A Critical Analysis of the Applicability of the King III in the Local Government Sphere – A Case of the Buffalo City Metropolitan Municipality in the Eastern Cape from 2009-2011

By

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TABLE OF CONTENTS   PAGE NO

BIBLIOGRAPHY

APPENDIXES

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CHAPTER ONE: RESEARCH PROPOSAL

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1.1   INTRODUCTION

Governance arrangements in the local government sphere have come under increasing scrutiny of late, with many municipalities being closely monitored and heavily criticised. Failures in adhering to good governance practices attract a lot of attention from both the media and ordinary citizens. Very little happens without being noticed and one significant failure tends to portray the whole sector in a negative light. This is understandably so because with a combined budget of R232 billion, local government employs over 250 000 people and accounts for 8.7% of total government spending (Local Government Budgets and Expenditure Review, 2011:6). Moreover, this is the closest sphere to the people, being the coalface of the delivery of services to the citizens.

Effective local government relies on public confidence in those charged with governance: the elected councillors and appointed officials. Good governance strengthens credibility and confidence in public services. This point was taken further by the President of the Republic of South Africa when he addressed the joint sitting of the two houses of parliament on the occasion of the State of the Nation Address, saying:

> Working together with all South Africans, we will intensify the fight against crime and corruption. We will build cohesive, caring and sustainable communities....and working together with the people, supported by our public servants, we will build a developmental state, improve public service and strengthen democratic institutions -President J.G Zuma (State of the Nation Address, 3 June 2009).

The above clarion call made by the President, as well as all other initiatives to the same effect, are an attempt to be true to the injunctions of the principal guiding document, The Constitution of the Republic of South Africa, 1996. The Constitution dedicates the whole of chapter ten (10) to dealing with basic values and principles that should underpin a post-apartheid, democratic South African public administration. To this effect, section 195 (1) (a-i) and (2) (a-c), provides for nine of these principles. Furthermore, subsection (2) provides for these principles in every sphere of government as well as in organs of state and public enterprise.

Drawing on the above constitutional imperatives, the government of the Republic of South Africa evolved a plan to make government more accessible and responsive to community needs. In 1997 the democratic government introduced the White Paper on Transforming Public Service Delivery, called the Batho Pele White Paper, 1997. The overall purpose of the Batho Pele paper is to transform the Public Service into a people-centred institution. The intention was that with the implementation of, and compliance with the Batho Pele Principles contained in the White Paper, service delivery would improve. There are in total eight principles that were outlined; Courtesy, Consultation, Redress, Openness and Transparency, Information, Access, Service Standards and Value for Money

It is remarkable that one of the eight Batho Pele Principles is the principle of Value for Money. This principle states that "Public Services should be provided economically and sufficiently in order to give citizens the best possible Value for Money". Given the limited resources from which government has to draw in order to deal with a range of competing transformation priorities, it is expected of the Public Service to operate in a manner that would leverage these resources effectively to deliver Value for Money. (Public Service Report on Value for Money, 2007:14).

It is clear that there is sufficient seriousness in government to rid the public service of maladministration, and introduce institutions more oriented towards good governance. There is, therefore, a strong argument that an attempt should be made to adapt the King III Report and recommendations in the public sector, and, more so, the local government sphere.

Buffalo City Metropolitan Municipality has been on the news persistently over the last few years for a variety of corporate governance failures. These include non-compliance with Supply Chain Management (SCM) regulations and policies, unauthorised and irregular expenditure and poor performance management. The King III Report has suggested a number of principles to be applied in local government. An attempt will be made to deal in much greater detail with each of the principles suggested by the King III Report by examining whether and how they find resonance with what is happening in the operations of the municipality.

1.2 PROBLEM STATEMENT

Municipalities and other public entities have tended to see the King Codes and Report as alien to the public service and applicable only to the private sector. While some misunderstanding may have been justifiable in the King Codes I and II, King Code III addresses this ambiguity and expressly confirms that it applies to both public and private entities. While it clearly cannot be subjected to a one-size-fits-all approach, each sector has to find ways to implement it in order to give effect to good governance. Therefore, the King Report itself emphasises the point that The Report should be used by all organisations, public or private. It says;

> King III Report applies to all entities regardless of the manner and form of incorporation or establishment. The principles, if adhered to, will result in any entity practicing good governance" (Price Water House Coopers, Executive Guide to King III: 3).

