treasuries allocated million of rands in an attempt to intervene in municipalities without any spin-offs, due to a lack of internal controls for those funds. This is a clear indication that allocation of funds to municipalities without proper internal controls and oversight, is a waste of resources.

The Local Government Twenty Year Review (2014) paints the challenges that face local government and these challenges find expression in the pillars of B2B Programme since the dawn of democracy.

3.8.1 Putting people first and engaging with communities

The backlog of infrastructure sub-standard service delivery, created a mistrust between communities and municipalities, hence the dissatisfaction finding expression in a form of violent protests that cost municipalities huge infrastructures losses, as a result of damage to public property and vandalism during the service delivery protests. The South African

Human Rights Commission (SAHRC) Report on Human Rights Community Protest (2018:1) explains that the community protest is a result of poverty and inequality. Linked to the two aspects, is a lack of access to basic services like water, sanitation, and electricity. The Report states that between 2012 and 2014, most protests took place in Gauteng, particularly in Metropolitan Municipalities. This is a clear indication that a lot needs to be done to improve local governance and accountability.

3.8.2 Delivering basic services and infrastructure development

Planning and budgeting usually neglect maintenance and operation of an infrastructure. The infrastructure that was inherited after 1994 is often neglected, which results into high maintenance costs. The IDP tend to focus on the infrastructure development and upgrading of poor areas of the disadvantaged developed areas like towns, suburbs and cities. The consequence of imbalance in planning and budgeting resulted into ageing infrastructures in the previously developed areas, which could cost billions of rands for upgrading, instead of sustainable maintenance.

3.8.3 Good governance

Lack of accountability of councilors and failure to provide a democratic and accountable local government is a problem. Councilors do not hold public meetings to give feedback on council decisions. In some instances, councilors fear for reprisals from communities. The preamble of the code of conduct for councilors as stipulated in Municipal Systems Act no. 32 of 2000, schedule 1, stipulate that “councilors must be accountable to local communities and report back at least quarterly to constituencies on council matters, including the performance of the Municipality in terms of established indicators.”

3.8.4 Sound financial management

Lack of financial capacity is one area that stood out, which hampers the operations of municipalities. Lack of qualified personnel in the finance and accounting field resulted in

poor audit findings. Weak revenue and non-payment of services were identified, particularly in poor rural areas and townships, where high unemployment levels and poverty is very high. This results in an increase in the number of indigents who demand basic services. The 15-year Review on Democratic and Accountable Local Government in Gauteng (SALGA, 2015:26) indicates that between 300 000 and 689 000 benefitted as indigents at a massive cost to the municipality. The cost of provision of basic services exceeded the household income of the indigents, if they were to pay for those municipal services.

3.8.5 Building capabilities

There is a high level of vacancies and turnover rates in senior management positions and a lower service delivery level. Municipalities delay in filling vacant positions, which has a negative effect in infrastructure development and service delivery. Poor employment practice compounds the situation. Cadre deployment and political patronage impact on the quality of skills and competence that the municipalities possess. Incapable individuals get appointed in strategic positions that have negative consequences for delivery of services. Gildenhuis (1997:108) argues that the grand scale of political patronage and nepotism is tantamount to discrimination against the white Afrikaner males, who are replaced by black and white English-speaking candidates. The programme of affirmative action is not to discriminate on political partisan lines, but to address the past imbalances that were created by the past regime.

Gildenhuis (1997:108) insists that it is imperative to retain effectiveness and efficiency through high standards of performance. Therefore, the candidates appointed should have the potential for training and development to substitute the gap for the lack of knowledge and experience. The minimum qualification requirement for the position should be met. An example is a Local Municipality in Gauteng that hires unqualified managers. Citizen News (2018: Online) revealed that a local municipality hired an unqualified administrative manager. According to the municipal manager, the post requires a bachelor degree with five-year experience. The post was not advertised and the individual concerned was transferred from the Speaker's office to the position.

The report set a tone to identify priority and focus areas for the B2B Programme. The priority areas of B2B Programme should reflect the contents of the report. Bogoba (2013:112) paints a gloomy picture on the status of local government. He refers to numerous initiatives that were developed by CoGTA in an attempt to turn around the situation in municipalities. The point in case is Municipal Turn Around Strategy (LGTAS), “Business Adopt-A-Municipality” and Operating Clean Audit of 2014. All these good initiatives had fluid successes. Bogoba (2013:112) further refers to Minister Baloyi’s speech (2013) that the amendment of the Municipal Systems Act 2000 in 2011, was an attempt to improve performance and improve service delivery in municipalities. This could be done through the recruitment of capable candidates with the necessary competencies and skills, particularly in scarce skills field like finance, technical and engineering.

3.9 PREVIOUS SUPPORT AND INTERVENTION PROGRAMMES IN MUNICIPALITIES

The Local Government SETA Research Report (2019) outlines B2B Programme as a plan to turn around local government. This programme emanates from the lessons drawn from the previous interventions and assessment on the state of local government that were implemented. The programme seeks to improve the functioning of the municipalities to improve service delivery and get the basics right.

Department of Cooperative Governance and Traditional Affairs implemented numerous support and interventions programmes prior to the introduction of B2B Programme. Local Government SETA Research Report (2019) mentions Project Consolidate in 2004 that was aimed to entrench policies and programmes to make a maximum impact at local government level. Service delivery facilitators were deployed in identified municipalities. The rationale for deployment was to strengthen municipal performance, service delivery, promote the culture of high work ethic in performance and accountability.

The programme conducted a research and analysis to gather data that is useful for capacity building and review of the existing strategies. In 2006 a five-year Local Government Strategic Agenda was introduced that followed Project Consolidate. In 2009

the five-year Local Strategic Agenda lead to the inception of Local Government Turn Around Strategy (LGTAS) programme. LGTAS was intended for “the development of an accountable, responsive, efficient and effective local government system in South Africa.”

3.9.1 Project consolidate support programme

Mdliva (2012:39) refers to the speech of the former Minister of Department of Provincial and Local Government on the 2006 National Conference on Developing of Local Economies. Former Minister Mr Sygney Mufumadi explained Project Consolidate to entail specialist teams of administrators that are deployed to municipalities to tackle weaknesses. The focus is on municipal key performance indicators (KPAs), such as basic service delivery, infrastructure development and stronger Local Economic Development (LED). Development of municipal institutions should be for financial viability for the municipality, governance, public participation and eradication of corruption. Mdliva (2012:38) further outlines numerous support programmes that were implemented in municipalities. The success and failures of these support interventions varies according to the prevailing circumstances.

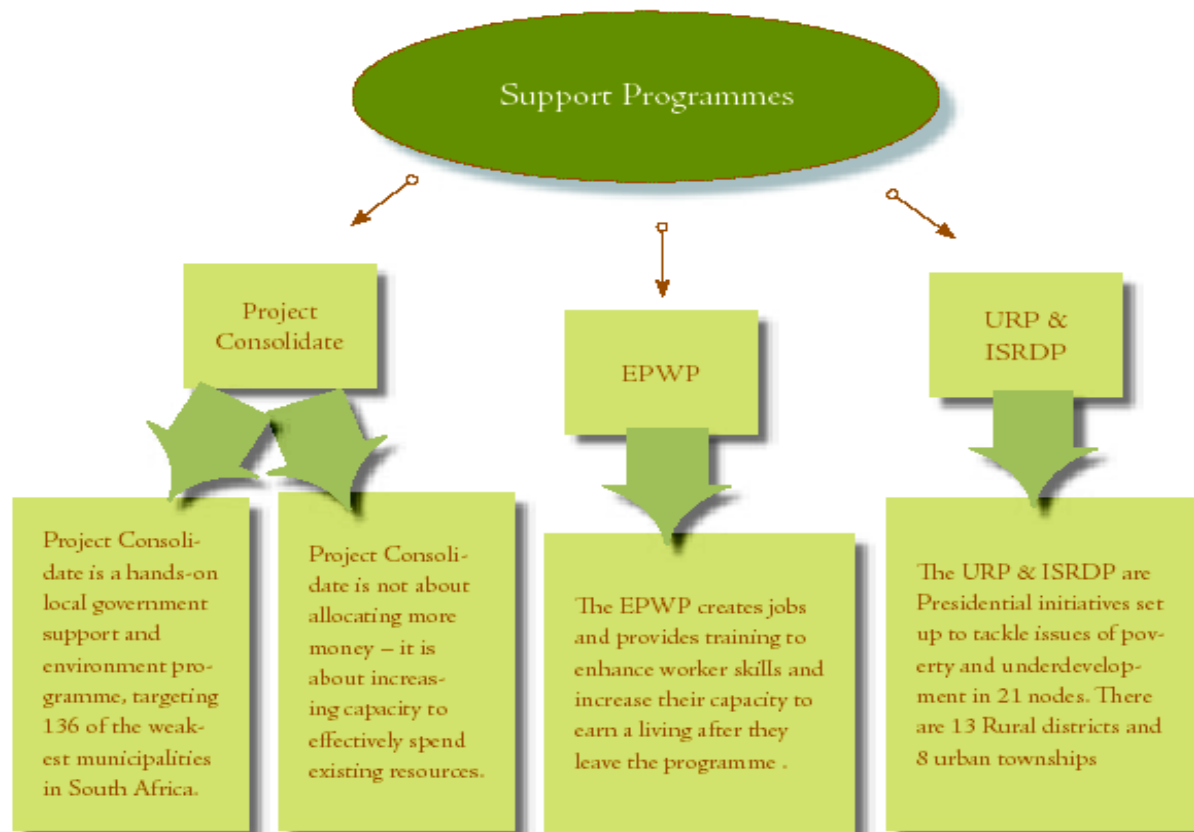


Figure 3.1: Municipal Support programmes (Source: Secondary source of Practitioners Guide to the Intergovernmental Relations System in South Africa, 2007 as cited by Mdliva, 2012:38)

3.9.2 Urban Renewal Programme and Integrated Sustainable Rural Development Programme

According to Mdliva (2012:40), the Urban Renewal (URP) and Integrated Sustainable Rural Development (ISRDP) programmes are developmental interventions that are presidential initiatives aimed at providing targeted support to 21 rural and urban areas. These consist of 13 rural districts and eight urban townships representing the largest concentrations of poverty pockets in South Africa. All development agencies of government have been lobbied to focus on poverty alleviation in these 21 areas and Cabinet plays an oversight role in monitoring progress in these areas. The URP and the

ISRDP are supported by different sectorial departments through technical teams and lead by political champions (Practitioner's Guide, 2008:5).

3.9.3 Local Government Turnaround Strategy (LGTAS)

On 2 December 2009, CoGTA approved a comprehensive Local Government Turnaround Strategy (LGTAS), obliging the national departments and provincial departments to develop support plans for municipalities, until the next term of office in 2014. This strategy culminated from the State of Local Government Assessment Report of the former national Department of CoGTA (2009:70), which was a response to various performance failures, viability and deteriorating service delivery records amongst municipalities. Motingoe (2012:65) outlines and cites Local Government Turnaround Strategy (2009:2), as it explains the following strategic objectives:

- (a) Ensure that the basic community needs are addressed by the municipalities and a conducive environment is facilitated and support is given to fast-track service delivery that is tailor-made for the conditions and needs of each municipality. Build good governance systems to ensure an accountable local government.
- (b) Create systems and structures and procedures to prevent corruption, maladministration and municipalities liaise with communities and account through better functionality, performance and high levels of professionalism.
- (c) Put in place the core institutional systems to improve performance, improve the national and provincial policies to play an oversight and support to local government. This means that the national and provincial government develop policies that seek to strengthen the capacity of local government to enable them to achieve the developmental objectives.
- (d) Mobilise and strengthen the partnership between stakeholders, such as the civil society, communities and other interest groups for development and service delivery.

Motingoe (2012:66) cited the Practitioner's Guide to Intergovernmental Relations in South Africa (2008:34) issued by the former national Department of Cooperative Governance

and Traditional Affairs. This pertains to the numerous support programmes that were launched to enable local government to fulfill its mandate. Local government is an imperative sphere of government that is constituted of municipalities that are situated near communities to deliver services and development. Key strategic intervention to support municipalities are the following:

Free Basic Services and Infrastructure - launched June 2001. The purpose of the programme is to strengthen local government's capacity to increase access to basic public services, including free basic service for all communities in order to enable municipalities to meet their constitutional mandate. Urban Renewal and Integrated Sustainable Rural Development Programmes (URP and ISRDP) – launched August 2001. They are Presidential initiatives aimed at providing targeted support to 21 rural and urban areas. These 13 rural districts and eight urban townships represent the largest concentration of poverty in South Africa. All agencies of government are encouraged to pay special attention to poverty alleviation in these 21 areas and Cabinet plays an oversight role in monitoring progress in these areas.

- (a) Local Government Leadership Academy – launched September 2002. The programme seeks to improve the competencies of councilors and managers in areas, such as leadership and management through targeted interventions based on skills and audit findings.
- (b) Expanded Public Works Programme (EPWP) – launched June 2004. The programme consists of infrastructure, environment and cultural, as well as social and economic sectors. It is government's national initiative aimed at drawing a significant number of the unemployed into productive work.
- (c) Municipal Infrastructure Grant (MIG) – launched July 2004. It is a conditional grant to support municipal capital budgets to fund municipal infrastructure and upgrade existing infrastructure, primarily benefiting poor households.
- (d) The MIG is also a transfer mechanism geared towards making the system of transfers to municipalities simpler, certain and direct. Project Consolidate – launched October 2004. It was a programme through which the former Department of Provincial and Local Government identified a number of municipalities

experiencing a short-term need for intense, hands-on support. The high-caliber teams were assembled and deployed to work with municipalities to tackle the identified tasks. The programme extended not only to poorly performing municipalities, but also those in areas of high unemployment and poverty with considerable backlogs in service delivery. The problem areas were to be addressed by means of provincial project management units and support structures and the affected municipalities working in partnership with business, labour, civil society and development agencies.

- (e) Operation Clean Audit 2014 – launched October 2009. The main objective was to “achieve 100 percent unqualified audit opinions by 2014. Some of the goals of the programme are to support municipalities in achieving adequate leadership involvement and effective oversight, effective governance arrangements, systems to address previous audit findings, as well as conducive financial management arrangements.”

3.10 PILLARS OF BACK TO BASICS (B2B) PROGRAMME

RSA CoGTA (2014a) explains that the B2B Programme measures the indicators of developmental local government to assess the progress and failures of municipalities. It consists of five pillars, which are the cornerstones that guide planning, budgeting, coordination, alignment and responses of stakeholders to support and intervene in municipalities by the Minister of the Department of Cooperative Governance and Traditional Affairs.

Sithole (2019:25) discusses the pillars of the B2B Programme in detail. These five pillars form the bedrock for the ideal municipality that is envisioned to provide basic services in a sustainable manner. Sithole (2019:25) cites CoGTA (2013) that outlines the key basic services identified in B2B. Programme key basic services identified in the B2B Programme include water and sanitation, electricity, waste management, roads and the provision of Free Basic Service (FBS), including the maintenance of an indigent register. It also includes an elevation of development of a water and sanitation infrastructure to

improve basic service delivery. CoGTA (2013 in Sithole, 2019:25) discusses the ideal municipality. An ideal municipality should be able to perform the following functions:

- (a) **Putting people first and their concerns-** the B2B Programme seeks to ensure that public participation is conducted effectively by developing and implementing regular community satisfaction surveys and assisting municipalities in developing community engagement plans.
- (b) **Delivery of basic services and infrastructure-** B2B Programme seeks to ensure that all municipalities “develop standards for each service and establish systems for monitoring adherence to these standards and reporting on ward-level service delivery plans.”
- (c) **Good governance and administration-** the B2B Programme seeks to ensure that municipalities are monitored and evaluated on their ability to carry out the following tasks: “holding of Council meetings as legislated; functionality of oversight committee structures, Section 79 committees, audit committees and participation in the District IGR Forums.”
- (d) **Sound financial management-** B2B Programme seeks to ensure that performance of municipalities against the following basic indicators, are constantly assessed: the number of disclaimers in the last five years; whether the budgets are realistic and based on cash available; the percentage of revenue collected; the extent to which debt is serviced; efficiency and functionality of supply chain management” (RSA CoGTA, 2013). These are some of the indicators identified as lacking in most dysfunctional municipalities.
- (e) **Building institutional capacity-** B2B Programme also puts emphasis on the building of strong municipal administrative systems and processes which includes filling of positions with competent people. It also seeks to train and capacitate officials and councilors.”

This is about the filling of vacant positions at a senior management level and at lower level of service delivery. It involves the availability of financial management skills, technical skills and engineering skills. The development of human resources policies and strategies, e.g. municipalities should recruit competent and skilled staff to serve the

communities. The aforementioned pillars form the foundation for the B2B Programme. The pillars were developed in line with the vision of White Paper on Local Government.

3.11 ACHIEVEMENT OF BACK TO BASICS (B2B) PROGRAMME

Addressing the delegates in a Local Government Summit (RSA CoGTA, 2014a), President Zuma highlighted the non-financial census report of 02 September 2014, which stipulates that services provided by municipalities have reduced the level of poverty significantly. The President flagged the following achievement of local government, as stipulated by the report:

- 11,8 million basic water service are provided,
- 5,3 million receive basic services,
- 2,5 million registered as indigents for free basic services beneficiaries,
- 10 million units of sewage and sanitation were received from municipalities,
- 31,1 % have access to free basic services.

RSA CoGTA (2014a) stipulates the achievements of local government since the local government elections in 1995, as follows:

- (a) A decentralised system of local government has been established that is a distinctive, interdependent and interrelated' sphere of government as enshrined in the Constitution no.108 of 1996 of the Republic of South Africa.
- (b) A progressive legislation and policy of world class that is backed by intergovernmental transfers systems that enable municipalities to carry their mandate.
- (c) A demarcation system has been put in place to establish a municipal system across the geographical space of the country that has address the legacy of apartheid through integration of communities that have been divided in the past."

RSA CoGTA (2014a) refer to Stats South Africa's illustrations of graphical presentation of service delivery achievements:

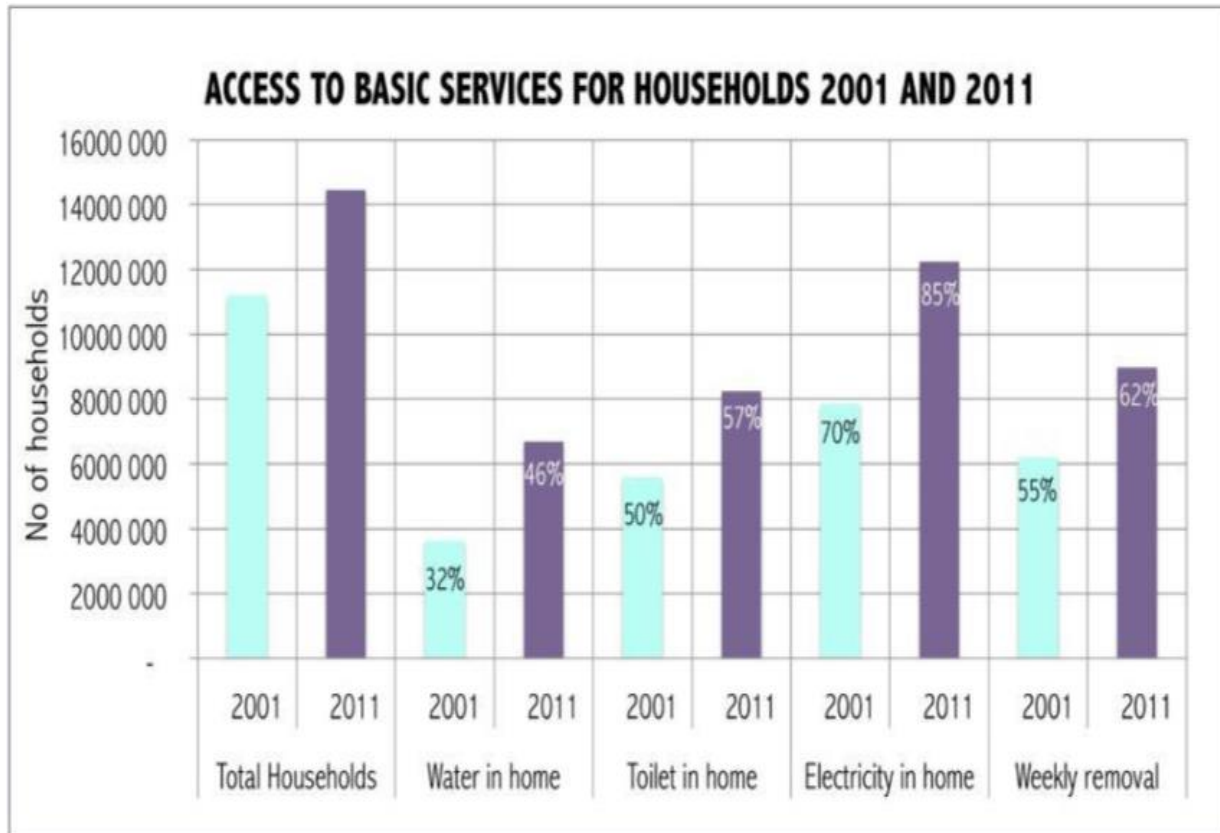


Figure 3.2: Access to basics services for household in 2001 and 2011 (Source: Secondary source of Stats SA Census data)

The graph compares access to basic services for households between 2001 and 2011. There has been a recorded increase of access to basic services from 10,5 million in 2001 to 14,2 million in 2011. The following table interprets the graph above:

- | • Basic services | Year 2001 | Year 2011 |
|-------------------------|-----------|-----------|
| • Water in homes | 32% | 46% |
| • Toilets in homes | 50% | 57% |
| • Electricity in homes | 70% | 85% |
| • Weekly refuse removal | 55% | 62% |

3.12 CONCLUSION

B2B Programme was explained in this chapter with regard to conceptualization. The relationship between B2B Programme and the Developmental Local Government were addressed. The rationale behind the development of B2B concept is based on failures of municipalities to execute their constitutional mandate.

The concept of B2B Programme is explained, and the aims and objectives have been clearly articulated. The relationship between B2B Programme and IGR is spelt out clearly in terms of the two programmes being intertwined.

B2B Programme forms the fundamentals of the developmental local government. Intergovernmental Relations Framework Act no. 13 of 2005, provides a framework for dispute settlement mechanisms, coordination, integration and cooperation between spheres of government. The framework is a platform for implementation of B2B.

The White Paper on Local Government (1998) forms the bedrock for service delivery and is a policy guide for the development of local government transformation through legislative provision. The strategies to roll-out B2B Programme indicate the priority areas for intervention. The pillars of B2B are discussed and this relate to five pillars of B2B Programme. These pillars are service delivery, infrastructure development, financial viability, institutional development and people first.

Academic scholars highlight the factors that hinder municipalities to deliver services. These factors are related to CoGTA's benchmark on what should be the ideal municipality. This is informed by Section 152 of the Constitution no. 108 of the Republic of South Africa. The achievements of local government on service delivery are explained and the challenges that prevent achievement of service delivery imperatives.

CoGTA conceptualised and rolled-out a range of support programmes that attempt to turnaround and capacitate municipalities to improve performance and service delivery. All these support programmes create a platform for B2B Programme. The provincial supervision of local government is a constitutional fundamental in terms of Section 155. Section 139 of the Constitution is as a result of failures of municipalities to fulfill its

obligation. The process of intervention seeks to stabilize municipalities to execute its function.

CHAPTER 4 :

EMFULENI LOCAL MUNICIPALITY (ELM) CASE STUDY

4.1 INTRODUCTION

This chapter outlines the profile of the Municipality that is guided by legislative provision in terms of the category of the municipality. The Municipality adopted an Executive Mayoral Committee Governance System in line with Section 7 of the Municipal Structures Act no. 117 of 1998 that specifies the types of municipalities that are firstly, the executive mayoral committees that has an executive mayor that is elected by the council, who has powers to appoint a mayoral committee that consists of not more than 10 members.

The administration of the Municipality is led by the municipal manager with a team of executive directors that head different departments that will be discussed in detail in terms of the services that they render to the community. Institutional capacity challenges are a major issue due to a lack of scarce and critical relevant skills to deliver services (ELM, 2021: Online).

The ELM IDP (2017/2018) states that the Municipality has established a ward committee participatory system as per the requirements of Chapter 4 of the Municipal Structures Act no. 117 of 1998. The ward committee participatory system is supplement with other mechanisms of public participation mechanisms, as provided in the Municipal Systems Act no.32 of 2000. The geographical local area gives an economic advantage, due to the road network that links Gauteng Province and Free State Province. The two urban towns and townships constitute the Municipality with the neighbouring towns in the Free State that forms the economic triangle of the area. The population size and the demographics clearly demonstrate the need for the Municipality to respond to community needs, due to fast urbanization and migration to cities. The socio economic status of the area depicts the level of unemployment, which looks at equality and inequality in the municipal space, the human development index that looks at the overall human development of citizens in the Municipality and the extent of poverty in the area, which puts pressure in terms of service delivery. This is as a result of poor revenue collections, which has a ripple effect

on the quality of service and sustainability of service, as contemplated in Section 152 of the Constitution no.108 of 1996 of the Republic of South Africa. Service delivery protests are due to dissatisfaction with the lack of service delivery or poor service delivered to communities (ELM IDP, 2017/2018). The economic position of the municipal area is one of the factors that created the challenge of a lack of cash flow to fund basic services and meet the creditors' obligations, such as Eskom, Rand Water and other creditors. Economics of the areas discuss the economic analysis in terms of negative growth, due to closure of giant steel industries and other industries that drive the economy of the area. The IDP, municipal budgeting and spatial pattern are of vital importance for the long-term development of the municipality. On governance issues, the poor supply chain system, internal financial control and revenue collection is critical to fund the budget and service delivery implementation plans. Infrastructure development and maintenance from IGR grants are crucial.

The ELM IDP (2020/2021) states that the implementation of Section 139 of the Constitution no. 108 of 1996 of the Republic of South Africa was due to failure of the Municipality to fulfil its mandate to deliver services to communities and the development of a FRP to turn around the Municipality for efficiency. The ELM FRP (2018) is a plan that is developed to deal with the challenges that range from service delivery, administration, financial management and governance. It is hoped that the plan would correct the gaps identified in the performance of the Municipality and turnaround the situation to improve service delivery. The Annual Performance Report of 2019/2020 paints a bleak picture in terms of underperformance of the Municipality and failure to meet the expected KPAs. In spite of Section 139's intervention since 2018, it still needs to be recorded whether the IGR interventions are bearing any positive fruits for the municipality.

Numerous IGR structures and external stakeholders played a significant role to address the challenges of ELM. The role of different stakeholders is discussed in details in terms of their contribution.

4.2 PROFILE OF EMFULENI LOCAL MUNICIPALITY (ELM)

ELM is a Category B municipality that is a local municipality that has executive and legislative powers in its area of demarcation within the district area of Sedibeng, in terms of Section 3 of the Municipal Structures Act no. 117 of 1998. This category of municipality does not meet the requirements of Section 2 of the Act to become a metro municipality. ELM is one of the three local B municipalities in Sedibeng District Municipality that is a Category C municipality. The other two local B municipalities is Midvaal Local Municipality and Lesedi Local Municipality.

South African Cities Network (2013:6) explains that the Municipality is located in the southern part of Gauteng Province. The economic development has a historical context that is linked with the steel industry. The Municipality consists of the two urban areas, which is Vanderbijlpark and Vereeniging. The nearby townships are Sebokeng, Bophelong, Boipatong and Sharpeville. The Municipality is next to Sasolburg that is located in the northern part of the Free State Province across the Vaal River. Sasolburg is prominent for their petroleum chemical industry. Emfuleni and Sasolburg formed a strong regional economy across the provincial boundaries and is historically referred to as the Vaal Triangle.

Local Government Handbook (2019:94) affirms that the Municipality is geographically located strategically, with access to a state of the art and well-maintained road network – the N1 that connects Johannesburg and Bloemfontein in the Free State Province, and linking Emfuleni. Its geographical position connects it to a range of economic opportunities for tourism and other forms of economic development.

According to the EMF (EMF, 2021: Online) the geographical area also consists of huge residential areas that necessitate environment upgrading and investment in infrastructure. The historical context of the area makes it popular, due to amongst others, the Anglo Boer War, heritage monuments, such as Sharpville, the prestige of liberation struggles that is profoundly epitomized by the signing of the Constitution no.108 of 1996 of the Republic of South Africa. The spatial settlement pattern has a historical connection to the San people who originally inhabited the area as evidence by the rock engravings near the Vaal River.



Figure 4.1: Emfuleni Local Municipality map (Source: ELM FRP, 2018)

4.3 THE MUNICIPAL VISION STATEMENT

Emfuleni Local Municipality (ELM) IDP (2020/2021) refers to the Municipal Systems Act (MSA), which prescribes for all municipalities to develop IDPs with the aim of providing services, such as household infrastructure, creating livable areas, building vibrant and inclusive local economies, facilitating community empowerment, etc. According to ELM IDP (2020/2021), the five-year IDP plan of the ELM, outlines the vision, mission, values

and motto statements of the Municipality, as adopted at the Council meeting that was held in 2016.

ELM IDP (2020/2021) explains that the **Vision is** “A developmental city that continuously improves the quality of life of its community”. The **Mission** is “Providing responsive, effective, efficient, and sustainable municipal services in an accountable manner.” **The Values** that the Municipality subscribe to is Batho-Pele Principles, as well as being: responsive, disciplined, accountable & transparent, respectful and honest. The **Motto** of the Municipality read as “Vaal River City, the Cradle of Human Rights”.

4.4 THE GOVERNANCE, ADMINISTRATIVE STRUCTURE AND FUNCTIONS OF THE MUNICIPALITY

In terms of the EMF (2021: Online), the council of ELM is constituted of the following political parties: ANC 50, DA 22, EFF 11, AIC 3, VF PLUS 2, COPE 1, PAC 1. The African National Congress is the ruling party in the Municipality and is followed by the Democratic Alliance as an official opposition party. The Mayoral Committee is constituted by the Executive Mayor, MMC Human Settlement, MMC Health and Social Development, MMC Local Economic Development, MMC Corporate and Governance, MMC Public Safety, MMC Infrastructure Planning and Development, MMC Basic Services, MMC Sport, Recreation, Arts and Culture, Library Information Services, Parks and Cemeteries, MMC Finance and Revenue, and MMC Environmental Management and Planning.

ELM (2021: Online) explain the composition of administration senior management service. The senior management service is led by the Municipal Manager: LED, Executive Director: Community Services, Acting Chief Audit Executive, Chief Information Officer, Executive Director Public Works, Executive Director: Economic Development, Planning and Human Settlement, Executive Director: Shared Services and Acting ED: Infrastructure Planning and Development.

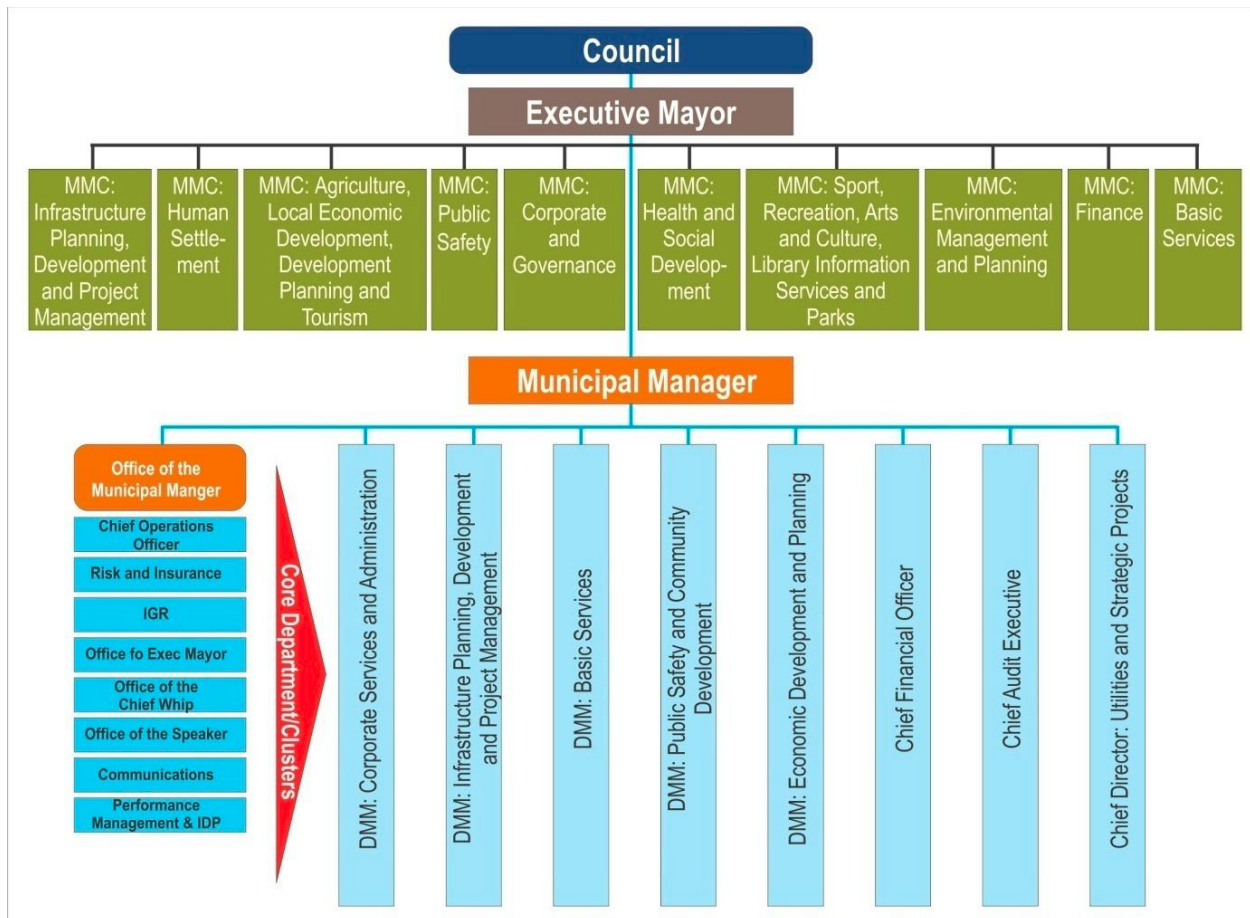


Figure 4.2: The Political and administration structure of ELM (Source: ELM IDP, 2017/2018)

Bekink (2006:446) refers to the 156(5) of Constitution no.108 of 1996 of the Republic of South Africa, which states that a municipality has the right to exercise any power concerning a matter that is reasonable necessary for, or incidental to, the effective performance of its functions (own emphasis added). Since the appointment of personnel is essential for the effective performance of municipal functions, municipalities should be able to exercise strong powers in this respect.

Bekink (2006:448) emphasizes that the structure of the Municipality must be designed and organized to such an extent that it can respond and serve the community's need in the municipality. Brown and Moberg (1980:91) as cited by Mlotshwa (2007:17), argue that the organizational structure is a pattern of behaviour that is deliberately designed to meet the organizational goals. Brown and Moberg (1980:91) postulate that the successes and

failures of the organisations is determined by the manner in which the organizational structures is designed.

Table 4.1: Demographic profile of ELM

| Year 2001 | Year 2011 | Year 2016 |
|-----------|-----------|-----------|
| 658 422 | 721 663 | 733 444 |

(Source: Adapted from secondary source of ELM IDP, 2020/2021)

The ELM IDP (2020/2021) depicts that the population of ELM was 658422 in 2001, and 721663 in 2011, and this is an increase of 9.6% and increased to 721663, this a percentage of 1.9% respectively. According to the ELM IDP (2020/2021), these figures are taken from a primary source of Stats SA Census and the number might have increased by now. In Chapter 5 we will discuss the significant meaning of this increase, in terms of implications to the budget of the Municipality and subsequently to service delivery.

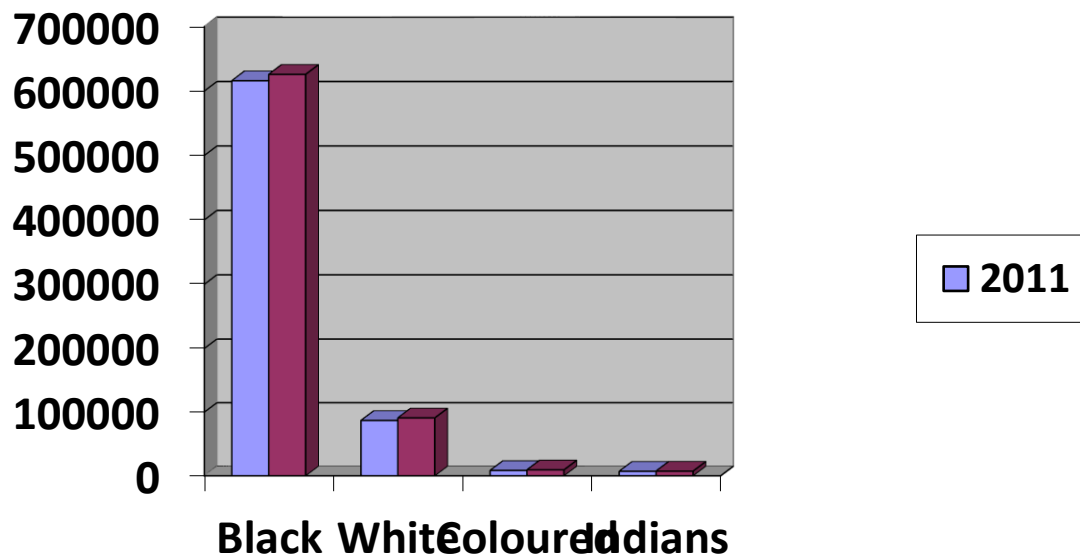


Figure 4.3: Population distribution by population group (Source: Adapted from secondary source of ELM IDP, 2017/2018)

The ELM IDP (2020/2021) illustrates above the population distribution by racial groups. In the period between 2011 and 2016, the African population has increased from 616 095 from 2011 to 625 952, which translates to an increase of 1.6%. Africans are the highest followed by whites. This growth of whites increased from from 86 948 in 2011 to 90 996 in 2016 and it translates into a 4.6% growth. The coloured population growth has increased from 8 356 in 2011 to 9 303 in 2016 and it translates into a growth of 11.3%. The people of Indian/Asian descent is the lowest, but shows a slight increase of 4% as demonstrated by growth from 7 078 in 2011 to 7 367 in 2016.

Table 4.2: People living with disability in ELM

| Type of disability | Number |
|--------------------------|---------|
| Wheelchair | 14 397 |
| Walking stick or frame | 18 843 |
| Hearing aid | 18 657 |
| Communication difficulty | 11 943 |
| Hearing difficulty | 23 724 |
| Seeing difficulty | 90 699 |
| Self-Care difficulty | 23 442 |
| Total | 201 705 |

(Source: Adapted by author from ELM IDP, 2021/2021)

Figure 4.2 demonstrates the number of people living with disabilities in the municipality, of which 90 699 have difficulties in seeing, followed by a total of 23 442 individuals with self-care difficulties and those with communication difficulties account for about 11 943 of the total population. The figure does not include those who are using glasses to enable their sight.

4.5 SOCIO-ECONOMIC AND DEVELOPMENT PROFILE

ELM IDP (2017/2018) articulates that the dawn of democracy has brought an increase in local economic development in South Africa. Local economic development is about the leverage and harnessing economic growth to improve the lives of the society through collaboration for sustainable economic opportunities. Towns play a significant role to facilitate economic growth by enabling an environment of development.

Lewis (2012, as cited by Lairi, 2016:21), explains local economic development as a combination of local people and institutions in under-developed areas who mobilise resources to create economic opportunities, at a local level in response to failure of markets and government policies to improve the quality of life, employment opportunities and improve income.

Table 4.3: Emfuleni Sector contribution

| Sector | Percentage of contribution |
|-----------------------------------|----------------------------|
| Agriculture, Forestry and Fishing | 0.7% |
| Mining and Quarry | 0.1% |
| Construction | 3.8% |
| Electricity, gas and water | 5% |
| Transport and Communication | 7.5% |
| Whole sale and Retail | 11.4% |
| Government and Social Services | 21.8% |
| Finance and Business | 22.2% |
| Manufacturing | 26.2% |

(Source: Adapted by author from ELM IDP, 2021/2021)

The ELM IDP (2020/2021) depicts that the highest contributor to the economy is Manufacturing with 26.2 and the lowest is Agriculture, Forestry and Fishing. Therefore, it is imperative that more resources need to be given to Manufacturing as a major contributor to the economy of Emfuleni.

Table 4.4: Employment status

| Employment status | Year 2001 | Year 2011 |
|-------------------|-----------|-----------|
| Employed | 93 537 | 202 543 |
| Unemployed | 63 160 | 107 555 |

(Source: Adapted from ELM IDP, 2020/2021)

The afore-mentioned table demonstrates that employment levels increased from 93537 in 2001 to 202543 in 2011, thus conversely the unemployment levels have subsequently increased from 64160 in 2001 to 107 555 in 2011.

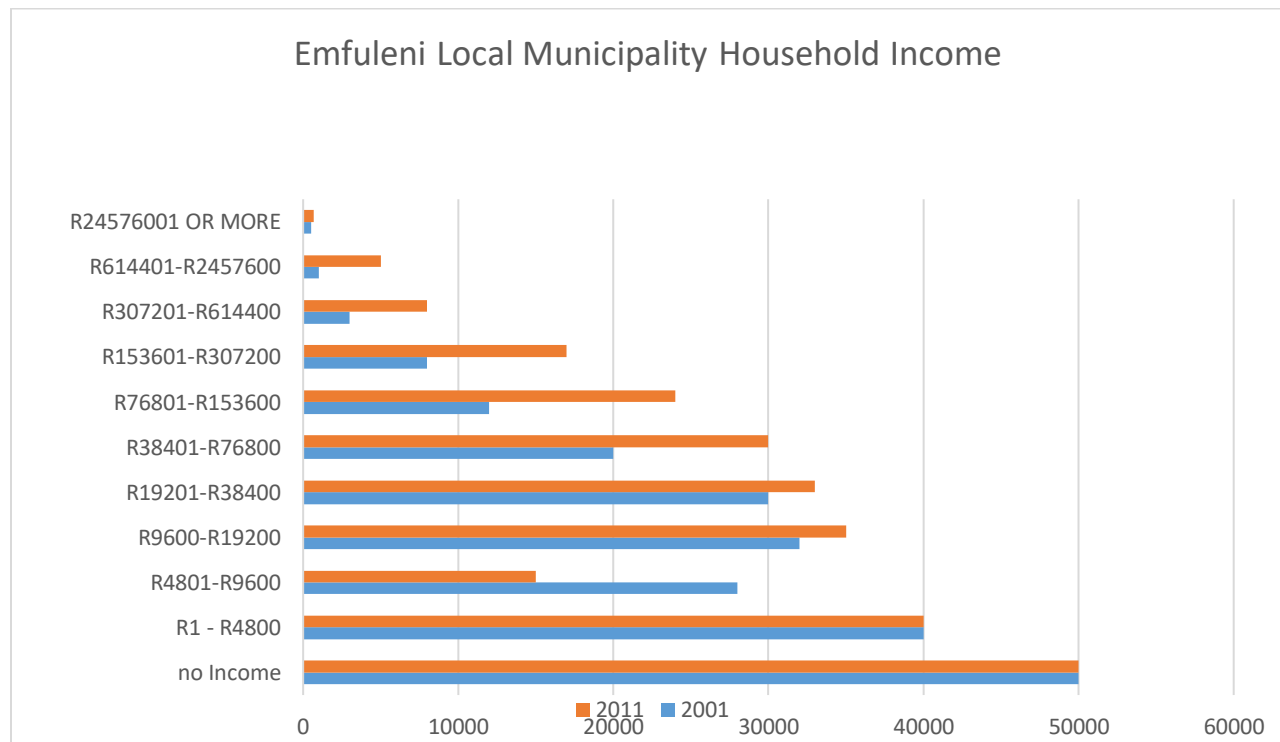


Figure 4.4: ELM Annual Household Income in 2001 and 2011 (Source: Secondary source from ELM IDP, 2020/2021)

The graph demonstrates a decrease of those who are unemployed to those receive an income of R4801 to R9600 with a significant increase from those at 30 695 in 2001 to 33902 in 2011. A significant increase is noticed in R153 601 to R1228 801.

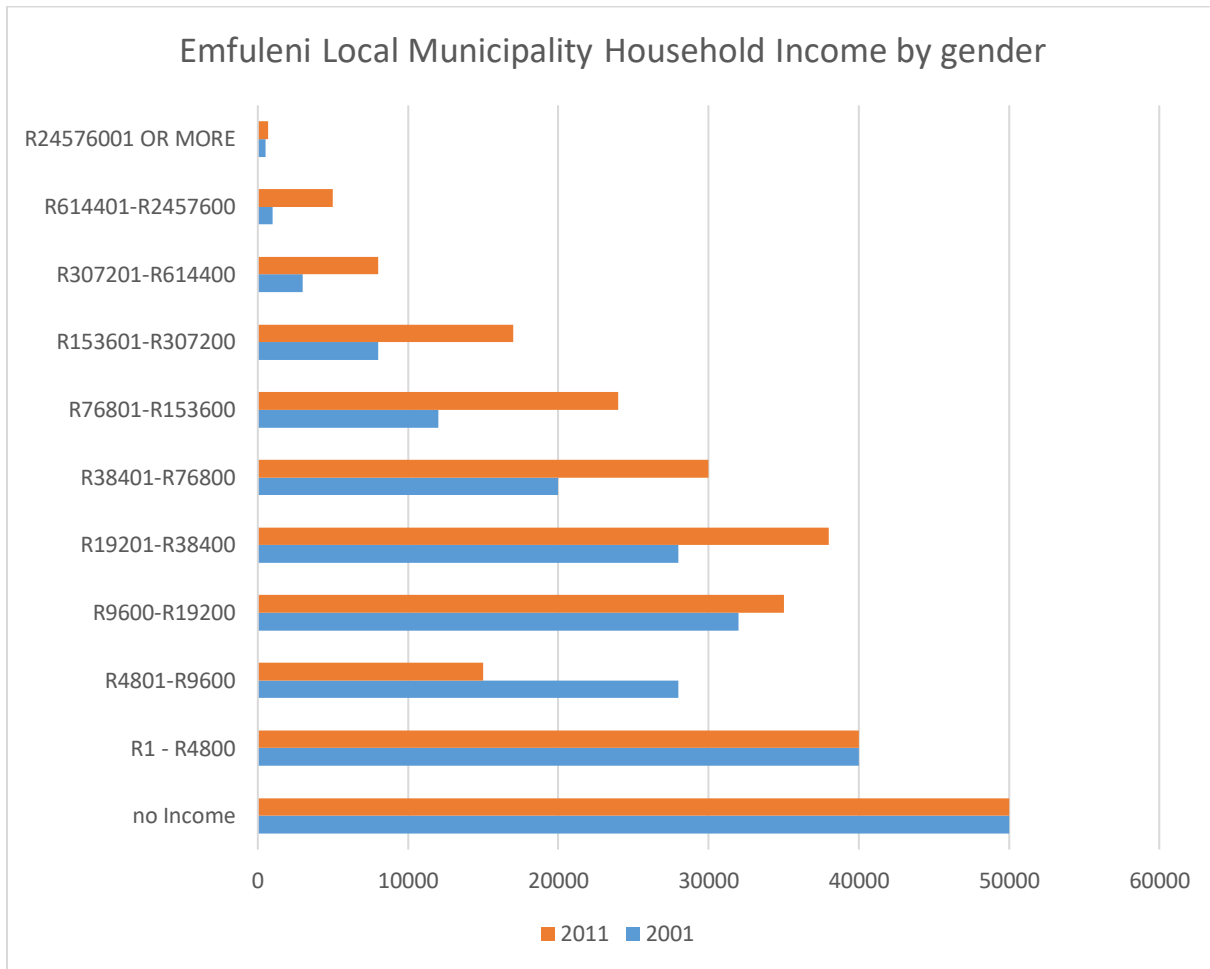


Figure 4.5: ELM Annual Household Income by Gender of Head of Household in 2011
 (Source: Secondary source from ELM IDP, 2020/2021)

The graph demonstrates that males in the Municipality earn more than females, although the margin is R1 to R9600. In the category R9601 and R1228 800, a huge margin is noted between males and females. In the no income category, males are the highest and are leading.