For that reason, The Code does not address the application of its principles, and each entity will have to consider the approach that best suits its size and complexity. Application of The Code may, however, be mandated by law or regulation. The terms, 'company', 'boards' and 'directors', refer to the functional responsibility of those charged with governance in any entity, and should be adapted as appropriate by reading 'municipality', 'council' and 'councilors', respectively. Furthermore, as certain aspects of governance are legislated in the Local Government: Municipal Systems Act, 2000 (MSA) and the Local Government: Municipal Finance Management Act, 2003 (MFMA), the use of instructive language is important in reading and understanding The Report and the Code. The word 'must' indicates a legal requirement. More specifically, the study will seek to answer the following questions:

- What is the status of good governance in South African local government, in general, and Buffalo City Metropolitan Municipality, in particular?
- Is there a relationship between adherence to good governance practices and improvement in service delivery?
- What, in practical terms, is being done in local government to ensure compliance with good governance practices proposed by the King III?

1.3   RESEARCH OBJECTIVES

This study will critically look at lessons that can be drawn from institutions that have implemented the King I and III codes, and the report, both private and public, and determine how King III Report can be implemented in local government. Generally, best practices will be identified for adaptation and modification for purposes of implementation at local government level for improved accountability and service delivery. The need to increase the accountability of those charged with governance in the public sector cannot be over-emphasised. To this effect, new and creative means must always ensure that society develops more practices that serve to

4

engender a culture of good corporate governance in the sphere of local government. Specifically, the study aims to achieve the following objectives:

- To determine the applicability of the King III in the local government sphere with specific reference to the Buffalo City Metropolitan Municipality.

- To review the current institutional arrangements at the Buffalo City Metropolitan Municipality to determine whether they conform to the recommendations of the King Code and Report, and make suggestions as to the required changes

1.4   LITERATURE REVIEW

According to Adrian Lefwich (Hodge 2005:46), the first contemporary public appearance of the notion of good governance came in a 1989 World Bank report on Africa. In this report, the bank went further to define governance as the exercise of political power to manage a nation's affairs. It argued that underlying the litany of Africa's development problems is a crisis of governance.

Du Plessis et al, 2005, contend that there is no set definition as to what corporate governance means. They argue that it is "something whose nature we know yet words do not provide an accurate picture" (Du Plessis et al., 2005: 1). Professor du Plessis and others further argue that, in so far as providing a general working definition is concerned, despite the attempts by several scholars, no single coherent definition could be found. It varies from one situation to the other and often leads to confusion. According to them, even the well-regarded UK Cadbury Report (1992), and the South African King Report (1994), basically, only say that corporate governance is the system by which companies are directed and controlled – which, they say, falls far short of being helpful. However, Leftwich maintains that there are two parallel meanings that can be associated with the concept of good governance. These two overlap. The first and more limited meaning is associated with the World Bank which interprets it in primarily

administrative and managerial terms. The second meaning, associated with Western Government is more political. While it involves this concern for administrative improvement, it also includes an insistence on competitive democratic politics.

To give credence to the above narrative, Leftwich cites the tendency by both Western Government and International Aid Organisations to attach political conditions to aid in order to promote democracy (Hodges, 2005: 42). As will be argued in the proposed research, even in the public sector, there is a tendency to support and strengthen those institutions that have a good record in upholding good corporate governance principles. To this extent, there is a demonstrable seriousness in ensuring that public entities receive clean audits.

In pursuit of this objective, the South African Government, under the leadership of the Department of Corporate Governance and Traditional Affairs, embarked upon a campaign to encourage good governance within the public sector. Dubbed the Operation Clean Audit 2014, this programme is part of the four-legged operation clean-up which includes three other legs, namely, clean cities and towns, debt collection, public mobilisation and revenue enhancement, as well as infrastructure backlogs and economic development. Presenting his statement to Parliament on the Operation Clean Audit 2014, the Minister of Cooperative Governance and Traditional Affairs, Honourable Sicelo Shiceka, had the following to say;

> Today, I am here to outline the process of one of the most critical projects that provide government with an opportunity to turn the situation around at both provincial and local government. The latter is particularly crucial as it is at the coalface of service delivery. Local government is the face of government to all our communities – to the electorate. To note, in particular, is that not only am I presenting this statement to this esteemed House, but this is also a reporting mechanism to our people whom we all represent here. Citizens are, indeed, central to this debate as they have the responsibility to keep us accountable at all times (Minister Shiceka in the Speech to Parliament, Friday 22 September 2009)

He went further to remind members where and how the project was conceived. As the project that was targeting the whole of the country, and had to have the by- in of and be driven by elected representatives, the Minister emphasised that the project would, in each province, be driven at the level of the Premier's Coordinating Committee;

Sadly, in South Africa, the post 1994 democratic state has been bedevilled by various allegations of fraud and corruption. These have ranged from a clerk stealing a cheque of two thousand rand to shocking allegations such as those associated with the South African arms procurement, loosely called the "Arms Deal", where millions of rand are alleged to have been diverted to individual pockets in suspicious commissions. To this very day, the extent of corruption that attended this procurement of arms is not yet known but continues to unravel.