Table 4.5: Child-headed household

| | House-holds | Average household size | House-hold headed by children | House-hold headed by woman | House-hold in informal dwellings | House-hold in formal dwellings | Average household income |
|------|-------------|------------------------|-------------------------------|----------------------------|----------------------------------|--------------------------------|--------------------------|
| 2001 | 189926 | 3.5 | 496 | 65924 | 34799 | 152859 | 42572 |
| 2011 | 220135 | 3.3 | 556 | 79953 | 30649 | 187876 | 86895 |

(Sources: Secondary source of ELM IDP, 2020/2021)

The table demonstrates that the child-headed homes have increased by 1.12%, while households headed by women have increased by 1.21%. However, it is noted that the households in informal dwellings have decreased with a small margin by approximately 1.13% and this decline is attributed to the increasing number of RDP housing developments in the Municipality.

4.6 EDUCATIONAL ATTAINMENT OF THE EMFULENI LOCAL MUNICIPALITY (ELM)

The ELM IDP (2020/2021) cites the Gauteng City Region Observatory's Quality of Life Survey, whereby the Province attests to the fact that the quality of education has improved from the previously racialized public education system inherited from Apartheid. Gauteng Government was ensured that all learners within the Province would receive quality education across the communities. The Emfuleni 2018 Matric results improved significantly to bear testimony to better education. Credit should be given to the Gauteng Provincial Department of Education in this regard.

4.7 EMFULENI ORGANISATIONAL PERFORMANCE

Craythorne (2006:120) as quoted by Selepe (2018:540), is of the view that performance management is often associated with staff evaluation, however it transverses across the

organization as a technique to be applied for the performance of the organization and extend to the political leadership who drives the organization. Performance management must provide feedback on whether outcomes, inputs and outputs have been achieved and whether a more effective, efficient and economic system is progressing.

Van der Waldt (2018:131) cite Fitzgerald and Moon (1996), by explaining performance management further and outlines that performance is a multi-dimensional construct of the measurement that is informed by a variety of factors and circumstance. Van der Waldt (2018:131) indicates that performance is about the relationship between inputs and outputs for efficiency, the reduction of costs, the following of proper procedures and the relationship between inputs, outputs and outcomes.

Section 38 of the Municipal Systems Act no.32 of 2000, prescribes that ELM must establish a performance management system that is within the limits of the available resources and is tailored with the prevailing circumstances, conform with the priorities, objectives, indicators and targets contained in the municipal IDP, promote a culture of performance in the Municipality administration and political structure and can be implemented in an effective, efficient, economically and accountable manner. Section 9 of the Act stipulates that the Mayoral Committee must manage the development of a performance management system and delegate the responsibility to the Municipal Manager to develop the performance management system for adoption by the Council.

4.8 IMPLEMENTATION OF SECTION 139 OF THE CONSTITUTION NO.108 OF 1996 OF THE REPUBLIC OF SOUTH AFRICA IN EMFULENI LOCAL MUNICIPALITY (ELM) IN THE FINANCIAL YEAR 2018/2019

The Department of Cooperative Governance (2019) states that Section 139 of the Constitution no.108 of 1996 of the Republic of South Africa should be applicable under the following circumstance in the municipality. When a municipality cannot or does not execute its constitutional obligation in terms of legal prescriptions, the Provincial Executive Council (PEC) may intervene by taking any appropriate steps to ensure that the mandate is carried out to fulfil the obligations. The following provisions are prescribed

for Section 139 intervention, in terms of the Constitution no.108 of 1996 of the Republic of South Africa:

- Issuing of a directive in Section 139(1)(a) to fulfil the executive obligation,
- Assuming responsibility in Section 139(1)(b) to fulfil the executive obligation,
- Dissolving the Municipal Council in Section 139(1)(c) and appoint an administrator to carry out the executive functions,
- Taking appropriate steps to ensure that the budget or revenue-raising measures are approved in terms of Section 139(4) and imposing a recovery plan and possible dissolution of the Municipal Council in terms of Section 139(5).

Greffratt and van der Waldt (2016:16) postulate that Section 139 has a historical background, which commenced in the Eastern Cape Provincial Government in 1998, when the government intervened in the Butterworth Transitional Local Council and took full administration and executive functions of the municipality, for the first time since the dawn of democracy in 1994. Greffratt and van der Waldt (2016:16) articulate that seven more interventions in municipalities, subsequently took effect in 1992. However, Greffratt and van der Waldt (2016:16) argue and raised numerous questions about Section 139 interventions by provincial executives. For instance, what are the nature and scope of such interventions? Under what circumstances can a province exercise this executive power? What substantive requirements merit an intervention? What are the procedural requirements? What are the potential socio-economic and political ramifications of such interventions? Can the interventions be disguised to further the political interest?

Moleli (2014:10-11) explains that there are a number of check and balances that were provided on the application of this Section of the Constitution to ensure that it is free of political influence and ensure that it achieved the objective. However, Moleli (2014:10-11) in affirmation of Greffratt and van Waldt's views (2016:16) raises questions about when should the provincial government intervene? To what an extent should the intervention take place? What is the rationale for intervention? What are the exact failures of the municipality?

Makoti and Odeku (2018:78) refer to a court case between The Premier of Western v Overberg District Municipality, 2011 (4) SA 441 (SCA), where the Supreme Court of Appeal had to adjudicate a dispute dealing with an intervention on the basis of Section 139(4). In this case the Municipality failed to pass the budget as per the legislative prescript. The provincial government implemented Section 139 and dissolved the council of the municipality. The court ruled that the reasons for failure to pass the budget was not sufficient to dissolve the council. The provincial government should explore other measures to give support to the Municipality to be able to pass the budget according to the given timeframes.

4.9 EMFULENI LOCAL MUNICIPALITY FINANCIAL RECOVERY PLAN (ELM FRP) 2018

The ELM FRP (2018) points to the fact that ELM is one of the municipalities amongst the pack in South Africa that is beset that by a range of challenges that range from service delivery, administration, financial management and governance. These challenges have engulfed the Municipality over a number of years as outlined by annual reports and the Auditor General's reports. Govender (2016) postulates that local government in South Africa is under tremendous pressure to deliver a quality and affordable service within a context of a complex and changing environment, despite of resource constraints and inadequate administrative and political leadership. The wave of service delivery protests in the country is a reflection of failure of local government to meet the community expectations (Govender, 2016:21). Chikulo (2016:53) affirms and supports Govender (2016) that, although a significant dent has been made to reduce service delivery backlogs, a large number of poor communities in informal settlements and townships do have access to housing. 2.8 million subsidised houses have been delivered between 1994 and 2011, however, 2.3 million do have access to housing, 1,2 million households do not have sufficient access to basic services as quoted from Human Settlements, Water and Sanitation (2011: Online). Chikulo (2016:53) further articulates that non-financial statistics for municipalities demonstrate that some basic services that have been provided, have collapsed.

The Gauteng Provincial Government took a resolution to implement Section 139 1(b) and Section 139 (5) (c) of the Constitution no.108 of 1996 of the Republic of South Africa in conjunction with Section 139 of the Municipal Financial Management Act no.56 of 2003.

The following is a high-level summary of the challenges that confronted the municipality:

- ELM failed to exercise its executive functions and could not meet its financial commitments, due to a lack of payments, which was 2 percent and more than the aggregate that is prescribed by the legislative requirements of the Municipality's budgeted operating expenditure in terms of Section 140 (2) (c) of the Municipal Finance Management Act (MFMA) (Act No. 56 of 2003);
- Financial and non-financial performance for both the 2016/17 and 2017/18 financial years is reflected as a result of poor financial viability and service delivery performance;
- Lack of management of finances and credit control had a negative ramification on revenue and cash flow of the municipality;
- Poor governance and exercise of political oversight over the administration of the municipality;
- Inadequate maintenance of the infrastructure and repairs resulted in deterioration of service delivery;
- Lack of upgrading of ageing infrastructure that was installed over a number of years;
- Excessive outsourcing of municipal services, due to ineffective and inefficient service delivery and operational models; and
- Absence of stakeholders' relations and management lead to a lack of communication with communities.

(ELM FRP, 2018).

The South African Auditor-General, Mr Terence Nombembe (2021:1-4), as cited by Khale and Worku (2013:63) explains that out of 283 municipalities that were audited for the financial year 2010/2011, only 5% received a clean audit. Nombembe (2021:1-4, as cited by Khale & Worku, 2013:63) articulates that the rationale behind poor performance is due

to a lack of skills in financial management and record-keeping. The Auditors-General report demonstrates that 70% of officials that are responsible for financial functions, lack the minimum required competencies to execute the financial function. The Auditors-General report further noted that a lack of dedicated human resources was a contributing factor to poor reporting on service delivery. 70% of the senior managers audited, lack skills and competencies to execute their jobs (Nombembe, 2021:1-4).

Khale and Worku (2013:63) refer to Municipal IQ Hotspot Monitor (2011:1–4) that indicates that 111 service delivery protests were noted in 2010. This figure is a clear reflection that the community's needs are not met as expected by municipalities and thus lead to dissatisfaction, due to poor quality services delivered by councillors and officials.

ELM FRP (2018) explains that the FRP was developed after an intensive assessment of the situation and consultation of Executive Mayor, Municipal Manager, senior management, staff, national government department, provincial departments and other relevant key stakeholders of the municipality. The FRP seeks to turnaround the Municipality to become viable. ELM FRP (2018) postulates that the Provincial Government intervention strategy developed the plan to place ELM on a sustainable path, to secure the Municipality's capacity to be able to provide basic services and to become financially viable.

4.9.1 Summary of status quo in Emfuleni Local Municipality (ELM)

ELM FRP (2018) outlines the summary of the prevailing situation as per the Municipality KPAs. The performance indicators are linked to the five pillars of B2B Programme. The following KPAs are explained in the FRP.

4.9.1.1 *Pillar 1: Putting People First*

This pillar focuses on the establishment of public participation structures as mechanisms of engagement between the Municipality and the communities. This involves

stakeholders' engagement and communication strategies to respond to community concerns and complaints.

Table 4.6: Public participation platforms

| Indicator | Challenges | Intervention | Timeframes | Progress |
|-----------------------------|---|--------------|------------|--|
| Emfuleni Local Municipality | Stoppage of road construction projects in front of ward committees lives questions on these community structures. | None | 2015/2016 | 45 ward committees established. Stakeholder engagements took place. Various platforms (Social media, local newspapers, municipal offices and libraries are utilised to communicate municipal processes like IDP/Budget. 180 ward committee meetings were held. |

(Source: Adapted from ELM FRP, 2018)

ELM FRP (2018) indicates that the Municipality has established public participation mechanisms that range from ward committees, petitions committee, public hearings, IDP and budget public participation meetings and mayoral Imbizos. These public participation structures are used as consultative and participative forums to share information and give feedback to communities. Public participation is a mechanism that is created in an invited space for communities to participate in the decision making that affects their lives and needs. It is a participative democratic process that facilitates engagement, planning and decision making. It is a process that enables communities to play an active role in the development that impacts on their future (Smith, 2003:4)

Mubangizi and Grey (2011:213) concede that the philosophy of community development advances the idea of both participative and representative democracy as a notion that

promotes ordinary citizens to, at local level, make an opinion on decision-making processes that affect them. The ideology of consensus of a liberal model and conflict-oriented Marxist models entail public participation as a central tenet of community development.

ELM FRP (2018) states that the public participation function is located in the office of the Speaker who is responsible for coordination all public participation activities. The Municipality utilizes other media platforms, such as notice boards, the municipal website, newspapers, rates and water bills to provide information about prices, new plans, budget priorities, etc. Local media is used to share information with communities and phone-in channels are open for the public. It was noted that 180 ward committee meetings were held on IDP's and other municipal infrastructure projects (ELM FRP, 2018).

4.9.1.1.1 Challenges

The Municipality has established 45 ward committees that create a platform of communication between the Municipality and the community on council decisions, however the functionality of ward committees is debatable given the disruption of road projects. However, there is lack of an early warning system to attend to community concerns and implementation of procedures for the roll-out of projects.

4.9.1.2 Pillar 2: Basic service delivery and infrastructure

The pillar focuses on provision of basics service to communities and the percentage of access to basic services. Losses of water and electricity are demonstrated. Revenue losses due to water and electricity are indicates in rands and cents. The fleet maintenance and its impact to service delivery are showed. Provision of sanitation, roads, storm water and waste is discussed.

Table 4.7: Basic services and physical infrastructure

| Indicator | Challenges | Interventions | Timeframe | Progress |
|---------------------------------|---|---|----------------------------------|-------------|
| Provision of electricity | <p>34 594 households were connected with electricity.</p> <p>Municipality achieved 73% of electricity restoration.</p> | <p>The IDP objectives requires the Municipality to connect 35000 households.</p> <p>85% compliance to average turnaround time (24 hour) to restore electricity service interruptions.</p> | <p>Financial year 2015/2016.</p> | |
| Electricity losses | <p>Distribution losses have been excessive, with electricity losses of 43% recorded for 2017/18 (18% for 2016/17) and 40% for 2017/18 (31% for 2016/17).</p> <p>Total electricity loss is R679 million; which is 2.5 times more than the reported losses.</p> | | <p>Financial year 2015/2016.</p> | <p>None</p> |

| | | | | |
|----------------------------------|---|--|---------------------------|------|
| Electricity revenue | Emfuleni should have an electricity services revenue closer to R1.9 billion. | The Municipality should have received a revenue of R2.5 billion. | Financial year 2015/2016. | None |
| Vehicle fleet maintenance | The Fleet Management of the Municipality is a huge concern as the Municipality currently has a fleet availability of under 50%. | Budget for fleet upgrading. | Financial year 2015/2016. | None |

(Source: Adapted from ELM FRP, 2018)

According to ELM (2021: Online), the infrastructure services consist of electricity and water provision, sanitation, solid waste disposal and roads and storm water. These services are entrenched in the Bill of Rights of the Constitution no.108 of 1996 of the Republic of South Africa and the Municipality has an obligation to provide these services. These services need timeous maintenance and upgrading to ensure sustainability of quality services. The mechanisms that are used to deliver services require efficiency and effectiveness for financial viability. The following outline the summary of municipal services:

4.9.1.2.1 Electricity

FRP (2018) demonstrates that more than 35 000 houses were connected with electricity and 73% of electricity restoration was achieved in the 2015/2016 financial year. In the same financial year, the distribution loss of electricity was 43%. The average turnaround time of 85% was achieved on electricity restoration. Only 50% of electricity fleet vehicles were available for service delivery.

ELM (2021: Online) indicates that ELM is a licensed authority that reticulates electricity to all categories of consumers. The consumers are categorised into residential, agriculture and industrial consumers. 93% of electricity are residential and agricultural consumers, while 75% of electricity is sold to industrial consumers. Emfuleni has provided 100% service consistently to household as per the 2016/2017 Annual Report (Emfuleni, 2018).

The ELM IDP (2020/2021) stipulates that 55518 have been connected with electricity. To date the Municipality have 957 LPUs that have been achieved out of a target of 1500 since inception of the project in FY2018/19. The ELM IDP (2020/2021) states that ELM uses electrical equipment that has maximum efficiency. The outcome of efficiency entails loss of transformers and the optimization of cable and overhead line systems that manage losses to a minimum point. This also involves usage of 95% of energy efficient lighting sources for public lighting electricity like street lights and traffic signals. This is in compliance with the international standard of energy efficiency.

The Municipality has devised a strategy to cap the illegal connection of electricity. This involves installation of special locking mechanisms in most of the meter boxes in the area. The rationale behind this method is to reduce the chances of consumers connecting themselves illegally onto the reticulation system. Locking meter boxes properly promotes the safety of the community. To manage vandalism, the Municipality installed robust doors in all substations (ELM IDP, 2020/2021)

The Municipality came up with the project of meter supply to residential, commercial and industrial customers. The process commenced with the auditing and installing meters. As of January 2019, the smart 6500 meters project was completed. Free Basics Service (FBE) has been provided to 3400 registered indigents at 50kWh per month (IDP, 2020, 2021).

4.9.1.2.2 Challenges of electricity

On electricity the ELM FRP (2018) explains that the IDP objectives oblige the Municipality to connect 35000 households, however only 32 594 (94%) households were connected to the network through electricity meters in 2016/2017 financial year. On electricity restoration only 73% was achieved out of the target of a required 85% compliance to electricity interruption in the 2016/2017 financial year. The ELM IDP (2020/2021) states that the targeted turnaround time on electricity could not been achieved in this period, due to a lack of technology and a proper system to capture the performance data. Losses of electricity was reduced from 27% to 22%, respectively. The Municipality could not achieve the performance indicator on public lighting space, although there some work done in this area.

4.9.1.2.3 Water and sanitation

The ELM FRP (2018) indicates that the Municipality has water works that consist of 2900km sanitation networks of gravity pipelines, 33 328 sewer manholes, 44 pump stations and 94 sewer pumps. The water care comprises of three Wastewater Care Works

namely, Leeuwkuil, Sebokeng and Rietspruit. The National Water Act 36 of 1998 classifies the water into different categories. Rietspruit Water Care Works are categorised as class A, Leeuwkuil WCW as class A and Sebokeng WCW as class A, in terms of the National Water Act 36 of 1998.

Rietspruit and Vaal River are receiving water resources that operate at acceptable compliance as per the Water Use License and Green Drop required. These water resources receive wastewater that is treated in water care works that is connected to all the areas of Emfuleni. ELM FRP, 2018) refers to the 2016/17 Annual Report that explain that 100% compliance is achieved with all households having access to the minimum service level. However, under-achievement is noted on repairs and maintenance, as an amount of R49 million was spent as compared to the National Treasury benchmark of R105 million. The employee vacancy is 49% in this department of the Municipality (ELM FRP, 2018).

The Municipality planned to improve water conservation and preservation, increase efficiencies, manage and control water entry points, and maintain compliance standards in the 2019/2020 financial year (ELM IDP, 2020/2021).

The ELM IDP (2020/2021) explains that water has been provided successfully to a total of 183 356 and sanitation to 182.492 households. Communities were educated through a public campaign about the importance of saving water.

The pump stations which drain to Leeuikuil water care works was repaired by a collaboration of ERWAT and ELM intervention. 100% was achieved on the portable water infrastructure that covered 2882 km of portable water reticulation network, 14 528 water network valves, 1482 fire hydrants, 99 pressure reducing valves, and 15 reservoirs. Compliance with SANS 241 drinking standard of water quality is monitored on a monthly basis.

The Municipality has spent an amount of R 935 336 199.70 to purchase bulk water to meet the demand of 100 025 262 KI and this has increased to 6.7% when benchmarked with the demand of the previous year.

The ELM IDP (2020/2021) explains that the Municipality planned to reduce the water bulk purchases, improve water conservation and preservation, increase efficiencies, manage and control water entry points, and maintain compliance standards in the financial year of 2019/2020.

The ELM IDP (2020/2021) outlines that 183 356 and sanitation to 182 492 households were provided. However, the Municipality did not achieve the planned turnaround time to restore water interruptions, due to cable theft and a lack of fleet to address the community needs in some areas. The Municipality engaged on public campaigns to educate communities about the value of saving water as a scarce resource. The Municipality ensures that water resources are protected, used, developed, conserved, managed and controlled as per the National Water Act 36 of 1998.

The Municipality collects, conveys and treats waste water. They are responsible for reduction and prevention of pollution and duration of water resources. They protect aquatic, eco-system and the biological diversity and promotion of dam safety (ELM IDP, 2020/2021)

4.9.1.2.4 Challenges of water and sanitation

On water and sanitation, the ELM IDP (2020/2021) indicates that sanitation provision is non-existent in areas that are not proclaimed as townships, as they still use of Pit / Long drop toilets. This create challenges of sludge in Sebokeng, Rietspruit and Leeuukuil. This is due to a lack of maintenance as the Municipality has an ageing infrastructure, shortage of human resources, lack of capital funding for upgrading of waste water care works and replacement of outfall sewer lines.

The ELM IDP (2020/2021) indicates that the failures on water and sanitation are due to Leeukuil – dilution that is related to low flow entering the works. Chlorine booster pump dysfunctionality causes high micro biological counts and power failures that result into ammonia, due to low flow in Rietspruit. Equipment failure is attributed to out of operational chlorine dosing systems for both modules in Sebokeng. The Municipality could not achieve the compliance with the turnaround time to restore water interruptions, cable theft

and unavailability of fleet to attend to community needs, affected by some areas (IDP, 020/2021)

According to the ELM IDP (2020/2021), the Municipality water losses were as a result of network operations and economical losses that were caused by faulty meters for the reported financial year.

4.9.1.2.5 Road maintenance

The ELM FRP (2018) articulates that the Roads and Storm Water Department was allocated funding for the financial year 2016/17. The purpose of this funding was for roads network rehabilitation; however, funding was insufficient as 95% percent of maintenance was due to poor availability of maintenance plant and machinery, and this necessitated outsourcing of this service at the budget limitation. The department is responsible for the planning, providing and maintaining of municipal roads and storm-water network infrastructure, however the Municipality does not have long term infrastructure plans and road management plans that were updated in 2008 to guide its investment in roads infrastructure. The approach of the Municipality to maintenance is reactive rather than proactive, which results into neglect and potholes in a wide municipal road network. Employee vacancy of 82% is noted in this department.

Akinboade, Mokwena and Kinfack (2014:2) cite Kitchen (2005), who postulate that local government have an obligation to provide a variety of public services, such as local streets and roads, street lighting, fire and police protection, as well as peace parks. These services are funded through rates and taxes, as well as grants from equitable shares of the national government. Kitchen as cited by Akinboade *et al.* (2014:2) affirm that in many countries their local government trades with services at a particular fee. These entail water, sewer, recreation and public transport.

The ELM IDP (2020/2021) explains that in the 2019/2020 financial year they could not achieve the main objectives of the plans to tar the roads, patch potholes, and other municipal roads to be re-graveled. To address this gap, the maintenance of roads by the end of 2019/2020 third quarter is the priority of the Municipality.

The table below demonstrates the details of the existing infrastructure of the Municipality. The table outlines the kilometers of tarred roads and the kilometers of gravel roads. The number of traffic signs and the square meter of road markings are also shown, as well as the number of build storm water, kilometer of lined canals, kilometer of unlined canals and the number of catch-pits.

Table 4.8: Statistical information on existing infrastructure

| Roads | | Roads Traffic Signs & Markings | | Storm water | |
|--------------|-----------|--------------------------------|-----------------------|----------------|-----------|
| Tarred Roads | 1 600 kms | Traffic Signs | 14 602 No | Storm water | 508 |
| Gravel roads | 1 054 kms | Road Markings | 158 445m ² | Lined Canals | 44km |
| | | | | Unlined Canals | 169 |
| | | | | Catch-pits | 12 270 no |

(Source: Adapted from ELM IDP, 2020/2021)

The table below outlines the resurfacing cost of the road, the kilometers, the first year and the second year of expenditure. The total maintenance for the 1372 kms of roads is R112 million in 2020 and R231 million in 2021, respectively. An amount of R343 million should be available to fund the urgent resurfacing maintenance needs of tarred roads (ELM IDP, 2020/2021)

Table 4.9: Details of roads expenditure

| Resurfacing Cost | Length | First Year | Second year |
|----------------------|----------|--------------|---------------|
| Primary Routes | 245 km | R51 million | R R36 million |
| Secondary Routes | 204.4 km | R32 million | R R46 million |
| Main Tertiary Routes | 206.1 km | R7 million | R 32 million |
| Tertiary Routes | 716.4 km | R 22 million | R 117 million |

| | | | |
|--------------------------------|-----------------|----------------------|----------------------|
| Total Maintenance Needs | 1 372 km | R 112 million | R 231 million |
|--------------------------------|-----------------|----------------------|----------------------|

(Source: Adapted from ELM IDP, 2020/2021)

According to the ELM FRP (2018), the Roads and Storm Water Department is responsible for the storm water function and the challenges are the same with road maintenance that include cash constraints, an aging infrastructure, poor plant availability and a high vacancy rate. The storm water upgrading dropped over a period of three years from 15 kms to 0km and subsequently the storm water maintenance took a slide from 44136 kms to 14 769. The target of 200 storm-water catch pits were cleaned and 15 000m of kerb channel cleaned, however the actual was 175 storm-water catch pits cleaned and 11 049m of kerb channel cleaned (ELM FRP, 2018).