The reference here to post-1994 democratic state does not imply that there was no corruption before 1994. It flourished then as now, with no serious consequences for the perpetrators. One is simply making a point that there are justifiable expectations that the "democratic project" would act differently. But, sadly, it is said that corruption is an age-old, and not a modern-day phenomenon - as old, in fact, as human society itself (Dye, 2007: 3008). The Prevention of Corruption Act, 1992 (Act no 94 of 1992) defines corruption as follows;

> Any person shall be deemed guilty of a corruptible offense whenever such a person corruptly accepts, obtains or agrees to accept any gift as an inducement or reward for himself/herself or any other person, the result of such an action leading to favour or disfavour being shown to the party offering the inducement....and any person who corruptly gives or accepts any gift from a party as an inducement or reward for rendering services on behalf and in favour of the designated party shall be guilty of a corruptible offence.

To underscore the importance of clean governance (Shah 2007:1) writes that transparent and prudent local financial management has come to be recognised

as critical to the integrity of the local public sector and for gaining and retaining the trust of local residents (Shah 2007:1).The following subtopics form the basis of the King III and will, therefore, be dealt with in much greater detail in the study:

ETHICAL LEADERSHIP – Councils are, like boards in the private sector, charged with governance. The study will look at the council's responsibilities, ethical foundation and community participation.

COUNCILS AND COUNCILLORS – the oversight responsibilities of councils and councillors will be explored, and so will the structures that enable them to achieve this objective

AUDIT COMMITTEES– section 165 of the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003) enjoins municipalities to set up audit committees and resource them appropriately so as to ensure that they provide requisite independent assessment of internal control environment and advise those charged with governance.

RISK MANAGEMENT– The concept of risk is not foreign to the public sector and the existing framework borrowed heavily from the propositions of King II and other government policies, such as, Batho Pele principles. Municipalities are required to develop risk management policies which are supposed to identify all the risks, and determine the level to which the municipality has tolerance to which type of risk.

GOVERNANCE OF INFORMATION TECHNOLOGY– the municipality is required to establish an IT Governance framework in order to support effective and efficient management and decisions-making around the utilisation of IT resources to facilitate the achievement of the municipality's objectives and, most importantly, the management of IT-related risk. It included a charter, policies, IT governance structures, IT reporting and Internal Control Framework.

COMPLIANCE WITH LAWS, RULES, CODES AND STANDARDS – One of the key responsibilities of those charged with governance is to ensure compliance with laws and regulations, and this includes many non-binding codes and standards. Sections 60 and 131 of the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003) enjoins the municipal manager and the mayor, respectively, to play specific leadership roles in this regard; and lastly:

INTERNAL AUDIT– section 165 of the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003) makes it compulsory for municipalities to have Internal Audit Units. To this end, section 66 of the same act details the functions of the audit committee.

1.5   ETHICAL CONSIDERATIONS

A formal letter will be addressed to both the Executive Mayor and the Municipal Manager of the Buffalo City Metropolitan Municipality, making them aware of the purpose of the study and reasons why the BCMM was chosen as the case study. It will be clearly explained beforehand that, while respondents will be required to furnish their names, strict confidentiality will be maintained when analysing the responses to ensure that no names and identity of the respondents are published.

1.6   LIMITATIONS AND DELIMITATIONS OF THE STUDY

The lack of availability of reference materials experienced in the compilation of the research proposal is probably going to pose serious challenges throughout the entire study. With the King III having been issued in September 2009, there are very limited reviews that have concentrated on the applicability of the codes and The Report to the local government sphere. There are, however, plenty of reference materials on corporate governance in its broadest sense. Further, there are sufficient references on the manifestations of lack of adherence to good governance. These include corruption, fraud, fronting, unethical conduct, and

many similar examples of behaviour that thrive in the environment where good governance fails be promoted. It is impossible to gain a comprehensive understanding of political corruption in South Africa as, by its very nature, corruption is secretive and that which is officially reported and or prosecuted not readily available.

1.7 SIGNIFICANCE OF THE STUDY

There seems to have been no attempt made to scientifically investigate what the effect of the application of the King III Report would be in the local government sphere. It is believed that if local government practices were brought in line with the imperatives of good governance proposed in the King III Report, much of the challenges of corruption that afflict local government would be addressed. In this way, the 2014 vision of clean audits in public institutions would have been given a major boost.

Also, there are growing concerns about the commitment of local government and its capacity to engender and foster good governance. This is evidenced by the persistent negative reports issued by the Auditor General in relation to Annual Financial Statements of municipalities each year. In the Eastern Cape Province alone, during the 2008/2009 financial year, sixteen (16) municipalities received disclaimers of opinion, seven (7) adverse opinion, thirteen (13) qualified, nine (9) unqualified with matters of emphasis and not a single municipality received an unqualified report with no matters of emphasis.