The perennial shortage of fleet contributed to the roads and storm water function that was not performed successfully. A contractor ceased to continue with the service during the contract period prior to appointment of another contract to continue with the work. To address the problem, the Municipality has issued a tender advert for plant hire in December and the target delivery is January 2020. The Municipality awarded a new tender for plant hire in December and work will commence in January 2020. More resources would be deployed to ensure the annual target is achieved (ELM IDP, 2020/2021).

4.9.1.2.6 Challenges of road maintenance

Lack of maintenance plant and machinery has a negative impact on service delivery. The Department of Roads in the Municipality has 79% vacant positions and that limits the ability to attend to all repairs and maintenance programmes. The ELM IDP (2020/2021) states that ELM has a fleet vehicle of 655 of which 490 of ELM are Council-owned vehicles, and those that are on a full maintenance lease contract, are 165. The vehicles are on a depreciating status, and as result there is high break-downs and services. Shortage of vehicles hinders the service to the entire community of ELM. 38% of the vehicles have reached a life expectancy. The average life of fleet is 15 years and need replacement (ELM IDP, 2020/2021).

4.9.1.2.7 Solid waste management

The ELM IDP (2018/2019) explains that the core functions of solid waste management include household collection, operations and management of landfill sites (Boitshepi, Palmsprings, and Waldrift), litter picking, street sweeping, management of mini dumps/transfer stations, prepaid collection services, cleaning of illegal dumps and environmental management and education and awareness.

The ELM IDP (2020/2021) states that the waste management in ELM is divided into household, illegal dumps, business and industrial refuse collection, informal settlements, CBD cleansing, and landfill sites operations and management. Mini dump transfers stations, landfill sites, as well as the composting facility are part of the waste and landfill infrastructure in the municipality.

ELM collects waste services once a week to a total of 189,242 out of 220,617 households in ELM areas. In informal settlements only the removal of an illegal dump service is provided. An average of 85% of collection in formal households has been achieved on a weekly schedule. The waste collection services and street sweeping for business and taxi ranks in Vanderbijlpark, Vereeniging and all township areas are conducted on a scheduled daily basis (ELM IDP, 2020/2021). Inspection of industries was conducted to monitor compliance and the target of 95% was achieved.

The ELM IDP (2020/2021) states that the administrative framework was developed in 2014 that includes an integrated waste management plan (IWMP) for ELM. The plan has been recommended for Council approval for the review and further approval of the 2019 IWMP, in order for the plan to be submitted to the MEC of Environment for approval.

4.9.1.2.8 Challenges of solid waste

The ELM IDP (2018/2019) explains that the fleet shortage had a direct impact on operations of the waste management services department. This was due to failure to repair a significant number of vehicles that are grounded at the workshops. 41 trucks are required to provide a service to the community, however only eight refuse trucks are

available to collect refuse and this results in a sub-standard service. The contributing factors that led to this performance is poor management of landfill site performance, due to a shortage of personnel to assist in the management of the operational sites and a lack of funding to repair the infrastructure of the facilities. Lack of capital funding, maintenance of infrastructure and poor management of the sites resulted in an achievement of 70.25% against a target of 95% achieved for this financial year. An annual external audit of all landfill sites could not be conducted, due lack of funding (ELM IDP, 2020/2021).

4.9.1.3 Pillar 3: Good governance

This pillar focuses on the control and oversight on how funds are expended for the benefit of the community. It focuses on proper procedures of supply chain processes on securing service providers. It also deals with reports on the findings of the Auditor-General. The deficit and the liabilities of the Municipality is demonstrated. Focus is also on the functionality of Executive Mayor's processes, the function of Council and its committees, as well as the effectiveness of the Speaker's office on its functions. The implementation of a performance management system in the Municipality is shown. Ethics management and anti-corruption strategies are explained.

The ELM FRP (2018) indicates that the Municipality did not make any provision in the financial statement for legal cases in respect of adverse situations that may happen in a court ruling, which may result into a liability. The 30 June 2016/2017 financial statements had corresponding material errors.

Material losses on water distribution and total water purchase amounted to R227 503 649 (2015: R186 496 567) and year end 2016 incurred material losses of R220 549 675 (2016: R227 503 649) as a result of water distribution losses, which represent 30.69%% (2016: 34%) of the total water purchased. The ageing infrastructure, illegal connections and faulty meters are a contributing factor in this regard.

Material loss on electricity on electricity distribution losses and electricity purchased amounted to R304 409 250 (2015: R220 031 941) and year end 2016, there were material

losses of R262 364 150 (2016: R304 409 250), due to electricity distribution losses, which represent 17.99% (2016: 20.11%)

Section 138 (d) and (f) of the Municipal Finance Management Act no.56 of 2003, stipulates the provincial intervention in case of deficits that exceed five percent and the audit opinion of material disclaimer from the Auditor-General.

According to the ELM FRP (2018), this loss is related to an ageing infrastructure, illegal connections and faulty meters. Trade receivable of R4 300 700 727 (2015: R3 601 152 338) had a material impairment of R4 058 949 426 (2015: R3 418 999 532) as these transactions' validity were questionable. 2017-year end had material impairments of R4 224 477 923 (2016: R4 058 949 426), which were incurred on trade receivables of R4 534 902 949 (2016: R4 300 700 728) as these trade receivables (consumer debtors) were questionable.

A deficit of R352 765 015 during the year ended 30 June 2016 (2015: R567 278 514), was sustained and the deficit of R768 870 050 during the year ended 30 June 2017 (2016: R286 213 273) respectively. The current liabilities exceeded its current assets by R659 885 856 (2015: R522 103 705) and the Municipality's current liabilities exceeded its current assets by R1 351 421 846 (2016: R698 460 333) in 2016/2017. These casted a doubt on the sustainability and financial viability of the Municipality (ELM FRP, 2018).

An amount of R161 088 336 was declared as irregular expenditure in the financial statements, due to an irregular tender process and an amount of R148 503 808 was not investigated in the previous financial year.

Table 4.10: Governance and oversight

| Indicator | Challenges | Interventions | Timeframe | Progress |
|---------------------------------|---|--|-----------|----------|
| Irregular expenditure | Irregular expenditure to the amount of R148 503 808. | Leadership should play oversight on officials. | 2015/2016 | |
| | Deviations which did not meet the requirements of Supply Chain (SCM) regulation 36(1) and interest levied on overdue creditors accounts; | | | |
| Auditors-General reports | Errors in the financial statements of the ELM | | 2015/2016 | |
| | Incurred material losses of R227 503 649 (2015: R186 496 567) as a result of water distribution losses, which represent 34.0% These losses are due to ageing infrastructure, illegal connections and faulty meters. | | | |

| | | | | |
|--|--|--|--|--|
| | Material losses of R304 409 250 (2015: R220 031 941) due to electricity distribution losses. These losses were due to illegal connections and faulty meters. | | | |
| | Municipality's current liabilities exceeded its current assets by R659 885 856 (2015: R522 103 705). | | | |
| | Incurred a deficit of R352 765 015 during the year ended 30 June 2016 (2015: R567 278 514). | | | |

(Source: Adapted from ELM FRP, 2018)

The ELM IDP (2020/2021) outlines that the Municipality's administration and political leadership, developed plans to improve the situation through the implementation of monitoring of a FRP, monitoring the performance of the members of the Mayoral Committee for them to sign a performance agreement, engage local business stakeholders, implement Municipal Public Accounts Committee (MPAC) programs, engage on public participation and facilitate the ward committee meetings. The political offices achieved the following indicators:

- The Municipality held 93 public participation meetings;
- Councilors attended capacity-building workshops;
- Fully functional ward committees, as 38 ward committee meetings were held;
- The Municipality held council sittings to resolve matters of concern;
- caucus meetings of the Chief Whip were held;
- 9 oversight cluster visits implemented (ELM IDP, 2020/2021).

The ELM IDP (2020/2021) states that the Municipality hold council meetings on a monthly basis, and all section 79 committees hold meeting issues, such as rules and ethics of councilors.

Section 80 held meetings for the financial year of 2019/2020. The Senior Management Team holds meetings on a weekly basis to process council decisions. Oversight committees are functional on governance matters. The Municipality has established the Financial Disciplinary Board to deal with serious crime of fraud and corruption in the Municipality by employees.

The senior management has signed a performance agreement with the Municipal Manager. The Executive Mayoral projects were 100% achieved, and these include the consultative meetings with businesses, NGO's and stakeholders. The Municipal Public Accounts Committee (MPAC) has implemented all of its oversight programmes (ELM IDP, 2020/2021).

The ELM IDP (2020/2021) explains that the Municipality's internal audit provided quality assurance and its municipal financial statements were audited, as well as reviews of service delivery reports and the monitoring of the internal and external dashboards.

4.9.1.3.1 Challenges of governance

As disclosed in the financial statements, irregular expenditure on supply chain, as a proper tender process, had not been followed. An audit firm has been appointed to investigate tender irregularities and misappropriation of funds during the 2016/2017 financial year and the investigation is ongoing (ELM FRP, 2018).

The ELM IDP (2020/2021) demonstrates that governance and administration failed to meet the objectives of the Municipality. The non-performance on the cascading of performance management to all employees on job level 1 - 3 is matter of serious concern, the review of a risk framework was not achieved and the integrated communication strategy was not a success. The Speaker's office could not achieve its target of public participation consultation, resolution, public complaints and petitions, as only 56 % has been achieved. Covid-19 had an impact on the number of meetings that the council and the sub-committees held.

4.9.1.4 Pillar 4: Sound financial management

This pillar focuses on how expenditure took place, as well as the trend and ration of expenditure. Debtors' management is demonstrated against the prescribed norm. The availability of cash to meet the expenditure obligations and the ratio that benchmarked against the norm are explained. Debtors' management and payment with regard to the prescribed timeframes and norm, are shown. The distribution losses, expenditure efficiency, revenue enhancement and external intergovernmental grants are also explained.

Table 4.11: Financial control and expenditure management

| Ratio | 2015/16 | 2016/17 | 2017/18 | Remarks |
|--|------------|------------|------------|--|
| Asset Management utilisation | | | | |
| Capital Expenditure to Total Expenditure. The norm is 10% - 20%. | 4.12% | 3.81% | 2.84% | There is a downward trend from 2015/16 to 2017/18 and The ratio for three years was below the general norm. |
| Debtors management | | | | |
| Debtors Management Net Debtors Days – The norm is 30 days. | 29.49 days | 33.69 days | 33.61 days | During the 2015/16 to 2016/17 financial years. The debtors' payment period has increased and marginally improved in the 2017/18 financial year. The ratio has been above the norm in the 2016/17 and 2017/18 financial years. |
| Liquidity management | | | | |
| Liquidity Ratio (Current Ratio) - this ratio indicates the extent to which cash can be used to settle short-term liabilities. If current assets do not exceed current liabilities it means a liquidity The norm is 1.5 - 2:1. | 0.53 | 0.39 | 0.36% | Over the three years. The current ratio has deteriorated and is below the norm. This is a demonstration that the Municipality will not be able to service current or short-term liabilities (Debt and Payables) with its short-term assets (i.e. Cash. Inventory. Receivables) as and when they fall due. |
| Liability management | | | | |
| Debt (Total Borrowings)/ Revenue - indicates the extent of total | 1.22% | 2.09% | 0.17% | Over the last three years the ratio remained below the norm. |

| | | | | |
|---|--------|---------|---------|---|
| <p>borrowings in relation to total operating revenue.</p> <p>Alternatively stated. The ratio indicates the affordability of the total borrowings.</p> <p>The norm is 45%.</p> | | | | <p>The Municipality has minimal borrowings which increased in the 2016/17 year as a result of the use of an overdraft facility.</p> |
| <p>(Interest Paid and Redemption) as a % of Total Operating Expenditure - indicates the cost required to service the borrowing. It assesses the borrowing or payment obligation expressed as a percentage of total operating expenditure. The norm is 6% - 8% over the years.</p> | 0.51% | 1.13% | 2.27% | <p>The slight increasing ratio does not reflect a significant change however ratio has trend over the years. The ratio is below the norm indicating that the Municipality can service its current debt levels but must be done within its' cash-flow constraints.</p> |
| Efficiency | | | | |
| <p>Net Operating Margin – measures the net surplus or deficit as a percentage of revenue.</p> <p>The norm is > 0%.</p> | -6.04% | -16.28% | -13.04% | <p>In the past three years the Municipality has experienced a deficit and with the highest deficit in the 2016/17 financial year. The cost of operations vs tariff structures needs to be reviewed</p> |
| Distribution losses | | | | |

| | | | | |
|--|----------------|----------------|----------------|--|
| Electricity Distribution Losses (%) The norm is 7% - 10%. | 20.11% | 17.99% | 43.72% | In all three years the electricity distribution loss was significantly above the norm in and needs urgent measures. |
| Water Distribution Losses (%) The norm is 15% - 30%. | 34.00% | 30.69% | 40.00% | In all three years the water distribution loss was significantly above the norm in and needs urgent measures. |
| Revenue enhancement | | | | |
| Revenue Growth (%) – measures the growth in revenue year on year. The norm is > 5%. | 7.42% | 5.95% | -5.40% | Revenue growth was positive and above the norm in 2015/16 and 2016/17, but negative in 2017/18. This is indicative that revenue growth may be inadequate to fund operations and/or a decline in the economy in the Region. Capital grants may be inadequate to fund operations and/or a decline in the economy in the Region. |
| Ratio | 2015/16 | 2016/17 | 2017/18 | Remarks |
| Expenditure efficiency | | | | |
| Creditors' payment period. The norm is 30 days. | 100.78 days | 146.65 days | 242.56 days | Over the period of three years. The payment of creditors exceeded the norm. These is a reflection of poor financial position. |
| Remuneration of councillors and staff. The norm is 25% to 40%. | 17.92% | 18.55% | 17.96% | The salary bill was below the norm. Mainly due to high vacancy rate. |
| Contracted services. The norm is 2% to 5%. | 2.08% | 2.24% | 1.95% | External contracted service is below the norm. Municipality uses internal capacity. |

| | | | | |
|--|--------|--------|--------|--|
| Irregular and fruitless expenditure. The norm is 0% | 6.45% | 18.11% | 36.98% | There has been significant increase in irregular and fruitless expenditure due to breakdown of internal controls and consequence management over the three years period. |
| Repairs and maintenance. The norm is 8%. | 1.16% | 2.08% | 0.64% | A significant drop in repairs and maintenance to property, plant and equipment and investment property. This is an indication of non-existence of an asset maintenance plan and due to cash flow constraints. |
| External grants | | | | |
| Own Source Revenue to Total Operating Revenue (Including Agency Revenue) | 86.11% | 87.11% | 86.12% | The Municipality rely on own revenue to fund the operating expenses. However, the decline is a serious concern. |
| Capital expenditure | 26.70% | 32.20% | 6.10 | The Municipality is reliant on grant funding and cannot generate internal revenue or borrow funding. |

(Source: ELM FRP, 2018)

The ELM IDP (2020/2021) explains that during the 2019/2020 financial year the Municipality planned to improve the customer payment system to augment its financial strength to be able to provide more services to communities. The Municipality also intended to improve cost reduction measures and increase its investment portfolio by R10 million rand by midyear and also enhance compliance and accountability.

4.9.1.4.1 Challenges of financial management

The liquidity ratio of the Municipality has deteriorated to a point where it could not meet its short term cash payment. Payment of the monthly debt obligation could not be met, due to the shortage of cash-flow. It is noted in the 2017/2018 financial year revenue collection was negative. The ELM IDP (2020/2021) explains that the Municipality achieved 50% of planned cost containment measures. 46% of the social development grant was spent and only 1% of municipal infrastructure grant was spent, given that the Municipality relies on grant funding and cannot generate sufficient revenue.

According to the ELM IDP (2020/2021), clear instruction on the above objectives has been given to managers and executive directors to include these regulations in their plans and strategies. Although some of the objectives have been realized, collection of revenue plans was a partial success. The Municipality drafted the final terms of reference for the established integrated revenue forum, although only R6million was availed. Failure to spend on grant funding, was due to reprioritization for new projects and a lack of capacity in the relevant cluster. The increase in regular expenditure goes unabated on supply chain processes. Failure to pay creditors within 30 days is noted.

4.9.1.5 Pillar 5: Building institutional capabilities

The institutional capability concerns the staff establishment, the organisational structure, the number of vacant posts that have been filled, the cost of employees to the Municipality, submission of the work place skills plan to Local Government, SETA and the implementation of the municipal human resources performance management system.

4.9.1.5.1 Organisational structure and human resources management

This involves the organizational structure that is tailored to become a Metro Municipality. It consists of the Municipal Manager and seven senior managers who report directly to the Municipal Managers. The organogram of the Municipality consists of 6 323 approved positions (ELM FRP, 2018).

The office of the Municipal Managers has eight managers and staff who report directly to him, and this creates a total of direct reporting lines of 15 managers. The general norm of similar municipalities consists of between three and seven direct reporting lines. The current review focuses on reduction of the span of control to be in line with the general norm and standard (ELM FRP, 2018).

The situation is compounded by a spike in employee related costs of R955 415 245 during 2015/16 to R1 156 508 353 during the 2016/17 financial year. This amounted to a 17% escalation in the post establishment. The other contributing factor is the labour collective agreements that range at 6-7% and other operational costs, such as filling of vacant positions, overtime, allowances and performance bonuses. R139 millions of unauthorized expenditure was spent on settlement agreements (ELM FRP, 2018).

Section 51 (g)(i) and (ii) of the Municipal Systems Act no. 32 of 2000 stipulates that “a municipality must within its administrative and financial capacity establish and organise its administration in a manner that would enable the Municipality to perform its functions through operationally effective and appropriate administrative units and mechanisms, including departments and other functional or business units; and when necessary, on a decentralised basis”.

Section 55 (1)(a) of the Municipal Systems Act no.32 of 2000 prescribes that the municipal managers as the head of administration and a chief accounting officer are responsible for the establishment of an economical, effective and accountable administration. It is therefore of paramount importance that the administration is within the constraints of the available resources of the Municipality.

ELM FRP (2018) states that the Municipality developed a workplace skills plan and submitted it to the Local Government Seta by 30 April 2017 as per the requirements of

the Skills Development Act no. 97 of 1998. The Municipality allocated a budget of R7948182 for staff training; however, the budget has been reduced to from R11 million to R7 million, respectively. The cost benefits and evaluation of training by the municipal departments is not conducted and the workplace skills plan needs to be updated. Further there is no pre and post – training assessment conducted by business units, indicating that the value–add of training interventions are not measured within the institution.

Sections 83, 107 and 119 of the Municipal Finance Management Act no. 56 of 2003 prescribe for officials to meet prescribed competency levels in financial and supply chain management, however not all employees comply with the legislative prescript and training intervention programmes are rolled-out to close the gap, although more effort is still needed in this area.

The Municipality has approved a performance management system for section 56/57 employees, although there seems to be no evidence that section 56/57 employees have signed performance agreements to ensure alignment of performance indicators and targets to the Service Delivery, Budget and Implementation Plan (SDBIP). Performance management systems should be directly related to other human resources processes such bonuses, change management and transfers. The performance management policy should be developed in consultation with the relevant stakeholders of the municipality. The principle that guide performance management states that it must clearly outline the basis and methodology for standard setting and rates, time schedules for providing performance feedback, as well as assurance on consistency (Parkies, 2015:8).

Another major cost drive on personnel is the overtime payment within the Municipality in which employees work for 10 hours per week in violation of the Section S10 (1)(a) of the Basic Condition of Employment Act. Measures should be taken to curtail the cost of time that amount to R76 800 922. These funds can be utilized to fill the existing permanent vacant positions to strengthen the capacity of the Municipality. All section 56 positions are vacant and are occupied on an acting capacity and this has a negative effect on the stability and accountability of management. These positions need to be filled to ensure stability (ELM FRP, 2018). The following vacancy rates prevail in the Municipality.

Table 4.12: Vacancy rates

| Occupational level | Post Created | Filled | Post Vacant | Vacancy Rate |
|---|---------------------|---------------|--------------------|---------------------|
| Public Safety and Community Development | 2 442 | 900 | 1 542 | 63% |
| Basic Services | 2 836 | 1 100 | 1 736 | 61% |
| Economic Development Planning | 182 | 92 | 90 | 49% |
| Infrastructure Planning | 53 | 28 | 25 | 47% |
| Corporate Services | 322 | 194 | 128 | 40% |
| Budget and Treasury Office | 321 | 164 | 157 | 49% |
| Municipal Manager | 65 | 44 | 21 | 32% |
| Audit | 24 | 14 | 10 | 42% |
| Political Office | 69 | 64 | 5 | 7% |
| Grand Total | 6 314 | 2 600 | 3 714 | 59% |

(Source: ELM FRP, 2018)

The table demonstrates that the Municipality currently has 6 314 positions of which 2 600 positions are filled (41%), with a vacancy rate of 59%. Most of the vacancies are in Public Safety and Community Development, as well as the basics services.

According the ELM IDP (2020/2021), the key performance area entails planning to review the organizational structure, implement institutional change management programmes, institute 40% of workplace skills plan, ensure that 20% of vacancies are filled, and put in place information management strategy and the business continuity frameworks. The process of a draft system of delegation was finalized in the 2020/2021 financial year.

The Department of Labour Relations is central for labour, peace and harmony in the Municipality. It is a channel of consultation between the employer and the employee. Conflict management and bargaining management are driven by the Department of Labour Relations (ELM IDP, 2020/2021).

The existing labour disputes that relate to levels have serious financial implications to the Municipality, as a result of the granted labour awards that relate to level 1 and 2 in the structure.

4.9.1.5.2 Challenges of institutional capability

The ELM IDP (2020/2021) states that plans were in place to ensure that the organizational structure is tabled in March 2020 after consultations with internal stakeholders, however the project was derailed due to competing priorities and the related workplace challenges. A draft system of delegation was developed in 2019/2020, however the project could not be achieved during the midyear as a result of delays in the consultation process. The Municipality planned to fill the vacant position by the end of March 2020, however due to a high number of applications that have been attracted, the municipalities decided to prioritise filling level 2 and 3 management positions and those posts below the levels were finalized in January 2020. A high vacancy rate has been noted in the Community Safety Department and Basic Services Department. This would impact on service delivery. Internal training of staff could not be conducted, due to a downward adjustment of the budget for training. This resulted in a lack of funds and reliance on external institutions for training. Lack of funding for training has compromised the goals of human capital development (ELM IDP, 2020/2021)

The ELM FRP (2018) explains that insufficient operating funds to operate and maintain infrastructure services had ramifications of asset strips. Inadequate capital to substitute, facelift or expand infrastructure capacity resulted in poor service delivery. Human resources issues that relate to an inadequate mix of competent and skilled people, resources to operate, maintain and for general lifecycle management of infrastructure assets, had a negative impact. Inadequate mix of available and functional vehicles and specialised fleet for service delivery, were harmful. There were an inadequate mix of available and functional maintenance equipment and tools, as well as absent, unreliable and absent metering, and where metering exists, it was either non-functional or inaccurate metering.

The ELM IDP (2020/2021) requires that non-functional infrastructure services to enable correct billing and/or control over the supply of services. Infrastructure integrity is beyond what maintenance can restore, and replacement is required. Infrastructure capacity is inadequate to service the losses and demands. Irregular, unauthorized and fruitless expenditure encapsulate the culture of conducting business in the Municipality. Nevertheless the Municipality continues to address service delivery challenges in this regard.

Loss of water due to theft of brass water meters, vandalism of pressure reducing valves, which results in increased water pressures and pipe bursts, ageing infrastructure as a result of lack of repairs and maintenance, are just some of the challenges that need to be addressed (ELM IDP, 2020/2021). The ELM Department of Water has a high number of critical posts that are vacant. The achievement of turnaround time is affected by the shortage of fleet and plants. Lack of payment of service providers, result into breach of the service level agreement (ELM IDP, 2020/2021).

The ELM IDP (2020/2021) reflects a non-submission of performance and poor work culture in ELM. Indications are that management has identified that the current organizational processes for planning, implementation and reporting are not aligned to assist the Municipality to perform at a maximum point and needs to be reviewed.

4.10 HUMAN SETTLEMENT DELIVERY IN EMFULENI LOCAL MUNICIPALITY (ELM)

The ELM IDP 2020/2021 states that “the Housing Department is committed to the delivery of diversified habitable houses, with all social amenities, in a secure and development-friendly environment. The Housing Department’s mission is to uphold *the Batho Pele* principles by:

- Ensuring cost effective and affordable services;
- Being responsive and sensitive to the social and housing needs of our communities;
- Providing a range of affordable shelter options, and

- Identifying suitable land for the establishment of new housing projects, to reduce the housing backlog on the Gauteng Waiting List.

Building houses remains the competency of the Gauteng Department of Human Settlements. The role of local municipalities in terms of housing provision is to facilitate and oversee housing.” The National Department of Human Settlement, in conjunction with Gauteng Department of Human Settlement, identified ELM for the National Upgrading Support Programme in technical assistance and capacity building support. ELM has received funding for upgrading of 21 informal settlements.

The ELM IDP (2020/2021) states that the intention of the national support programme is to advance Human Settlements Spatial Transformation and Consolidation through the creation of compact cities and reverse the legacy of apartheid.

The Municipality establishes rental housing offices to provide advice on rental rights and obligations. 2441 title deeds were received to be handed to beneficiaries. The housing backlog is 79500, however the Gauteng Human Settlement delivered 3516. This is a clear indication that the supply of houses is below the demand. The Municipality needs to develop measures to prevent the rampant illegal occupation of houses. Mixed development housing projects are required, as compared to the existing RDP and this would help to collect revenue for the Municipality.

4.11 INTERGOVERNMENTAL RELATIONS (IGR) AND STRUCTURES

The ELM IDP (2018/2019) refers to the Intergovernmental Relations Act no. 13 of 2005, which stipulates the principles to the organs of state in the different spheres of government on matters of participation and coordination. This entails integration, coordination and participation in joint programmes of different spheres of government and other state organs. Mukwevho and Mtapuri (2014:46) concur with ELM IDP’s (2019) and cite the Constitution (Act 108 of 1996) of the Republic of South Africa that prescribes that local government has to play a pivotal role to improve intergovernmental coordination and cooperation, to ensure integrated development across the three spheres of government. According to the above-mentioned Act of Parliament, the joint programmes are those that

transcend across the traditional boundaries of each sphere of government in planning, budgeting and implementation. According to the ELM IDP (2018/2019), the implementation of these programmes requires cooperation of different agencies, departments and ministries. Section 120 (1) of the Municipal Finance Management Act no.56 of 2003 as outlined in the ELM IDP (2018/2019), prescribes that the Municipality can enter into a public private partnership if “(a) provide value to the Municipality (b) it is affordable to the Municipality and (c) can transfer the appropriate technical, financial and operational risk to the third party.” The ELM IDP (2018/2019) articulates that ELM has the following IGR and cooperative governance with the following state organs, government departments and agencies:

Table 4.13: IGR partnerships and cooperative governance

| Department/agencies/state organs/ organisation | Areas of Joint cooperation |
|---|--|
| Gauteng Department of Human Settlements | Allocation of housing beneficiaries in the municipal space. |
| Emfuleni Local Municipality Human Settlement | Municipality avail land for building houses. |
| Vaal University of Technology (VUT) | Various research, training and development projects. |
| Department of Agriculture | Various agriculture related projects and food gardens. |
| Department of Environment | Building of small business stalls. |
| Department of Health | Provision of primary health care courses for staff members. |
| Toyota Vereeniging, Fab-Lane, active auto motors, Pam Springs mall etc. | Entered into a service level agreements with companies to cut grass, landscape and maintain flower beds and equipment in front of the companies. |
| Sedibeng District Municipality | Provide fire services during fire outbreak, hazards and incidents. |

| | |
|---|---|
| Department of Arts and Culture | Provide grant funding for recapitalisation of libraries and information services. |
| Gauteng Department of Sports, Arts, Culture and Recreation | Assist with building of new library infrastructure. |
| Gauteng Community Safety | Joint programme with ELM traffic department, SAPS, CPF, Correctional service and Department of Social Development. |
| Gauteng CoGTA | Provide fire and rescue equipment. |
| Sasol/ German Corporation for International Cooperation (GIZ) | Established partnership with the Municipality to share the best practice on water conversation. |
| Randwater | Entered into agreement with the Municipality for maintenance of water works and pumps stations. |
| Gauteng Department of Agriculture and Environment | Established partnership on cleaning programmes, greening of environment and waste management. |
| Gauteng Department of Roads and Transport | The Provincial Roads and Transport Department has the programme of patching potholes and re-tarring of local roads has given the Emfuleni's Roads and Stormwater Department a relief. |

(Source: Adapted from ELM IDP, 2018/2019 and ELM IDP, 2019/2020)

According to the ELM IDP (2018/2019), Sedibeng District Municipality has established a district-wide IDP coordination forum that consists of Sedibeng District Municipality, ELM, Midvaal Local Municipality, Lesedi Local Municipality, Stats SA and other sector departments. The purpose of this IGR forum is to coordinate and align IDP processes between local and other spheres of government. The Gauteng Department of Cooperative Governance and Traditional Affairs plays a central role to coordinate sector departments to partake in the IDP and make inputs.

Mphasane (2012:17-19) elucidates the problems that beset IGR in municipalities. Firstly, IGR is at the growing phase and institutionalization of the concept has immense challenges. Lack of commitment and sharing information is at the centre of the problems. Considerable intellectual work and research have been done that lead to the development of policy legislation and structures on one hand. Conversely, lack of commitment and coordination have created a deficiency in technical and administrative capacities. An unfunded mandate to local government, due to a constitutional and public mandate has been affected as a result of poor facilitation of IGR.

Secondly, institutionalization of IGR in ELM departments is lacking. Officials do not understand their roles in IGR. Rapid changes that emanate from integration of IGR clusters, make it very difficult for IGR to function. Lack of formal institutions to drive IGR and officials often do not account for participation in IGR processes. Concurrent processes at a local level do not integrate national and provincial functions. This is partly related to focus on the IGR, which is prominent at national and provincial level. Lack of capacity at local government level is another contributing factor, as stated in the Presidential Review Commission (Mphasane, 2012:17-19).

4.12 EMFULENI LOCAL MUNICIPALITY (ELM) ANNUAL PERFORMANCE REPORT 2019/2020

According the Emfuleni Annual Performance Report (2019/2020), the Service Delivery and Budget Implementation Plan informs the report and outlines that out of 75 performance indicators with specific targets, the Municipality achieved only 26 indicators during this financial year. 49 performance indicators were not achieved. This gives the Municipality a score of a 35% achievement and it translates into an unacceptable variant of 65%. Table 4.14 illustrates the performance figures of ELM.

It indicates failure to implement performance management systems to lower level employees on job level 1-3. Creditors' attachment of assets created uncertainty and integrated communication strategy plans were not realized. The overall performance in this KPA was not satisfactory (ELM Annual Performance Report, 2019/2020).

Table 4.14: ELM in terms of KPAs

| CRITERIA | KPA 1 | KPA 2 | KPA 3 | KPA 4 | KPA 5 | TOTAL |
|--------------------------------|-------|-------|-------|-------|-------|-------|
| Number of Key Indicators | 8 | 26 | 9 | 10 | 22 | 75 |
| Number of Targets Achieved | 2 | 10 | 2 | 2 | 10 | 26 |
| Number of targets Not Achieved | 6 | 16 | 7 | 8 | 12 | 48 |

(Source: Adapted from ELM Annual Performance Report, 2019/2020)

The table demonstrates serious performance challenges that the ELM Annual Performance Report (2019/2020) explains this poor performance as a result of a number of reasons that range from Covid-19, poor planning and lack of submission of the required information. This is a clear undesired state of affairs as it has negative implications on service delivery. The Annual Performance Report (2019/2020) further articulates that the Municipality only achieved 20 of the performance targets set and 47 performance targets were not achieved during the 2019/2020 mid-year reporting period. 26 performance targets were achieved and 49 were not reached and performance targets that were not projected, are 10 in the 2019/2020 financial year.

Ash (2020: Online) cites CoGTA that slams Emfuleni Municipality as 'dysfunctional' as millions go missing. CoGTA explains that the water leaks could discourage investments in the ELM. The Municipality do not display an indication of significant improvement. Ash (2020: Online) explains the view of the parliament's portfolio committee on co-operative governance and traditional affairs that highlights the challenges in ELM as a lack of procurement oversight and failed financial controls. The chairperson of the committee said "lives of the people of the area are being affected negatively as a result of lack of both political will and administrative inclination to serve the people."

Internal divisions, failure to investigate irregular expenditure in the previous financial year and a lack of accountability among senior managers, are major problems. The municipal bank account was blocked and attached by the court after it failed to pay a Chinese company contracted to install smart water and electricity meters that amounted to R492 million.

Irregular expenditure has sky-rocketed to R1.1bn in the 2018/19 year, due to the Municipality's failure to observe the supply-chain management regulations or the Municipal Finance Management Act that outlines the due processes for valid competitive bids and quotes. The committee said it was "unacceptable that the Municipality has no plans to remedy the 81 matters of emphasis highlighted by the Auditor-General for the 2018/19 financial year".

The Municipality's R586m deficit for the year is a reflection of the failed FRP. Inconsistency of power and water suppliers would have negative consequences for collection of rates and taxes and impact negatively on the financial viability of the Municipality.

The widespread sewage spillage and water leaks would discourage any investor to inject capital for job creation. The Municipality refuses to accept positive private sector proposals. Unreliable power and water supplies would also hamper its ability to collect rates and taxes, worsening the Municipality's financial situation. Akinboade, Kinfack and Mokwena (2012:183) explain that there have been a lot of service delivery protests in South Africa recently, due to broken trust between government and the communities that arise from dissatisfaction with public service delivery in South Africa.

The rationale behind the service delivery protests stem from the following in South Africa in 2010:

- lack of/poor service delivery (water, sanitation, electricity, refuse removal);
- lack of/inadequate housing;
- evictions;
- high levels of unemployment;
- lack of communication with communities;

- lack of leadership in the municipality;
- corruption;
- nepotism;
- maladministration; and
- financial mismanagement.

Khale and Worku (2013) echo the views of Akinboade *et al.* (2012:183) and cite the Municipal IQ Hotspot Monitor (2011:1–4), that the total number of service delivery protests observed, have increased significantly in the year 2010 and was a figure of 111. This is a clear demonstration that South Africans are generally dissatisfied with the quality of services provided by the elected councillors and the services provided by the external service providers. Maramura (2016:120) argues that the public sector has adopted private public partnership to improve service delivery. The onus lies with the public sector in the provision of services, because the private sector cannot individually take into account the socio-economic wellbeing of the communities who are the service recipients.

4.13 NCOP SELECT COMMITTEE ON CoGTA AND HUMAN SETTLEMENT LOCO INSPECTION VISIT TO EMFULENI LOCAL MUNICIPALITY (ELM)

During the visit of Select Committee on 28 November 2021, in ELM, the following findings were made:

- The high number of unpatched potholes, sewer spillages on the roads, lack of refuse collection and ageing road infrastructure in the Municipality, indicate poor managed budgets, and shortages of competent staff, which has negative ramification on the infrastructure condition.
- Asset stripping and lower service levels would lead to lack of sustainability and economic investment which could have ripple effects of service delivery protests.
- Long-term plans need to be made for upgrading and maintenance of infrastructure for sustainability.
- There are structural and institutional challenges on the coordination, implementation and management of the intervention in the Municipality.

The select committee made the following recommendations:

- The Provincial Executive Council must appoint a competent administrator to perform the executive and administrative functions with terms of reference of the Municipality as per the Section 139 protocols of June 2015 that were developed by National CoGTA.
- The Administrator should be accorded the Municipal Council's powers as prescribed in 59-65 of the Municipal Systems Act (Act 32 of 2000), which includes the power to issue instructions, review delegations, deal with appeals, etc.

4.13.1 MEC MAILE presentation on Section 139 intervention in Emfuleni Local Municipality (ELM) in as prescribed by the Constitution No. 108 of 1996 of the Republic of South Africa

According to the Parliament NCOP Select Committee (RSA Parliament, 2020: Online), the MEC of Cooperative Governance and Traditional Affairs and Human Settlement of the provincial government revoked Section 139(1)(b)(i) and 5(a) of the Constitution of the Republic of South Africa, Act No. 108 of 1996, regarding ELM. This intervention commenced with the appointment of the acting Municipal Manager to become an administrator.

The Parliament NCOP Select Committee (RSA Parliament, 2020: Online) explains that the initial intervention failed to produce the required outcomes. Mathenjwa (2014 as quoted by Makoti & Odeku, 2018:74) points to the evidence that at times intervention into the affairs of the Municipality are often marred with political interest instead of constitutional obligations, however the material conditions of the Municipality can dictate for a genuine and justifiable intervention. Koelble and LiPuma (2010:565) assert that the problem of service delivery is not necessary related to the change in the demographics or lack of funding, but this due to the lack of state capacity and willingness to enforce the policy prescripts and regulations in the local government sphere. Koelble and LiPum (2010:565) further argue that measures to improve service delivery depend on the streamlined institutional structures with the necessary capacity and capability to play an oversight over the financial matters and be able to intervene in a municipality that fails to

execute their executive functions. Although several papers indicate that the national and provincial government have undertaken measures to improve service delivery, contrary to that, there has been minimum effort to enforce rules and regulations in local government level to ensure accountability of local politicians and officials.

The Parliament NCOP Select Committee (RSA Parliament, 2020: Online) puts emphasises that the Municipality continued to experience serious institutional challenges as per the articulation of the above 2019/2020 Annual Report of Emfuleni Municipality. This necessitated a firmer intervention to turn around the municipality. Gauteng Exco took a resolution to review the intervention and appoint new administrators to focus on three critical areas of intervention:

- Supply chain management
- Finance, and
- Infrastructure / Service Delivery (Parliament NCOP Select Committee, RSA Parliament, 2020: Online).

Table 4.15: Financial management with regard to the status of debt

| Creditor | Amount | Period |
|-----------------|---|------------------------------------|
| ESKOM | R3,2 billion as end of Jan 2021 | R2.7 billion is older than 90 days |
| Rand Water | Rand Water- R1.3 billion as end of Jan 2021 | R880 million is older than 90 days |
| Red Ants | R35 millions | |
| 36 creditors | R107 millions | |
| 35 creditors | R21 millions | |
| 64 creditors | R3.9 millions | |

(Source: Adapted from Parliament NCOP Select Committee, RSA Parliament, 2020: Online)

The Parliament NCOP Select Committee (RSA Parliament, 2020: Online) further articulates that arrangements have been made to service both the accounts of Randwater

and Eskom, however the accounts are still in arrears, due to accounts attachments and cash shortage in ELM. The Municipality is gradually catching up with the payment as cash becomes available.

The Parliament NCOP Select Committee (RSA Parliament, 2020: Online) states that engagements have been held with Eskom NERSA regarding the major power users like GAPE GATE. Continuous meetings were held with NERSA to save 2000 jobs in Cape Gate Company.

The Parliament NCOP Select Committee (RSA Parliament, 2020: Online) stipulates that cost-saving measures has been undertaken in the Municipality as per the National Treasury guidelines, during the budget adjustment process. Other cost-containment measures undertaken include implementation of austerity measures that requires savings, undertaking an analysis of payment that were conducted in last six months to identify wasteful expenditure, cost saving measures, as well as irregular expenditure and review contracts to ensure that the Municipality benefits. A task-team was established to conduct an analysis of contracts to ensure regularity.

The Parliament NCOP Select Committee (RSA Parliament, 2020: Online) clarifies that one other major challenge of the Municipality pertains to the bank account that is attached by the Chinese company called Beijing Fuxing Xiao-Cheng Technology Company LTD, as result of a High Court decision in lieu of a default judgement granted [case number 9623/2020]. The High Court judgement sunk the Municipality into a financial crisis that had negative ramifications on revenue generation, poor service delivery to communities and default in payment of creditors for the services that were delivered. Section 37 of the Municipal Finance Management Act 56 of 2003, prescribes for the national and provincial government to identify and assist to resolve the financial challenges in local government through a cooperative governance to ensure efficiency and effectiveness. This assistance is conducted in line with the provisions of Section 155(6) of the Constitution no. 108 of 1996 of the Republic of South Africa that stipulates that the national and provincial government should by legislative and other measures that monitor, support and strengthen the capacity of municipalities to be able to carry their execution functions.

4.14 INTERGOVERNMENTAL RELATIONS (IGR) STRUCTURES AND COOPERATIVE GOVERNANCE INTERVENTIONS IN EMFULENI LOCAL MUNICIPALITY (ELM)

According to the SAHRC (2021: Online), it has been brought to the attention of the South African Human Rights Commission through online and print media reports, published during July and August 2018, that ELM had raw sewage from its Rietspruit Waste Water Care and Management Works, situated in Vanderbijlpark and other areas of the Municipality, which had been leaking and polluting the Vaal River and Rietspruit for weeks and months without stoppage and that had negative ramification on the ecosystem of the Vaal River. Media reports also indicate that the main sewers in Vanderbijlpark were blocked and sewage was spilling and flowing into residents' yards and properties. The seriousness of the situation has warranted an investigation of the SAHRC after a loco inspection of the area in order to establish the severity of human rights violations and to hold those responsible accountable. In addition, it also needed to make recommendations on appropriate measures to remedy the situation.

4.14.1 Role of different spheres of government of Government in Emfuleni Local Municipality (ELM)

Different spheres of government played a critical role in terms of intervention to address the challenges of the Municipality. The interventions range from national government, provincial government and local government in an attempt to deal with service delivery failures in the Municipality. The SAHRC (2021: Online) outlines the following intervention initiatives of different spheres of government as per the submission to the SAHRC during the panel of enquiry.

4.14.1.1 City of Johannesburg Metro Municipality, Ekurhuleni Metro Municipality and Midvaal Local Municipality

The former Executive Mayor, Mr Jacob Chawe, as referred by SAHRC (2021: Online), elucidate that the above three municipalities have contributed to the sewage problem in ELM as their sewage system feeds into Sedibeng Regional Sewer system. Numerous attempts were made by the predecessors to arrange a cooperation and coordination, however the efforts did not yield any success.

4.14.1.2 Emfuleni Local Municipality's Departments of Human Settlements, Water and Sanitation

The SAHRC (2021: Online) refers to the submission of ELM's Human Settlement, Water and Sanitation that what compounded the problem in the leakage of sewage in the Vaal River, is the aging infrastructure, financial and human resources challenges. Lack of contingency planning for population growth in the Municipality is another contributing factor. Rauch (2002) as cited by Hlongwane (2011:9), describes the IDP as a long term development planning approach that entails the whole municipality and its citizens an attempt to find the development solutions to address the community needs, such as housing, roads, schools, electricity, water and sanitation. The process of an integrated approach is IGR in its nature, as it involves national and provincial government plans. Patel (2001:2) as referred by Dlamini (2015:28), emphasises that the IDP is an inclusive public participation tool for development that introduces performance drive projects in response to community needs.

4.14.1.3 Department of Water and Sanitation (DWS)

The SAHRC (2021: Online) states that the Water Services Act 108 of 1997 and the National Water Services Act 36 of 1998 respectively require the DWS to manage the use, conservation, development and controlled sustainably to protect water resources for the overall benefit of the community and the environment in general. The Water Services Act

108 of 1997 prescribes for the DWS to monitor, measure and report on the quality of water. This also entails the regulations and support on the delivery of clean water and sanitation system. According to the SAHRC (2021: Online), some of the projects includes the Sedibeng Regional Sewer pump that was built in 1958 and it is aging. The Sedibeng Regional Sewer pump was funded through the regional bulk infrastructure grants to deal with the spillage in the Vaal River. Initially the Sedibeng Regional Sewer pump was managed by the Municipality, however due to failures, the DWS intervened and commissioned Rand Water to administer the project. Contrary, the contractual disputes between the Municipality and Rand Water created unforeseen challenges. The SAHRC (2021: Online) further explains that the constant community protests and infrastructure vandalism did not help the situation either.

4.14.1.4 The Department of Cooperative Governance and Traditional Affairs (National and Provincial)

The SAHRC (2021: Online) explains that CoGTA Gauteng lead and drove the implementation of Section 139(1)(b) and 139(5) in terms of Constitution of Act no. 108 of 1996 of the Republic of South Africa. These entailed the establishment of intergovernmental work streams that was constituted as follows:

- Financial management and financial viability of the Municipality work stream;
- Ensuring basic services and urban management work stream;
- Improving governance and the institutional framework stream;
- Improving communication and stakeholder management work stream; and,
- Infrastructure planning work stream.

A FRP was developed for the Municipality and submitted to the National Treasury for finalisation (SAHRC, 2021).

4.14.1.5 Department of Environmental Affairs

The SAHRC (2021: Online) states that the Department of Environment Affairs submitted that they are a smaller department with not capacity to deal with more circumscribed responsibilities in respect of water pollution as their core business and was unable to respond to all the water pollution cases reported in the country. The Department of Environment Affairs would wish to establish a collaborative partnership with other government departments, such as DWS to beef up the capacity to attend to respond to water pollution cases and challenges in South Africa (SAHRC, 2021: Online).

4.14.1.6 Rand Water

The SAHRC (2021: Online) explains that Rand Water submitted that their core business is to provide bulk water to municipalities in its jurisdiction and the ELM as part of the customers. Vaal Dam is owned, managed and administered by the Gauteng DWS. Rand Water buy raw bulk water from the DWS, process it and supply to the municipalities for consumption. Bulk water is extracted from the Vaal Dam and polluted through the flow of Vaal River. Data on pollution of the Vaal Dam with wastewater and sewage are shared with the DWS. Water infrastructure is owned and managed by municipalities. Rand Water serves as an agent of the DWS and is not involved in the municipal water infrastructure matters (SAHRC, 2021).

4.14.1.7 National Treasury

The SAHRC (2021: Online) articulates that National Treasury has set aside funding for addressing the sewage problem and managing the pollution. The challenge relates to utilization of funds by the Municipality or the Municipality has not engaged Treasury to access the funds. According to Treasury, the funds are allocated.

Section 227(1)(a) of the Constitution Act no.108 no. 1996 of the Republic of South Africa requires funding to be allocated to the Municipality as part of an equitable share “to provide of basic services and perform functions allocated to it”. This also pertains to water

and sanitation. These funds are administered by CoGTA and the DWS in terms of the prescribed legislation.

The SAHRC (2021: Online) indicates that National Treasury had and continues to allocate grant funding, in accordance with Section 227(1)(a) of the Constitution, for municipalities “to provide basic services and perform the functions allocated to it”, such as municipal water and sanitation services. This grant funding is required to be administered by DWS and CoGTA in terms of Section 227(1)(b) of the Constitution and other applicable legislation. The SAHRC (2021: Online) highlights that National Treasury made submission that R3 billion has been made available for the treatment and control of the pollution, however, the Municipality does not utilize the funds as per the conditional allocation.

4.14.1.8 South African National Defence Force

In terms of the SAHRC (2021: Online), the South African National Defence Force made submission that the Minister of Finance deployed the Defence Force with the approval of the Minister of Defence and the State President to intervene in the waste management of the Vaal River and assistance with engineering and pollution matters. The Defence Force outsourced the wastewater infrastructure repair and maintenance to external aspects, due to lack of skills in this area. According to the SAHRC (2021: Online), the scope of work of the Defence Force entailed the Sebokeng Waste Water Treatment Plant: three modules, four pump stations and sewage lines, Rietspruit Waste Water Treatment Plant: two modules, two pump stations and sewage lines, the Leeuwkuil Waste Water Treatment Plant, two modules, 36 pump stations and sewage lines. The Defence Force achieved 90% cleaning of the modules, and fixing some pumps with the assistance of the Municipality. The challenge is the cost of intervention to the Defence Force as a project leader as opposed to the Municipality and lack of skills transfer to the municipal officials. The Defence Force’s intervention was for a short term.

4.14.1.9 The Save the Vaal Environment organisation

The SAHRC (2021: Online) articulates the submission of Save the Vaal Environment organization that the spillage of sewage into the Vaal River has implication to land, life and the ecosystem. The indication is that the Vaal River supports agriculture products, animals and the river is a source of water supply for human and animals. The river is a source of employment and economic growth of agriculture, tourism, and the mining industries and provides drinking water for many people. Birds and fish life in the Vaal River is negatively impacted. The DWS has stopped to proceed with Sebokeng Sewer Regional Scheme and that has exacerbated the situation. The Save the Vaal Environment organization obtained six court orders for ELM to remedy the situation (SAHRC, 2021: Online).

4.15 INTERVENTION IN THE VAAL RIVER POLLUTION

The ELM IDP (2020/2021) indicates that the growth of the population in Emfuleni has resulted into a demand that exceeds the existing capacity of the water waste treatment works in Sedibeng region. The consequence of this overload is the spillage of raw sewage into the Vaal River. This has a negative impact on socio and economic growth in the area and posed that a range from the Vaal River experience discharge of non-compliant effluent. Investment is retarded, due to restriction on economic growth, performance failures and high maintenance costs, due to ageing infrastructures that are not upgraded, a lack of capacity of the existing waste water treatment works, due to a high demand and a lack of infrastructure maintenance and vandalism (ELM IDP, 2020/2021).

4.16 CONCLUSION

The chapter discusses and explains the profile of the Municipality in terms of the political and administrative arrangement. The Municipality is strategically positioned along routes that connect Gauteng and Free State on economic activities. The socio-economic situation and the population growth of the Municipality that has a serious impact on the

revenue and the ability of the Municipality to deliver the basic services, given the unemployment level. Poor revenue collection has an impact on the financial viability of the Municipality as result, and it was difficult for the Municipality to meet its financial obligation to pay the existing creditors.

B2B Programme as a monitoring and support mechanism had serious challenges to turn around the Municipality. Poor leadership and governance contributed significantly to non-performance of the Municipality in all the pillars of B2B Programme. These pillars range from Pillar 1: People First, Pillar 2: Deliver Municipal services, Pillar 3: Good governance, Pillar 4: Sound financial management and pillar 5: Building capable institution. It is clear that there has been poor financial management, poor revenue collection, unabated losses of electricity and water and deteriorating infrastructure and service delivery to communities.

The provincial government implemented Section 139 of the Constitution no.108 of 1996 of the Republic of South Africa. The rationale behind the Municipality to be under administration is due to failure on the Municipality to carry-out its executive obligation as per legislative prescript and the constitution. The Section 139 intervention commenced in 2018, however, parliament selected committees raised serious concerns on the failures of the first intervention. A FRP was developed to address and remedy all challenges identified in the B2B Pillars. The role of IGR between stakeholders have been discussed in detail in terms of the concern they raise and interventions mechanisms that are put in place to remedy the situation. A detailed analysis of the effectiveness of IGR is be discussed in the next chapter and failures and successes of B2B Programme in ELM. Analysis of every pillar and IGR is looked at against the mandate and the policy and legislative requirements in line with the objectives of the research study.

CHAPTER 5 : ANALYSIS AND INTERPRETATION OF THE STUDY

5.1 INTRODUCTION

The previous chapter outlined the research methodology that was used in the study. It entailed an analysis on the primary study, such as the Municipal Integrated Development Planning and the Annual Performance Report.

It detailed Section 139 of the Constitution of the no.108 of 1996, the FRP in terms of B2B Programme's pillars and the secondary data from the Parliamentary Select Committee Report and the Report of SAHRC on ELM that outline IGR' stakeholders.

Chapter 5 aims to conduct an analysis on literature and findings of the research study. Tenza (2017:44) explains that data analysis is about the unpacking of data collated into a more understandable and meaningful arrangement, in order to achieve the objectives of the study.

This chapter conducts an analysis on firstly, the service delivery and performance of ELM in line with the conceptual and legal framework for cooperative governance and IGR and the relationship with B2B Programme in Gauteng. Secondly, the challenges and problems of IGR on service delivery, are discussed. Thirdly, the effectiveness of B2B Programme to improve service delivery and lastly to analyses IGR mechanisms that are appropriate in the implementation of B2B Programme, are looked into.

The analysis of the study leads to the findings that talk directly to the research objectives. A conceptual and legislative framework is used as yardstick against the intergovernmental relation relations and cooperative governance. Legislation inform all the municipal processes, and it is therefore of vital importance to ensure that IGR are informed by the law prescripts.

The findings should also indicate the relationship between B2B and IGR on matters of service delivery and infrastructural development. Factors that contribute to challenges of IGR are identified. The findings should indicate whether B2B Programme is effective to

promote service delivery in the Municipality and the relevant mechanisms that can improve the IGR and B2B Programme. The findings would assist to bring new information to address the service delivery gaps.

5.2 RECALLING RESEARCH OBJECTIVES ONE: CONCEPTUAL AND LEGAL FRAMEWORK FOR COOPERATIVE GOVERNANCE AND INTERGOVERNMENTAL RELATIONS (IGR) AND RELATIONSHIP WITH BACK TO BASICS (B2B) PROGRAMME IN GAUTENG

Section 40(1) of the Constitution no.108 of 1996 of the Republic of South Africa articulates succinctly that the government is constituted of national, provincial and local spheres of government that is distinctive, interdependent and interrelated. Distinctive means that each sphere of government has executive and administrative capacities in its own right. Interdependent means each sphere should function with the support of the other spheres and interrelated means they must coordinate their work in a cooperative manner. Layman (2003:8) puts emphasises that "government is constituted as national, provincial and local spheres of government which are distinctive, interdependent and interrelated" as stipulated in Section 40(1) of the Constitution no. 108 of 1996 of the Republic of South. The "distinctive" refers to independence of each sphere with its own right to take decisions, execute a range of functions and account for that decision making to the respective constituency.

It would be prudent to firstly, analyse the role of CoGTA in the monitoring and support of local government in terms of Section 154 and 155 of the Constitution no.108 of 1996 of the Republic of South Africa. Section 154 states that "The National and Provincial Government, by legislative and other measures, must support and strengthen the capacity of municipalities to manage their own affairs, to exercise their power and to perform their functions"

Local Government SETA Research Report (2019) states that the Department of Cooperative Governance and Cooperative Governance both at national and provincial level implemented numerous interventions programmes in municipalities to turn around

and improve service delivery. The support programme entails among others the Project Consolidate in 2004 that was aimed to entrench policies and programmes to a maximum impact at local government level.

In 2006, a five-year Local Government Strategic Agenda was introduced that followed Project Consolidate. In 2009 the five-year Local Strategic Agenda led to the inception of Local Government Turn Around Strategy (LGTAS) programme. LGTAS was intended at “the development of an accountable, responsive, efficient and effective local government system in South Africa.”

The support programmes were implemented in isolation from another. It was mainly informed by the administration and the policies of the day in government. There is no clear alignment of activities and the chronological manner in which the support programmes were rolled-out. Huge amounts of both human and financial resources were expended with no tangible returns that have been derived. Failure of organisational and institutional learning during the implementation of numerous programmes over the years occurred. Saadat and Saadat (2016:220) refer to Alvani (2008) who defines organisational learning as a process of trial and error. The situation gets corrected scientifically to improve performance for the better. Marquardt (2002 as cited by Sadaadat & Saadat, 2016:220), defines organisational learning as continuous improvement and commitment in an organisation that is obtained through the development of capability and productivity.

Both National CoGTA and Provincial CoGTA have deployed human and financial resources that run into millions of rands in ELM, however the governance, financial and service delivery situation continue to deteriorate unabated. Marquardt (2002, in Sadaadat & Saadat, 2016:220) explain the different kinds of learning:

- Adaptive learning: it happens when a person, group or organization learns through experience and evaluation (their previous performance). An adaptive learning process, with regard to organization, is that an organization proceeds to achieve a specified aim, and it leads to some internal and external results. The result is analyzed in terms of congruency with the aim, and the organization does a new action or corrects the previous action based on the result.

- Forward-looking learning: it begins when an organization learns through prospective futures. This approach is to avoid negative results and experiences through identifying the best future opportunities and finding the best ways of obtaining them.
- Practical learning: it consists of working on real issues, focusing on the obtained science and real performance of solutions”

Parliament (2020) cites the Auditor-General’s (AG’s) annual audit reports that raise a serious concern about the state of performance of and compliance by municipalities on issues of governance challenges and factors linked to it. Parliament (2020) assesses that the provincial and national government have implemented numerous policy and legislative guidelines to provide support to municipalities in the light of cooperative governance’s initiative, sustainability that has been inconsistent and differed from one municipality to another.

In ELM, the support of Department of Cooperative Governance, both national government and provincial government, is ad hoc in nature as per the presentation of CoGTA. Budgetary and human resources constraints are other contributing factors. Singh (2016:129) refers to Section 154 of the Constitution no.108 of 1996 of the Republic of South Africa that prescribed that, “The national government 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”. Therefore, CoGTA has a role to coordinate, and align support measures of other departments to ensure cooperation and cohesion.

Section 41 (h) of the Constitution No.108 of 1996 of the Republic of South Africa prescribes that spheres of government:

...co-operate with one another in mutual trust and good faith by—

- i.) fostering friendly relations;
- ii.) (ii) assisting and supporting one another;
- iii.) informing one another of, and consulting one another on, matters of common interest;

- iv.) co-ordinating their actions and legislation with one another;
- v.) adhering to agreed procedures; and
- vi.) avoiding legal proceedings against one another.”

Haurovi (2012:85) refers to the Intergovernmental Relations Act (2005) that explains the role and function of the Premier Coordinating Council and the District Forum. However, in ELM it is not clear whether the District Intergovernmental Relations Forum exists to deal with the challenges of the Municipality. The relationship between the provincial IGR structures and local government structures is not prominent in the reports. Intergovernmental Relations Act (2005) as cited by Haurovi (2012:85) requires the PCC and the District IGR forum to discuss matters that affect local municipalities and coordinate and integrate and align their efforts to deal with challenges in a local municipality.

5.3 RECALLING THE RESEARCH OBJECTIVE TWO: THE CHALLENGES AND PROBLEMS OF INTERGOVERNMENTAL RELATIONS (IGR) ON SERVICE DELIVERY

Section 152 of the Constitution no.108 of 1996 of the Republic of South Africa prescribes that one of the objects of local government is to ensure provision of services in a sustainable manner and ensure that members of the community have access to at least minimum basic services. ELM is required to provide services like water, electricity, roads and storm water, sanitation and refuse removal, etc. These municipal service are prescribed in terms of Schedule 4 of the Constitution no.108 of 1996 of the Republic of South Africa. It would be prudent to conduct the analysis of IGR on services within the context of B2B Programme's five pillars.

According to Cloete (2020: Online), ELM Speaker, Maipato Tsokolibane, told the council that irregular expenditure at ELM has increased from R870 million to R1 billion. In addition, the Municipality has regressed badly from an unqualified opinion to qualified opinion and irregular expenditure has sky rocketed unabated.

5.3.1 Putting people first

The Annual Performance Report (2019/2020) states that the Municipality has established 45 ward committees that create a platform of communication between the Municipality and the community on council decisions. Ward committees hold meetings on IDP's and infrastructure projects. However, the question is whether the ward committees are functional. Do ward committees conduct activities that are expected of them? There has been a stoppage of the Sebokeng Regional Sewer Scheme project and other municipal infrastructure projects due to the community protests. This is a clear indication that in as much as ward committees are purported to hold meetings, their roles and influence in communities are minimum. The effectiveness of ward committees in managing community politics is lacking. Moses (2018:28) cites The Municipal Structures Act no.117 of 1998 that prescribes that the councils should make administrative and financial arrangements to support the ward committees to effectively perform their functions and exercise their powers.

Section 5(1) of the Municipal Systems Act 32 of 2000 prescribes for public participation in the Municipality. The communities should participate in decision making of the council through mechanisms that have been established for that purpose, such as IDP consultation processes. Prompt response to written submissions and complaints, regular disclosures of the affairs of the municipalities and for the communities to demand access to municipalities council meetings and municipal services, should be applied. Most of the municipal public participation processes are just a leap service. Plans are predetermined by municipal officials. The medium of instruction during IDP consultation is English and has become a challenge for less educated community members, more especially the elders. The timing of the meeting discourages other community members to attend. For example, meetings that are held at night might create transport challenges for the disadvantaged communities. The Municipality cannot articulate on IGR matters, due to poor participation of government departments in the municipal IDP processes. Matters of provincial competencies like health, human settlements, sport and recreation, social services, provincial roads, agriculture, etc. are not given justice during the engagements. Mbecke and Mokoena (2016:96) cite the then Department of Provincial and Local

Government (DPLG) (2008:16), which explains the reasons for misalignment is due to provincial and national planning that lack a spatial dimension, as well as provincial growth and development strategies. In some instances the plans are outdated and do not acknowledge the municipal plans as a result of lack of engagements between spheres of government.

5.3.2 Basic service delivery and infrastructure

The SAHRC (2021: Online) explains that different spheres of government played a vital role in intervention to address the challenges of the Municipality. The interventions range from national government, provincial government and local government in an attempt to deal with service delivery failures in the Municipality, however lack of cooperation amongst municipalities and between spheres of government have been noted. According to the SAHRC (2021: Online), ELM shares the sewage system with the City of Johannesburg Metro, Ekurhuleni Metro and Midvaal through the Sedibeng bulk sewage scheme. However, the report indicates lack of cooperation and IGR between the three municipalities. The other municipalities contribute to the water and sanitation challenges of ELM, but are not prepared to avail resources to assist their neighbour municipality.

According to Lekala (2019:71), the coordination is inevitable in a decentralized system to facilitate both horizontal and vertical interactions that are vital to the system (Fourie & Valeta, 2008:139, Kanyane, 2014:101.) Lekala (2019:71) explains that there is an obvious lack of coordination and alignment between spheres of government. Lekala (2019:71) further refers to Pieterse (2007:8) who explains that "... municipal planning and service delivery [is characterized by] inadequate [intergovernmental] coordination and alignment." This implies that despite numerous efforts of legislation, cooperative governance and IGR, do not transpire.

The absence of CoGTA is noted in dealing with this challenge. CoGTA is responsible to monitor and support municipalities and is also the champion of coordination and facilitation of cooperative governance and IGR. It is not recorded in terms how much in rands and cents does the sewage from other municipalities cost ELM.

Lack of contingency planning for population growth in the Municipality is a clear indication that the IDP does not cater for the projected population growth in the Municipality and thus planning for that growth in terms of service delivery. The role of different spheres of government is not prominent in the IDP processes with regard to planning, coordination, alignment and implementation.

The SAHRC (2021: Online) illustrates that the Sedibeng Regional Sewer Scheme was poorly administered, given that it is the responsibility of the DWS. The DWS commissioned Rand Water to manage the project, however the report indicates that there has been a lack of cooperation between ELM and Rand Water. This poor cooperation between organs of state has exacerbated the problem of sewage spillage in the Vaal River.

The Department of Environment Affairs has the mandate to ensure the safeguard of the environment and management of pollution. The report indicates that this department is not visible to deal with its core mandate of enforcement of environmental laws. The spillage of sewage in the Vaal River impacts on lives and the ecosystem.

The SAHRC (2021: Online) indicates that National Treasury has availed funding to treat and manage the sewage infrastructure and remedy the problem of the Vaal Dam. There is lack of capacity in the Municipality to manage and access the funding. The role of DWS and CoGTA is not clear in term of support to the Municipality to access and manage the funding.

The SAHRC (2021: Online) explains that the Department of Defense Force was deployed in ELM to assist with the repair and maintenance of the sewage infrastructure. However, the Defense Force has out-sourced this service to external experts. There was minimum involvement of the Municipality to work with the Defense Force for skills transfer to take place, although 90% of the work was achieved by the Defense Force. The report also indicate the Department of Defense used its own financial resources to assist the Municipality.

The Save the Vaal River Environment Organisation submitted that the Vaal River supports agriculture products, animals and the River is a source of water supply for

human and animals. Therefore, the pollution has a negative impact of livelihoods. The economic impact is even more serious, given that the River is a source of employment and economic growth of agriculture, tourism, and the mining industries and provides drinking water for many people. Wildlife like birds and fish in the River is negatively affected.

5.3.3 Good governance

The SAHRC (2021: Online) explains that CoGTA Gauteng lead and drove the implementation of Section 139(1)(b) and 139(5) in terms of the Constitution of Act no. 108 of 1996 of the Republic of South Africa. The provincial intervention was in a form of work stream that are financial management and financial viability of the Municipality work stream, ensuring basic services and urban management work stream, improving governance and the institutional framework stream, improving communication and stakeholder management work stream and infrastructure planning work stream. However, the report does not highlight the effectiveness and functionality of these intergovernmental work-streams to turn around and improve the situation in ELM

RSA Parliament (2020: Online) explains that the initial intervention failed to produce the required outcomes. The intervention of the provincial government could not hold the local politicians accountable. In 2018 the Gauteng Provincial Government that was led by the Gauteng Department of Cooperative Governance and Traditional Affairs, who implemented Section 139(1)(b)(i) and 5(a) of the Constitution of the Republic of South Africa, Act No. 108 of 1996, regarding ELM. This intervention commenced with the appointment of the acting Municipal Manager to become an administrator. However, the presentation from the MEC of CoGTA points to the fact that the intervention was not a success. There is no clear indication as to why the provincial intervention in ELM was a failure for a period of two years. It is appropriate to unpack from the manner in which the intervention was conducted, particularly the provision of 139(1)(b)(i) and 5(a) of the Constitution of the Republic of South Africa, Act No. 108 of 1996. The provincial government intervened through the implementation of Section 139 (1) (b) of the Constitution no. 108 of 1996 of the Republic of South Africa, which requires the provincial

government to assume responsibility of service because the Municipality could not fulfil that obligation and Section 139 (5) of the Constitution no.108 of 1996 of the Republic of South Africa, which requires the provincial government to impose a FRP to secure the Municipality's ability to meet its obligation, which may also lead to the dissolution of the Municipality.

In the case of provincial government intervention in ELM, the provincial government assumed responsibility for service delivery under the existing Municipal Manager who was appointed as an Administrator. This is a challenge of a referee and the player at the same-time. It is not clear of what was the role of the Municipal Manager as an Administrator versus the role of the Municipal Manager as the Chief Accounting Officer of the Municipality. There is a clear conflict of interest in these two roles that need to be executed simultaneously.

The intervention of the provincial government was also in terms of Section 139(5) that requires imposition of the FRP. Indeed, the FRP was imposed, but it was done under the existing council that has failed to meet its obligation to provide services. Section 146 of the Municipal Finance Management Act of 56 of 2003, requires the Municipality to report to the MEC of finance on the progress of the implementation of FRP. Conversely, the perennial problems persisted in the Municipality since 2018 Section 139 intervention of the Constitution no. 108 of 1996 of the Republic of South Africa without any concrete action from the provincial government to arrest the situation. It not clear as to what an extent was the monitoring role of the provincial government.

Lack of early warnings on community protests is an indication that the current mechanisms of public participation are not functioning properly. The communication channels with the community that are illustrated seem to be good in paper, but in reality there seems to be gap of meaningful participation of communities. It seems as if public participation is confined to information sharing and consultation, hence various platforms (Social media, local newspapers, municipal offices and libraries) are utilised to communicate municipal processes like IDP/Budget. 180 ward committee meetings were held. Section 19 (1) (c) of the Municipal Structures Act no.117 of 1998 prescribes that the Municipality should annually review the mechanisms for the involvement of communities.

Meanwhile Section 16 (1) (a) of the Municipal Systems Act no. 32 of 2000 provides for a municipality to develop a culture of municipal cooperative governance that complements the formal elected government system with a system of participatory governance. It therefore calls for a climate to encourage, and create conditions for the local community to participate in the affairs of the municipality.

5.3.4 Financial Management

The Municipality sustained a huge loss on electricity of R600 million during the 2016/2017 financial year. They collected R1,9 billion as compared to R2,5 billion that should have been collected. The major contributor to electricity loss relates to electricity theft that emanates from illegal connections from households. The ELM IDP (2020/2021) stipulates that 55518 household have been connected with electricity, however a large number of households do not pay for electricity. The loss of electricity and non-payment have a serious impact on the revenue of the municipality. This amount of money should have been used to finance service delivery imperatives.

The ELM IDP (2020/2021) explains that water has been provided successfully to a total of 183 356 and sanitation to 182.492 households. Communities were educated through a public campaign about the importance of saving water. Contrary, the water loss was the result of network operation and economical loss, due to faulty meters. The implications of these are that households and businesses consumed kilo-litres of water without any payment to the Municipality. ELM Annual Performance Report 2019/2020 explains that MIG grant from national government was behind schedule and consequently implementation of the projects that were projected did meet the target. The indications are that either the MIG grant was received very late or the Municipality failed to meet its own schedule to implement infrastructure projects.

5.4 RECALLING THE THIRD OBJECTIVE: THE EFFECTIVENESS OF BACK TO BASICS PROGRAMME (B2B) TO IMPROVE SERVICE DELIVERY

The objective focuses on those key performance areas in which ELM did very well to achieve the targets in spite of the challenges. In essence the achievements and failures of the Municipality are identified and acknowledged. Performance in all five key performances are analysed against the objective and the mandate of the Municipality.

5.4.1 Putting people first

Section 152 of the Constitution no. 108 of 1996 of the Republic of South Africa states that the Municipality must provide a democratic and accountable local government. In line with the spirit of the Constitution no.108 of 1996 of the Republic of South Africa, the ELM has established the democratically elected ward committees that represent the interest of the community. The ward committees are established in line with the prescription of Section 72 (1) of the Municipal Structures Act. No.117 of 1998 that states that a local municipality may establish ward committees that consist of 10 members that represent the sectors of the society and is chaired by the ward councillor. 43 ward committees have been established as in the FRP of 2018. 124 ward committee meetings were held. However, the effectiveness and functionality of these structures are not recorded.

The White Paper on Local Government (1998) emphasises that local government, and municipalities should develop strategies and mechanisms to continuously engage with citizens, businesses and community groups to strengthen participatory planning and local democracy. ELM FRP (2018) indicates that the Municipality has established public participation mechanisms that range from ward committees, petitions committees, public hearings, IDP and budget public participation meetings and Mayoral Imbizos. The Municipality utilises these public participation platforms as for participation and consultation on matters of local government. 25 public participation meetings were held, although the quality of public participation in these platforms is questionable. This is in compliance with the Section 16 (1) of the Municipal Systems Act no.32 of 2000 that states that, “A municipality must develop a culture of municipal governance that complements

formal representative government with a system of participatory governance”. Areas of community participation involve IDP, municipal budgeting, monitoring and performance review and the provision of municipal services. Establishment of community participation structures is in compliance with B2B concept.

5.4.2 Basic service delivery and infrastructure

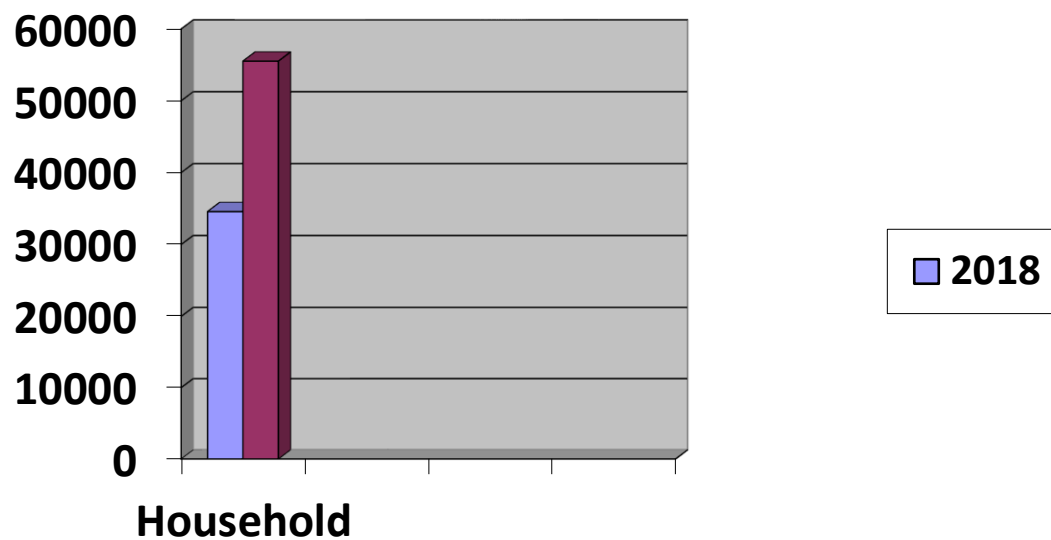
The analysis focuses on provision electricity to household, water and sanitation, roads and storm water and waste disposal.

5.4.2.1 Household access to electricity

The FRP 2018 states that the reconstruction and development requires electrification of a minimum of 35 000 households. The following graph depicts the number of households that have access to electricity in ELM.

Table 5.1: Electricity provision

Household access to electricity in ELM



(Source: Author created)

The Municipality has ramped up the access to electricity from 34 594 in 2018 to 55518 in 2020. This had a serious implications on the budget of the Municipality. The ELM IDP (2020/2021) demonstrates that in 2011 the number of the unemployed residents were 105777. Although the latest figures on unemployment are not reflected in Stats SA, the number is more that the figure outlined in the ELM IDP (2020/2021). This drastically increases the number of indigents. The loss of electricity through illegal connections has a negative impact on the revenue of the Municipality. This means the Municipality should try to secure additional revenue from other spheres of government. The ELM IDP (2020/2021) states that households in informal dwellings have decreased with a small margin by approximately 1.13% and this decline is attributed to the increasing number of RDP housing developments in the municipality. The increase in the number of RDP housing would translate into a high demand for electricity that requires a budget and revenue from the Municipality to meet this need.

The Municipality had a target of 85% of electricity restoration in the 2016/2017 financial year, however only 73% was achieved. This is partly attributed to availability of vehicles to services of communities. Only 50% of the required vehicles is available due to poor maintenance and repairs. The status quo has negative ramifications for sustainable access to electricity.

5.4.2.2 Provision of water and sanitation

According to the ELM FRP (2018), the Municipality complied with the provision of National Water Act 36 of 1998 that regulates the standard of water use licence and green drop. The National Water Act 36 1998 classifies the water into different categories. Rietspruit Water Care Works are categorised as class A, Leeuwkuil WCW as class A and Sebokeng WCW as class? Households in the Municipality have access to the minimum level of sanitation. This is a significant achievement in terms of B2B Programme requirements, however 187876 households live in informal settlements and the the ELM IDP (2020/2021) indicates that sanitation provision is non-existent in areas that are not proclaimed as townships, as they still use Pit / Long drop toilets.

ELM states that the Municipality has spent R49 million on repair and maintenance on water and sanitation infrastructure and this is in compliance with the norm of National Treasury of R105 million (FRP, 2018). The SAHRC (2021: Online) paints a gloomy picture on water and sanitation matters. The SARC report illustrates the spillage of sewer in the Vaal River and in the residential Streets as a result of underfunding on the repair of the Sedibeng Regional Sewer pump. The sewage linkage in the Vaal River creates health hazards to residents, animals and the eco system. The economic impact of the spillage is severe to livelihoods that relate to tourism. The sewage spillage in residential areas is a health threat to communities. The SAHRC (2021: Online) report states that the negligence on repairs and maintenance is a damning violation of The Water Services Act 108 of 1997, prescribed for the DWS to monitor, measure and report on the quality of water and the National Water Act no. 36 of 1998, which respectively requires the DWS to manage the use, conservation, development and controlled sustainably to protect water resources for the overall benefit of the community and the environment in general. If one compares 2018 to 2021, it is clear that the situation on water sanitation has deteriorated. The Municipality planned to achieve 11 water and sanitation performance targets in 2019/2020, however, the Municipality achieved only three out of eleven. These targets entail a total of 183 409 of water and 183 376 of sanitation.

The Municipality failed to manage the cost of bulk water purchase and maintenance of water meters as part of cost containment. This contributed significantly to water losses and interruptions in the Municipality as outlined in ELM's Annual Performance Report (2019/2020).

5.4.2.3 Roads and storms water

The Municipality was allocated funding for road network rehabilitation for the financial year 2016/2017, but it was not sufficient to buy maintenance plants and machinery. Another contributing factor to poor road maintenance is a lack of strategic planning for road maintenance and storm water infrastructure. Poor planning and lack of resources could result into potholes and dilapidated road networks. The high vacancy of 82% means

that the Municipality does not have available teams to respond to road maintenance and repairs.

The ELM IDP (2020/2021) demonstrates that the situation has not improved from a period of three to four years. In 2019/2020 the Municipality still could not achieve the main objectives to tar the roads, patch potholes and re-gravelling. Although there are plans to address roads challenges, the track record in planning and implementation is very poor. The road maintenance requires R345 million, however it was underfunded as it was R112 million in the first year and R231 million in the second year. In 2020/2021 the Municipality met and exceeded the target of patching the potholes as the target was 5000sq kms and the Municipality achieved 15169 or 33sqkms. The Municipality re-graveled 12085 km of roads. There was a slight improvement in performance if the 2018 performance is compared with the 2020 performance.

The implications of underfunding are aging infrastructure, a lack of vehicles to service roads, poor plant availability, lack of personnel to do the job and deteriorating road infrastructure.

The ELM FRP (2018) states that over a period of three years the storm water upgrading took a dive from 15kms to 0 km and the storm water maintenance dropped from 44136kms to 14769km. The Municipality failed to meet the target of catch pits and kerbs, as 175 of storm water pits were cleaned as compared to 200 that was targeted and 11 049 m of kern channel was cleaned as compared to the target of 15000m. This is a significant drop in performance, given that lack of storm water maintenance and storm water catch pits can result into serious flooding of roads during the raining seasons. This can cause the Municipality to spend more money on the repairs and maintenance of roads due to flood damage.

The contributing factors to poor performance in storm water relate to the lack of funding, lack of vehicles and abandoning of work by private contractors due to non-payment. Therefore, the Municipality did meet the requirements of B2B Programme in road maintenance and storm water.

5.4.2.4 Waste management

The ELM IDP (2019/2020) states that the Municipality has developed an integrated waste management plan in 2014 and it was reviewed in 2019. The analysis of performance indicate that ELM collects waste services once a week to a total of 189,242 out of 220,617 households in ELM areas. In informal settlements only the removal of illegal dump services are provided. There is a difference of 31375 households that does not have access to waste collection. The implications are that these households do illegal dumping and that is a health hazard to the community.

An average of 85% of collection in formal household has been achieved on a weekly schedule. The waste collection services and street sweeping for businesses and taxi ranks in Vanderbijlpark, Vereeniging and all township areas are conducted on a scheduled daily basis. The Municipality provides a reasonable service in this regard that complies with the national norm. Inspection of industries was conducted to monitor compliance and the target of 95% was achieved.

The ELM IDP (2018/2019) explains that the fleet shortage had direct impact operations on the waste management services department. This was due to failure to repair a significant number of vehicles that are grounded at the workshops. 41 trucks are required to provide a service to the community, however only eight refuse trucks are available to collect refuse and this results in a sub-standard service. Shortages of vehicles are compounded by the shortage of personnel to collect waste.

Another factor is the lack of infrastructure maintenance and poor management that lead to non-compliance with Section 9 (1) of the National Environmental Management Waste Act No. 59 of 2008 that requires each municipality to exercise its executive authority and perform its duty in relation to waste services, including waste collection, waste storage and waste disposal services, by adhering to all national and provincial norms and standards; integrating its waste management plans with its integrated development plans; ensuring access for all to such services; providing such services at an affordable price, in line with its tariff policy referred to in Chapter 8 of the Municipal Systems Act.

This implies that the Municipality cannot collect refuse in a large number of areas. Due to this failure, illegal dumping becomes a norm in households and communities. Uncollected refuse would be found on the corners of the streets and open veld. The health implications are massive in the Municipality. In 2019/2020 only 49.52% of waste landfill sites are non-compliant with legislation. This is a serious under-performance given the legislative prescription.

However, the achievement is noted in formal settlements as it is 85% and 95% of land fill sites that comply with legislation. Removal was 85% of waste in the region. 96% of the illegal dumping was removed respectively. This shows an improvement of waste in 2019/2020.

5.5 RECALLING THE FOURTH OBJECTIVE: TO ANALYSE THE INTERGOVERNMENTAL RELATIONS (IGR) MECHANISMS THAT ARE APPROPRIATE IN THE IMPLEMENTATION OF BACK TO BASICS (B2B) PROGRAMME

The relationship between IGR and B2B have been discussed at length in Chapter 2. The fourth objective is linked to Chapter 2, but the focus is more the analysis of the work by different spheres and how that work contributes to the objectives of B2B. The question is what structures need to be established to coordinate service delivery in a cooperative, coherent and cohesive manner. Therefore, national government, provincial government and local government play a role in service delivery. Service delivery imperatives need to be coordinated through IGR platforms to eliminate duplication of human and financial resources. In ELM a number of national departments, provincial departments and municipalities are critical stakeholders in ELM.

It is appropriate to commence with national departments in terms of analyses of their contribution in ELM. The effort of both province and local governance produce an output of local governance that is underpinned by effective service delivery and the promotion of development. Cooperation requires alignment of strategic plans, the coordination of

legislation and joint work, however, the provincial platform to achieve this objective, is lacking (Layman, 2003:23).

5.5.1 Gauteng CoGTA

Gauteng CoGTA (2018/2019) explains the mandate of CoGTA in terms of Section 154(1) of the Constitution no.108 of 1996 of the Republic of South Africa, “provides for support and strengthening the capacity of municipalities to manage their own affairs, exercise their powers and perform their functions.” Section 139(1) of the Constitution no. 108 of 1996 of the Republic of South Africa, “provides that the provincial executive may intervene if a municipality fails to fulfil an executive obligation.”

The FRP (2018) does not state clearly the role of the provincial government intergovernmental work streams. Gauteng CoGTA is the custodian of IGR and cooperative governance in the Province. It therefore makes sense that CoGTA should ensure that the provincial IGR work streams are functional and become central in the implementation of the FRP. The provincial government implemented Section 139 1(b) that is discretion intervention to assume the responsibility for service delivery, due to failure of the Municipality to assume this responsibility and Section 139 5(c) was implemented with the provincial government to impose a FRP and appointed an administrator to work with the existing council and administration. However, the different roles of each party is not clarified.

5.5.2 Gauteng Department of Human Settlement

The ELM IDP (2020/2021) indicates clearly from analysis of electricity provision that ELM cannot afford to install electricity for new housing development, due to lack of revenue. Provision of bulk infrastructure would depend on grants from other spheres of government.

The tremendous pressure that is mounted by population growth in the Municipality exerts more demand for housing and the water works and sewage works of the Municipality will

not be sufficient to accommodate new housing development. The ELM IDP (2020/2021) illustrated that 187876 households live in informal settlements and sanitation provision is non-existent in areas.

The ELM IDP (2020/2021) explains that the housing backlog is 79500, however the Gauteng Human Settlement delivered 3516. This is a clear indication that the supplier of houses is below the demand. The Municipality needs to develop measures to prevent the rampant illegal occupation of houses. Mixed development housing projects are required as compared to the existing RDP and this would help to collect revenue for the Municipality.

The ELM IDP (2020/2021) states that the Municipality work in cooperation with Rand Water in the Sebokeng Regional Sewer projects for repairs and maintenance. If the project is completed successfully, it would facilitate the human settlement projects through availability of sanitation capacity for housing.

Human Settlement through IGR platform could explore for more funding from national fiscus for bulk infrastructure, however it is not clear whether such a platform exist. It is a matter for further investigation. Baadjie (2009:04) as cited by Koopa (2016:60), explains the role of different spheres of government in human settlements. National government plays a regulatory role by setting a policy on human settlements and providing a budgeted equitable share thorough the division of revenue between spheres, monitoring impact and playing an oversight role over the other spheres of government. Baadjie (2009:04) as cited by Koopa (2016:60), further articulates that the provincial spheres and local spheres of government play a role in delivery of houses as per the national unconditional equitable share and grant funding for the provision of basic services. Therefore, a cooperation and coordination platform is of paramount importance.

5.5.3 Department of Water and Sanitation (DWS)

The SAHRC (2021: Online) spelt out that the mandate of the Water Services Act 108 of 1997 and the National Water Act 36 of 1998 respectively requires the DWS to manage the use, conservation, development and controlled sustainably to protect water resources

for the overall benefit of the community and the environment in general. The Water Services Act 108 of 1997 prescribes for the DWS to monitor the measure and report on the quality of water. This also entails the regulations and support on the delivery of clean water and a sanitation system. The functions of the DWS necessitate the establishment of an IGR forum to coordinate grant funding, monitoring and reporting on the quality of water and sanitation. FRP (2018) indicates that there was lack of planning for population growth in ELM and this had impact on sanitation provision. This is as a result of poor coordination between spheres of government. An IGR structure on water and sanitation could play role.

5.5.4 Department of Environmental Affairs

The mandate of the Department of Environment Affairs is to regulate and protect health and the environment by providing reasonable measures for the prevention of pollution and ecological degradation and for securing ecologically sustainable development; to provide for institutional arrangements and planning matters; to provide for national norms and standards for regulating the management of waste by all spheres of government; to provide for specific waste management measures; to provide for the licensing and control of waste management activities; to provide for the remediation of contaminated land; to provide for the national waste information system; to provide for compliance and enforcement in line with the National Environmental Management Waste Act No. 59 of 2008. FRP (2018) explains that the Department of Environment does not have the capacity to execute its legislative mandate and that is to the disadvantage of the ELM. Absence of an IGR forum on environments created a vacuum on the management of environmental pollution and spillage of sewage in the Vaal River.

5.5.5 City of Johannesburg Metro Municipality, Ekurhuleni Metro Municipality and Midvaal Local Municipality

SAHRC (2021: Online) clarifies that the above three municipalities have contributed to the sewage problem in ELM as their sewage systems feed to Sedibeng Regional Sewer

system. However, it is noted that there is lack of cooperation between the municipalities to deal with the challenges of sewers in ELM. Michiel de Vries, Reddy and Haque (2008:98) refer to Chapter 4 of the Intergovernmental Relations Act no. 13 of 2005 that reflects on the IGR disputes with the assistance of CoGTA. The Act explains the vital importance of the local government's democratic process in South Africa to promote IGR. Pooling of resources is of vital importance to achieve cooperative and cohesiveness to deal with service delivery challenges. Lack of an IGR structure to coordinate this effort is noted in this regard.

5.5.6 Rand Water

The SAHRC (2021: Online) explains that Rand Water supplies bulk water to municipalities with the use of infrastructure that is owned by the DWS, as well as the Municipality. The ELM IDP (2020/2021) also indicates that Rand Water has been commissioned to manage the Sedibeng Regional Sewer project in conjunction with the ELM. An IGR forum between the three state organs would have been ideal to deal with the water infrastructure challenges of ELM. Rand Water has the capacity to manage large projects. Assistance could be provided to ELM to use funding from Department for Water and Sanitation for the repair and Maintenance of sewage works and sewage lines.

5.5.7 National Treasury

The SAHRC (2021: Online) indicates that National Treasury has made funds available to assist ELM with infrastructure challenges, however the Municipality was delayed to access the funds. Over the above challenges is that the Municipality lacks the capacity to utilise the funds. The provincial government has established the work streams to support ELM. This IGR platform can work with CoGTA, Provincial Treasury and the DWS to assist the Municipality to access funding and disburse the funds as per the conditions for service delivery and infrastructure projects. Section 227(1)(a) of the Constitution Act no. 108 no. 1996 of the Republic of South Africa prescribes for the National Treasury to allocate the equitable shares. Section 8 of the Public Finance Management Act No.1 of 1999 is

tandem with Section 214(1)(a) and Section 214(1)(b) of the Constitution no.108 of 1996 of the Republic of South Africa that guide the process for sharing of revenue between national, provincial and local government. This applies to any allocation of funds to the provincial and local government. The National Treasury executed its mandate as per the legislative requirements.

5.6 CONCLUSION

This chapter conducted an analysis on the service delivery and performance of ELM in line with the conceptual and legal framework for cooperative governance and IGR and the relationship with B2B Programme in Gauteng. The challenges and problems of IGR on service delivery were discussed. The effectiveness of B2B Programme to improve service delivery and to analyse IGR mechanisms that are appropriate in the implementation of B2B Programme was mentioned. The analysis was conducted on a basis of recalling the aforementioned study objectives and the problem statement. The objectives of the study and legislative prescription formed the guidance for the analysis. Possible intergovernmental mechanisms were explored that support the attainment of the aims of B2B Programme. The next chapter looks at findings of whether IGR relationship B2B Programme are linked or operate in opposite directions to achieve the service delivery objectives with the ambit of legislative requirements and in considerations of the study objectives.

CHAPTER 6 :

FINDINGS, RECOMMENDATIONS AND CONCLUSIONS OF THE STUDY

6.1 INTRODUCTION

Chapter 5 conducted an analysis of the study against the objectives of the study, the research questions and the prescribed legislative requirements for B2B Programme. The analysis lead to critical areas that have been identified for the findings of the study.

Chapter 6 outlines the findings that are based on analysis and interpretation of firstly, the service delivery and performance of ELM, in line with the conceptual and legal framework for cooperative governance and IGR and relationship with B2B Programme in Gauteng. Secondly, the challenges and problems of IGR on service delivery. Thirdly, the effectiveness of B2B Programme to improve service delivery and lastly to analyses IGR mechanisms that are appropriate in the implementation of B2B Programme. Chapter 6 gives a clear description of the status of ELM in terms of whether IGR structures are effective, explains the roles of different spheres of government and the B2B categories of the assessment of the effectiveness of the Municipality as outlined in the research questions and the problem statement of the study.

In terms of B2B Programme's standard of performance and expected quality of service delivery, the Municipality is in the category of municipalities that are not doing very well. RSA CoGTA (2014a) describes this kind of municipality as one that requires intensive interventions.

In terms of IGR, the indications are that the IGR structures are not effective to improve service delivery. IGR need to be pore involved in the coordination of implementation of B2B programme. These structures are working in some areas, but the impact is minimum.

The chapter gives an overview of all the other chapters and makes recommendations on the how IGR and B2B Programme can achieve the objective of service delivery.

The focus is on the pillars of B2B Programme on how interaction between different spheres of government can lead to better coordination of activities to eliminate duplication of resources and efforts. The chapter concludes that there is a challenge on the relationship between IGR and B2B Programme to turn around the situation in ELM.

6.2 OVERVIEW OF THE STUDY

6.2.1 Overview of the Chapter 1

Chapter 1 introduces the essence of the study in terms of the definition of IGR and B2B Programme. Different authors explain IGR. The chapter describes how IGR fit into B2B Programme. Legislative provisions are outlined. The five pillars of B2B Programme are briefly explained in terms of how they relate to IGR on matters of service delivery. The pillars are constituted of putting people first, delivering basic services and infrastructure, good governance, sound financial management and building capabilities. The rationale for the study demonstrates that the relationship between IGR and Back Basics Programme is investigated on how the two programmes can improve service delivery. The focus of the study relates to ELM as a case study for the investigation. The chapter highlights ELM's major economic, financial, governance, institutional and service delivery challenges as part of the problem statement that relates to IGR. The chapter touches on aim of the study to investigate the role of IGR as a platform to facilitate the implementation and improvement of service delivery and to establish the impact that made by the intervention through B2B Programme.

6.2.2 Overview of the Chapter 2

Chapter 2 explains and discusses the historical background behind IGR with regard to the phases of transformation since the establishment of a democratic and developmental local government. Legislative framework underpins the conceptual and theoretical framework that guides the study. The foundation for legislation that guides IGR is Section 40 of the Constitution of 1996 of the Republic of South Africa. This Section of the

Constitution paved the way for the Intergovernmental Relation Act. 13. of 2005. The chapter explains the pieces of legislation that flow from the White Paper on Local Government (2008). These pieces of legislation are the Municipal Structures Act 117 of 1998, the Municipal Systems Act 32 of 2000 and the Municipal Finance Management Act 1 of 1999. The pieces of legislations form the pinnacle of IGR and B2B Programme. A piece of legislation that closely relates to Intergovernmental Relations Act no.13 of 2005, is the Public Finance Management Act No.1 of 1999 that govern intergovernmental transfers that are constituted of grants and the equitable share for all spheres of government. The chapter is a benchmark to measure the effectiveness of intergovernmental relation structures, the principles and the objects of IGR that guides interaction between spheres of government. The sector of legislation on environments sets the prescribe standard for waste management.

6.2.3 Overview of the Chapter 3

Chapter 3 introduces the concept of B2B Programme. It discusses the fundamentals of B2B Programme that is based on legislative prescription as a guide for the implementation of the programme. The rationale and challenges for the programme is related to a lack of institutional capacity, poor service delivery, poor revenue collection, lack of meaningful public participation and poor governance. The achievements of the programme are discussed at length, based on the challenges. The chapter outlines the assessment that was done that displays municipalities that are doing well, those that are almost dysfunctional and those that are entirely dysfunctional and need intensive interventions. It is explained that the aims of B2B programme is to turn around municipalities to deliver services and meet community needs. Roles of other spheres of government are discussed in terms of the five pillars of B2B programme. These pillars are putting people first, service delivery and infrastructure, financial management, good governance and public participation. Previous support interventions prior to B2B programme are outlined.

6.2.4 Overview of the Chapter 4

The chapter discusses how the Municipality is structured both at the political level and the administrative level. The profile of the Municipality is explained with regard to socio-economic factors that relate to population size, gender, income, poverty and affordability of the residents of ELM. Issues of service delivery covers electricity provision, water and sanitation, storm water, waste management and roads. The level of electricity and water losses are explained. The provincial government's implementation of Section 139 intervention of the Constitution of 1996 of the Republic of South Africa, due to the failure of the Municipality to execute its mandatory and executive obligations, is discussed. The development of a FRP (2018) to address all the issues that have been identified in the challenges of the municipality, is explained. The challenges are outlined as per the service delivery areas of responsibility based on the pillars of B2B Programme. IGR interventions measures that were implemented and the challenges of collaborations and cooperation to maximize the impact of support, are deliberated.

6.2.5 Overview of Chapter 5

The chapter conducts a benchmark of the situation in Emfuleni Municipality against the study objective. This chapter presents an analysis and interpretation on the service delivery and performance of ELM in line with the conceptual and legal framework for cooperative governance and IGR and the relationship with B2B Programme in Gauteng. The challenges and problems of IGR on service delivery are explained. The analysis of the effectiveness of B2B Programme to improve service delivery and lastly to analyses IGR mechanisms that are appropriate in the implementation of B2B programme, are given. An assessment is done in terms of legislation and B2B Programme requirements.

6.2.6 Overview of Chapter 6

The chapter reflects on the problem statement and research questions. The overview of study and the highlights of the different chapters and the elaboration for those chapters,

are explained. The chapter highlights the findings of the study that are based on analysis and compliance of the legislative prescription that provides for and regulates the operations of local government. Recommendations are outlined on how to resolve the situation in the Municipality. New knowledge that emerged from the study is explained. Recommendations are linked to the findings that gives new ideas and innovation for further research studies. The conclusion gives a summary of whether the investigation has achieved its objectives. The value and contribution of the study is clearly demonstrated. New issues are emerging for learning and the results of the study are presented.

6.3 RECALLING OF THE STUDY OBJECTIVES AGAINST THE FINDINGS OF THE STUDY

The findings of the study are linked to the analysis and benchmarked against the study objectives. The findings would also highlight whether the Municipality meets the requirements of B2B Programme, the provision of IGR legislation and other prescribed local government legislation to improve service delivery and turn around the municipality.

6.3.1 Recalling research objectives one on the findings study: Conceptual and legal framework for cooperative governance and intergovernmental relations and relationship (IGR) with Back to Basics (B2B) Programme in Gauteng

6.3.1.1 *Lack of cooperation and collaborations between spheres of government*

ELM fails to comply with Section 40 (1) of the Constitution no .108 of 1996 of the Republic of South Africa that articulates succinctly that the government is constituted of a national, provincial and local sphere of government that is distinctive, interdependent and interrelated. In as much as spheres of government are interdependent, it means each sphere should function with the support of the other spheres. Interrelated means they must coordinate their work in a cooperative manner. Section 4.14.1 of Chapter 4 and

Section 3.7 of Chapter 3 as cited from the IDP (2021) demonstrate that there is lack of seamless cooperation and coordination of support and intervention from different spheres. The intervention in ELM is not in line with the principles of cooperative governance in terms of Section 41 of the Constitution no. 108 of 1996 of the Republic of South Africa.

6.3.1.2 *Insufficient provincial supervision and coordination of support measures*

The analysis in Section 5.5.1 in Chapter 5 indicates that CoGTA is mandated with monitoring and supporting ELM in terms of Section 154 and 155 of the Constitution no. 108 of 1996 of the Republic of South Africa. However, it is noted the coordination of work done by other departments in ELM is lacking, as cited in FRP (2018). Section 5 of the Intergovernmental Relations Framework Act no.13 of 2005 prescribes that the national government, provincial government and local government must seek to achieve the object of this Act through the consideration of material interests and budgets of other governments and organs of state in other governments, when exercising their mandate or performing their statutory functions. Consultation with other organs of state should take place in terms of formal procedures in line with the relevant legislation. Therefore, the support and intervention in ELM lack compliance with the objectives of this Act of Parliament.

6.3.1.3 *Organisational learning deficiency*

The previous support programmes as outlined by the Local Government SETA Research Report (2019) that were implemented in the Municipality, have no recorded success that can become building block for B2B Programme as outlined in Chapter 3. No learning has taken place from the previous support programmes. Sadaadat and Saadat (2016:221) explain that learning takes place at different levels of organization, it commences at an individual level in response to the environmental changes, understanding, and then interprets them out of experience. It uses conceptual and cognitive processes that are informed by the changed behavior. A lack of reference point

is noted in the Municipality. There should be an alignment of previous intervention support programme with B2B Programme, however Section 3.9 of Chapter 3 as cited from The Local Government SETA Research Report (2019), indicates a lack of connection between these programmes although they seek to achieve similar objectives.

6.3.1.4 *Ad hoc support and intervention measures*

Section 4.13 of Chapter 4 states that Parliament (2020) raised concerns about piece meal support and interventions measures from National and Provincial Government that are not consistent and not sustainable. The ad hoc support and interventions measures in ELM has a minimum impact to turn around the Municipality. This fails to meet the requirement of Section 154 and 139 of the Constitution no.108 of 1996 of the Republic of South Africa and the White Paper on Local Government (1998). Therefore, lack of capacity from other spheres of government hampers improvement of the situation.

6.3.1.5 *Lack of availability of IGR structures*

Coordination of support measures from other spheres of government is the responsibility of the provincial IGR structures and local government structures to ensure seamless support measures in a cooperative spirit. It is explained in Chapter 5 that these structures are not felt in the work that is done in the Municipality. Section 3.7 of Chapter 3 discusses the cooperation and collaboration between spheres of government. IGR structures are critical to coordinate this collaboration in ELM.

The IGR structure lacks to play a coordination and cooperation role for a collaborative approach. Multi-millions of rands have been invested in the Municipality through various support measures, however the impact of those support measures did not provide any quick wins for the Municipality.

6.3.2 Recalling the research objective two on the findings of the study: The challenges and problems of intergovernmental relations (IGR) on service delivery

The findings in this section are on investigation of whether the provision of Section 152 of the Constitution no.108 of 1996 of the Republic of South Africa are complied with. The focus is to check whether the Municipality has lived up to the expectations of the community to provide basics services in a sustainable manner. These services are water provision, electricity, roads and storm water, sanitation and refuse removal as per the prescription of Schedule 4 of the Constitution no.108 of 1996 of the Republic of South Africa. The findings of IGR on service delivery are identified based on analysis of the previous chapter within the use of B2B Programme's five pillars. In a sense a judgement is made on the standard and quality of services provided.

6.3.2.1 *Putting people first*

This finding relates to community involvement on matters of local governance.

6.3.2.2 *Non-functionality of ward committees*

The analysis chapter demonstrates that ward committees conduct their regular meetings, however whether these structures engage communities meaningfully on their respective concerns and needs on service delivery, is a matter that is a subject of debate. Vidyarthi (2006:61) explains that the functional domain of ward committees is very limited. The weak power base of ward committees means these structures are weak in service delivery. Table 4.6 in Chapter 4 is a clear demonstration that ward committees are non-functionality.

The effectiveness of ward committees in managing community politics, is lacking. Although the council provides administrative and financial arrangements to support the ward committees, the functionality of ward committees remains a challenge, as per the provisions of The Municipal Structures Act no.117 of 1998.

6.3.2.3 *Lack of meaningful public participation*

Communities participate in key municipal processes of the council and different mechanisms of participation have been created as per the provisions of the Local Government Municipal Systems Act 32 of 2000. Contrary to that, meaningful participation of communities remains a question to be addressed, due the medium of instruction being English language. Provincial development plans and municipal local development plans are not aligned, due to poor participation of the provincial government department in the Municipal Integrated Development Planning. FRP (2018) states that the Municipality does not have an early warning system to capture the community protests and to elicit the appropriate response. This is a clear indication that the Municipality is not in touch with the community needs.

6.3.2.4 *Basic service delivery and infrastructure*

These are findings on service delivery and infrastructure within the context of IGR and cooperative governance.

6.3.2.4.1 *Poor inter-municipal support and cooperation*

Section 4.14.1.1 in Chapter 4 demonstrates a lack of inter-municipal cooperation in respect of the ELM with its neighbouring municipalities. These municipalities are constituted of ELM, City of Johannesburg Metro, Ekurhuleni Metro and Midvaal Local Municipality. The SAHRC (2021: Online) demonstrates the lack of joint planning and collaboration to resolve the challenge of Sedibeng bulk sewage scheme. The neighbouring municipalities have a direct impact on the sewage challenges.

6.3.2.4.2 *Insufficient resources and infrastructure for population growth*

Lack of planning capacity for the population growth is noted in the Municipality. This resulted in excessive pressure to the municipal infrastructure and service delivery in the

Municipality. Lack of cooperation between the Municipality and Rand Water in Sedibeng Sewer Scheme has contributed in the spillage of sewerage in the Vaal River system.

6.3.2.4.3 Lack of partnership in the management of Sedibeng Regional Sewer Scheme

The DWS appointed Rand Water to work with the Municipality to manage the Sedibeng Regional Sewer Scheme, however a silo approach in administration of the scheme resulted into poor partnership between ELM and Rand Water. Section 4.14.1.3 of Chapter 4 indicates lack of collaboration in the management of the sewer scheme.

6.3.2.4.4 Insufficient enforcement of environmental laws

Section 4.14.1.5 of Chapter 4 states that the Department of Environment Affairs fails to execute its constitutional mandate to hold those who violate environmental laws accountable. Sewage spillage in the Vaal River has socio-economic implications to Sedibeng Region. It affected lives, livelihood of the residents, health and the ecosystem of the Vaal River. Lack of capacity to execute the constitutional obligations should not be used as an excuse not to deliver. This is a violation of Section 24 of the Constitution no.108 of 1996 of the Republic of South Africa that states that everyone has a right to a healthy environment and the environment should be protected from degradation and pollution.

6.3.2.4.5 Lack of competencies to manage inter-governmental grants

Section 4.14.1.7 of Chapter 4 refers to SAHRC (2021: Online) that stipulates that National Treasury has dispersed funds for ELM to deal with the challenges of infrastructure and service delivery, however it is noted that the Municipality has no capacity to manage and spend the funds to address the identified challenges. The argument does not hold water, as the Municipality has a responsibility to recruit the correct competencies in the finance department to manage funding and that includes intergovernmental grants.

6.3.2.4.6 Low level of commitment to address sanitation challenges

Section 4.14.1.8 of Chapter 4 refers to SAHRC (2021: Online) that the Department of Defence Force committed its human and financial resources to deal with sanitation infrastructure challenges in ELM, however the SAHRC (2021: Online) demonstrated that there was minimal participation of the Municipality to welcome the support measures and commit resources to take the partnership forward. Lack of commitment to IGR support is noted in this regard.

6.3.2.4.7 Lack of availability of vehicles for service delivery matters

Table 4.7 of Chapter explains that the Municipality has a vehicle capacity that is under 50% capacity to service all the areas of the Municipality. This is mainly due lack of funds to service and repair the vehicles. The implications of this incapacity has serious ramifications of electricity restorations, water restorations, roads repairs, storm water repairs, repairs to sewer stations, as well as collection of waste management. Poor revenue collections of the Municipality have a ripple effect on the maintenance programme. Coupled to this finding, is the lack of available staff in the technical departments to attend to basics service delivery matters.

6.3.2.5 Good governance

The analysis in the previous chapter indicated that CoGTA Gauteng lead and drove the implementation of Section 139(1)(b) and 139(5) in terms of Constitution of Act no. 108 of 1996 of the Republic of South Africa. However, the presentation of the MEC of CoGTA highlights the intervention is partial in nature. The appointed administrators would work with the existing council and administrators that have failed to execute the constitutional obligation to deliver services. This has created a dual authority to govern the Municipality. The provincial intervention through the use of intergovernmental work streams has not produced tangible results to date.

A FRP of 2018 was developed to address all the challenges of the Municipality, however the plan needs to be update as it reflects some issues that are no longer relevant in 2020/2021 financial year of the Municipality. It is noted that since 2018 the challenges of service delivery continue unabated despite of the turnaround strategies that are underpinned by the FRP.

6.3.2.6 *Financial management*

This relates to revenue losses on water and electricity.

6.3.2.6.1 *Electricity losses*

Section 4.9.2.1 of Chapter 4 refers to ELM IDP (2020/2021) that illegal connection to the municipal electricity systems is a major contributor to losses of billions of Rands since the 2016/2017 financial year to date. Another contribution factor is the non-payment of service from the households of the Municipality. This impact negatively reflects on the revenue of the Municipality. This creates a shortfall on funds that are needed for service delivery and infrastructure maintenance, as well as the repairs.

6.3.2.6.2 *Water losses*

Section 4.9.2.2 of Chapter 4 refers to ELM IDP (2020/2021) that households and businesses consume large kilo-litres of water for free. Another factor is poor network operations, faulty meters and cable theft that result into a revenue that amount to multi-millions of Rands that could have raised for the coffers of the Municipality to be able to service and repair water and sanitation infrastructure. Lack proper management of MIG grants for water infrastructure between spheres of government is a serious gap that needs to be addressed.

6.3.3 Recalling the third research objective: Findings on the effectiveness of Back to Basics (B2B) Programme to improve service delivery

Section 3.2 of Chapter 3 outlines the rationale for implementation of B2B Programme. The findings indicate that B2B Programme had a minimal effect on ELM, due to the fact that governance challenges remains, the break-down of trust between communities is still an issue to be dealt with, inadequate public participation, lack of competent human resources, financial challenges, poor service delivery and a lack of infrastructure maintenance and repairs.

RSA CoGTA (2014) illustrates that the lack of revenue collection has a direct relation to poor service delivery. Lack of capacity leads to poor performance of officials. Poor governance is connected to corruption and lack of accountability. Section 4.12 of Chapter 4 refers to Emfuleni Annual Performance Report (2019/2020). Ash (2020: Online) cites CoGTA that slams Emfuleni Municipality as 'dysfunctional' as millions go missing. Unauthorised and irregular expenditure have continued unabated since 2016 to date. This points to a weaker supply chain system and lack of accountability of senior officials in the Municipality. Section 4.12 refers to the ELM Annual Performance Report (2019/2020) that explains that the bank account of the Municipality has been attached by a Chinese company due to failure to meet its financial obligation to the service providers. The Municipality is literally insolvent as it owes Rand Water and ESKOM billions of rands.

Section 3.4 of Chapter 3 refers to Zengethwa *et al.* (2019) who explains that the Cooperative Governance and Traditional Affairs articulate B2B as a programme that seeks to sort out all dysfunctional municipalities out of their negative states and to ensure that the municipalities are below the middle path. The aim is to maintain those municipalities that are average performers and to give the support to move them to top performers.

In ELM the B2B Programme failed to move the Municipality out of its dysfunctional state to become a top performer. Although there are pockets of good performance and achievements, a substantial amount of work needs to be done to reposition the Municipality to improve service delivery.

Section 4.12 of Chapter 4 refers to the Emfuleni Annual Performance Report (2019/2020) that demonstrates that out of 75 performance indicators with specific targets, the Municipality achieved only 26 indicators during this financial year. 49 performance indicators were not achieved. This gives the Municipality a score of 35% achievement and it translates into an unacceptable variant of 65%. The R586 million deficit in 2018 is a reflection of failure of revenue collections and financial controls as articulated in Section 4.12 of Chapter 4. The parliamentary committee raised serious concerns on the lack of attention of the Auditor-General's 81 emphasis on the audit outcome of the 2018/2019 financial year. Lack of accountability is noted in this regard.

6.3.4 Recalling the fourth research objective: findings of the intergovernmental relations (IGR) mechanisms that are appropriate in the implementation of Back to Basics (B2B) Programme

Section 4.13 of Chapter 4 outlines the role of different spheres of government in IGR. Each sphere has a role to play in ELM. The findings indicate the following roles of key department in ELM:

6.3.4.1 *Human settlements*

The Department of Human Settlement builds houses for the communities in a land that is allocated by the Municipality. Therefore, it makes reasonable sense that provision should be made for bulk infrastructure for a human settlement project in the Municipal IDP'S. The human settlement IGR forum is key for coordination of availability of land and budget for bulk infrastructure for human settlement. Table 4.13 of Chapter 4 outlines the area of cooperation between Gauteng Department of Human Settlement and ELM.

6.3.4.2 Department of Environment and Department of Water and Sanitation (DWS)

The Department of Environment has a responsibility to enforce the laws that preserve and protect the environment. This department should play a critical role in conjunction with other stakeholders to address Vaal River sewage spillage and salvage the ecosystem. SARC (2021) highlights that the pollution of the Vaal River can be resolved through an IGR forum that involves CoGTA, DWS and Rand Water. All the stakeholders are engaged in some work that needs to be centrally coordinated to make a significant impact.

6.3.4.3 Provincial government

The Provincial Government through different departments has established the work streams that are led by CoGTA Gauteng to drive the implementation of stabilisation of the Municipality. CoGTA and Provincial Treasury play a significant role to support the implementation of the FRP. An IGR forum is critical to coordinate all the work stream that entails governance work stream, finance work stream, service delivery work stream and institutional capability work stream. Work streams are in place, however their impact is minimal in ELM.

6.4 RECOMMENDATIONS

The recommendations are directly connected to the findings of the study. It would be based on the research objectives and the B2B Programme pillars.

6.4.1 Lack of coordination and cooperation in Intergovernmental relations (IGR)

It is of vital importance that all spheres of government that provide support in ELM should coordinate their work through an intergovernmental relation forum. This would facilitate

planning, implementation, monitoring and evaluation of the service delivery imperatives of B2B Programme.

Provincial departments and municipalities should collaborate with one another in the upgrading and repairs of infrastructure. Joint-funding repairs of sewer pump stations would fast-track the stoppage of the sewer leakage. Collaboration should also extend to the rehabilitation of Vaal River to clear the life-threatening pollution.

The municipal IDP's should be a platform for planning, alignment and joint implementation of infrastructure and service delivery projects to address the community needs and improve service delivery. Department of Human Settlement for example, should engage ELM on the human settlement plans. This would enable the Municipality to cost the availability of land and bulk infrastructure provision like water and sanitation, electricity, storm water, roads, etc.

6.4.2 Organisational learning in Emfuleni Local Municipality (ELM)

Section 6.3.1.3 of this chapter outlines the organizational learning deficiency in the Municipality. It is of vital importance that a research be conducted on the effectiveness and flaws of the previous support programme. This would assist to draw lessons and ensure that future and current interventions do not have the similar weaknesses.

6.4.3 Provincial support and intervention in Emfuleni Local Municipality (ELM)

Section 4.1 of Chapter 4 explains that the provincial government, that is led by CoGTA has implemented Section 139 1(b) and 139 5(C) of the Constitution of 1996 of the Republic of South Africa. This has created power contestation between the administrator and council, as well as administration. It would be appropriate if Section 139 5(c) is implemented with clear roles of stakeholders to roll-out the FRP as an instrument to stabilize the Municipality.

6.4.4 Visibility of IGR structures

Section 6.3.1.5 of this chapter points to the ineffectiveness of IGR structures. Different sector departments organize sector meetings that are IGR in nature, however, there is no centre of coordination of interventions in the Municipality. A one-stop-shop of coordination is required for all the interventions that are implemented in the Municipality. This would eliminate multiple centres of power and authorities to stabilize the Municipality.

6.4.5 Non-functionality of ward committees

A ward committee is a committee that is elected by the community to work with the ward councillor. It consists of ten members that represent different sectors of the ward, e.g. Religious, Women's; Youth, Civic and Ratepayers organisations, Welfare and Health, Sports and Culture, Education, Labour, Business, Community Based Organisations (CBO's) and Non-Governmental Organisations (NGO's). Therefore, the establishment of ward committees should be based on community sectors, not political affiliation.

Ward committees need to develop ward operational plans with clear targets and KPAs. The ward committees must submit monthly reports that are based on operational plans. The Speaker's Office needs to organize training of ward committees on a regular basis.

6.4.6 Public participation

Effective communication between the Municipality and stakeholders should be strengthened to ensure that proper information about the developments in the Municipality is communicated. This would assist to improve the credibility of the Municipality. Stakeholder management should be established and various communications platforms (Social Media, Local Newspapers, Municipal Offices, and Libraries) should be utilised to communicate IDP/Budget and other ELM information, and ensure that the Ward-based War Rooms are functional.

Mechanisms of public participation should be suitable for the elders, women and the disabled to access the venues and at the convenient time. Transport also should be

available for communities if they have to travel distances to attend meetings. The medium of instruction during the IDP/Budget consultation should be understood by the participants. The IDP consultation should not be a platform to rubber stamp the decisions of the Municipality, but be a mechanism of meaningful involvement of communities to make inputs.

6.4.7 Service delivery and infrastructure

Issues of service delivery and infrastructure are at the centre of B2B Programme. The essence of the programme is to improve service delivery through collaboration with the relevant stakeholders.

6.4.7.1 Facilitate horizontal IGR

CoGTA should facilitate the horizontal IGR between municipalities to improve relations and cooperation. This includes the sharing of resources to improve the sanitation impasse in ELM.

6.4.7.2 Population growth

The IDP of the Municipality should be designed and coordinated to be able to project for the future population growth. This would enable the Municipality to budget and plan better for infrastructure and service delivery to meet the needs of the residents. The assistance of Stats SA can be tapped on to support the Municipality.

6.4.7.3 Sedibeng Sewer Scheme

The DWS should intervene in the matters of a lack of provision of water and sanitation in line with Section 63 of the Water Services Act 108 of 1997 that prescribes for the intervention in terms of Section 139 of the Constitution no. 108 of 1996 of the Republic of

South Africa. A partnership should be established between CoGTA, ELM, Rand Water and DWS on the water and sanitation challenges.

6.4.7.4 *Municipal infrastructure grant expenditure*

Emfuleni Municipality needs to conduct a skills audit in engineering and technical departments to establish the existing capacity and what the skills that are deficit, should be addressed. The results of the skills audit should indicate the competencies that are required for the Municipality to perform technical and engineering functions. The Municipality should be able to access and spend the inter-governmental grants that are allocated by National Treasury. These funds could be used for roads repairs, fix service vehicles, upgrade sewer pump station, and rehabilitation of the Vaal River to clear the water pollution. It could also address the water and electricity infrastructure.

6.4.8 Governance and institutional matters

Governance entails management of public resources in a responsible and accountable manner. This requires a commitment from leadership and the senior officials of the Municipality. It has been evident that the Municipality seems not to appreciate the support provided by different sector departments for stabilization. A case in point is the support provided by the Department of Defence to repair and upgrade sewer pump station. The Defence Force committed both personnel and financial resources, however the Municipality did not play any role to work with the Defence Force. The MEC of CoGTA should implement consequence management for lack of accountability in the Municipality.

6.4.9 Finance and revenue matters

The Municipality should apply to National Treasury for an inter-governmental grant that can be used to conduct an audit of meters for water and electricity metres for low and high consumption users. The audit outcomes can indicate the number of new metres that are required to be installed in both residential and business areas. The installation of

metres can drastically contribute to revenue collection to bolster the coffers of the Municipality. The matter of electricity theft should be identified in business and residential areas and action should be taken to remove illegal connections. The water losses are due to an aging infrastructure, therefore the upgrading of water reticulation system should be one of the priorities for stabilization.

The Municipality should engage Rand Water and ESKOM to arrange terms for payment of debts that run into billions of Rands. Internal revenue sources like assessment rates and other municipal levies should be explored to pay for other service providers that are owed by the Municipality. Drastic actions need to be taken to look at the findings of the Auditor-General on unauthorised and fruitless expenditure. This is mainly related to supply chain processes and contract management. Culprits need to be identified through a forensic investigation. Consequence management should be implemented on the identified officials. Provincial CoGTA and Provincial Treasury should assist the Municipality with contract management matters. Legal assistance should be provided in this regard. Legal assistance should also address the issue of attachment of the bank account of the Municipality by the service provider.

6.5 VALUE OF THE STUDY

The study demonstrate that there is indeed a strategic and operational relationship between IGR and cooperative governance and B2B Programme. IGR are fundamental to implement B2B Programme. In essence, B2B Programme is part of network governance that involves stakeholder management and relations in the implementation of service delivery. The effectiveness of B2B's pillars depends on cooperative governance of different spheres of government.

The study indicates that there is a policy and legislative framework at the heart of B2B Programme and the intergovernmental relation are the veins that coordinate and facilitate service delivery. However, guidance is required on the implementation and interpretation of legislation, particularly on IGR. The study would form a reference point for future

academic researchers to understand the concept of B2B Programme and IGR. The centre of interaction of these two programmes, as well the challenges, relate to implementation.

6.6 THE EMERGING ISSUES AND LESSON LEARNED

The provincial implementation of Section 139 1(b) and 5(c) has a legal implication and interpretation between the spheres of government. Provincial government have their own understanding of the meaning of the Section 139 intervention of the Constitution of the 1996 of The Republic of South Africa, whereas the municipalities have a different interpretation of what it means to be under the administration of the provincial government. Therefore, a common ground is required on the understanding and interpretation of intervention. This requires commitment and dedication of all the stakeholders that are involved.

Knowledge management is imperative in planning, implementation and monitoring and evaluation of all the support and intervention programmes since the dawn of democracy and developmental local government. Local government is under tremendous pressure to make the Constitution and legislations a reality, however the capacity is not available to meet the expectations.

6.7 THE OUTCOME OF THE STUDY

The study would make a contribution to future studies on a similar topic. Future studies can point to areas of the strength and shortcomings of the study for further improvement. The study forms the theoretical and conceptual foundation for interpretation of B2B Programme and how it relates to IGR.

6.8 CONCLUSION

The study discusses and unpacks the IGR and B2B Programme. It is clear from the study that these two concepts are intertwined at the implementation level of service delivery.

Chapter 1 introduced and defined the concept of IGR and B2B Programme and how they link with one another. Chapter 2 outlined the conceptual and theoretical framework behind the concept of IGR and B2B Programme.

Chapter 3 dwelt at length on the imperatives and intricacies of B2B Programme. Chapter 4 discussed ELM as a case study. Chapter 5 conducted analysis against the research objectives and benchmark with legislative prescription. Chapter 6 painted a clear picture of the status quo in the Municipality. The study demonstrated that B2B Programme did not succeed to stabilize the Municipality. Lack of coordination, collaboration and alignment of IGR structures is one of the contributing factors for this failure.

The FRP was developed in 2018. The landscape and the dynamics of the Municipality had changes. Therefore, the review of the plan is of vital importance. The research study had limitations given the fact that the literature review was based on the material that is already published for public consumption. New developments could not be included, due to the fact that the other study material that is crucial for the study is classified within government institutions and is not yet published for academic research.

The research study has achieved the study objectives as the conceptual and policy framework on IGR was outlined. It is clear that IGR and B2B Programme are not effective to improve service delivery although different spheres of government that plays a role in ELM. Recommendations are put forth on how to address the weaknesses of IGR structures to improve the situations. The research question is answered in this regard in a sense that the findings indicate that the IGR structures are ineffective to address service delivery in the Municipality due to a lack of coordination and collaboration in their intervention in the Municipality, different spheres of government play a role in the Municipality in a fragmented fashion as a result of poor planning and alignment. B2B Programme did not succeed to stabilise the Municipality and improve service delivery. This relates to a lack of commitment of stakeholders to work in a coherent and cohesive manner to avoid duplication of efforts and resources.

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