The 2009/2010 audit report was not significantly different from the picture painted above, the only difference being the reduction of adverse opinions from seven (7) to three (3) and that, at the time of reporting in 2010, only 41 out of a total of 45 municipalities had their audits completed (AGSA-General Report on Local Government, 2010:16).The high number of disclaimers of opinion, where the Auditor General could not express an opinion, because no sufficient audit evidence was produced to enable auditing, and therefore expression of an

opinion, should concern all South Africans. Add to this the debilitating service delivery protests that have become the order of the day in most municipalities and threatened the collapse of delivery of basic services, such as, the water, sanitation, electricity, and removal and disposal of domestic and industrial waste.

There can be no denying, therefore, that with this state of affairs, local government needs to find urgent and sustainable means of inculcating a culture of good corporate governance. Lastly, the study will, no doubt, contribute to the development of an implementation plan for the King III Report in local government which can be used as a model for other municipalities. Except for the interpretation of what the King III means for the public sector, no such studies have been done to look at the impact the implementation of The Report would occasion for local government.

1.8   RESEARCH METHODOLOGY

Quantitative and qualitative research methods represent the two main schools of research. In a nutshell, quantitative research generates numerical data or information that can be converted into numbers. Only measurable data are being gathered and analysed in this type of research.

Qualitative research, on the other hand, generates non-numerical data. Rather than using measurements, it focuses on verbal data. The gathered data or information are then analysed in an interpretative manner that can be subjective, impressionistic or even diagnostic. The Research will employ a combination of both qualitative and quantitative methods. This is due to the fact that there is a lot of statistical information to be processed and interpreted. This will be an objective exercise that may include quantification of the resources, lost to service delivery due to poor governance practices such as corruption. Most authors are in agreement that some studies should make use of both Quantitative and

Qualitative Research, letting the two complement each other. The following research techniques will be employed in the study:

The qualitative aspect will be a subjective analysis of the state of corporate governance in local government, which will involve a considerable amount of value judgement from the writer. The study will follow the following format:

1.8.1 **INTERVIEWS**– Key municipal councillors and staff will be interviewed. Among the councillors, the Executive Mayor and/or the Member of the Mayoral Committee, responsible for the Finance Portfolio, will be interviewed. The chairperson of the Municipal Public Accounts Committee (MPAC) will also be interviewed. In order to create a balance, a councillor who does not represent the ruling party in the municipal council, will also be interviewed. In the municipal administration, among those to be interviewed will be: The Municipal Manager, The Executive Director: Corporate Support, The Head: Supply Chain Management Unit, The Head: Compliance and Legal Affairs, The Internal Auditors, all members of the Audit Committee, the Head of Demand Management, and the Chief Financial Officer.

1.8.2 **QUESTIONNAIRES –**-A questionnaire will be designed in such a way that the following information could be obtained on the existing practices which may lend themselves towards compliance with some of the requirements of the King III. These will include details regarding the institutional arrangements, policies, systems and procedures that are in place to deal with internal control environment, the integrated reporting, and whether relevant disclosures are made regarding the going concern. The questionnaire will not be differentiated according to the various categories of the respondents. This, in essence, implies that similar questions will be asked from all respondents.

1.8.3 **SECONDARY DATA** – the study will make extensive use of secondary data, including statistics, existing research, existing strategies, policies and legislation governing development in South Africa, especially local governance.

1.8.4 DATA ANALYSIS– Data will be analysed and interpreted. The previous chapter explained how the researcher would go about collecting data from various sources, using interviews and reviewing the management report on the Auditor General report for the period of the study.

1.9 DEFINITION OF KEY CONCEPTS AND TERMS

NO	CONCEPT/TERM	DEFINITION
1.9.1	**Good Governance**	Embracing and adhering to all major characteristics of governance. It is participatory, consensus-oriented, accountable, transparent, responsive, effective and efficient, equitable and inclusive, and follows the rule of law. It assures that corruption is minimised, the views of minorities are taken into account, and that the voices of the most vulnerable in society are heard in decision-making. It is also responsive to the present and future needs of society.
1.9.2	**Corporate Governance**	The term refers broadly to the rules, processes, or laws by which businesses are operated, regulated, and controlled. The term can refer to internal factors defined by the officers, stockholders or constitution of a corporation, as well as to external forces, such as consumer groups, clients, and government regulations.
1.9.3	**Governance**	Conceptually, governance (as opposed to "good" governance) can be defined as the rule of the rulers, typically within a given set of rules. One might conclude that governance is the *process* – by which authority is conferred on rulers, by which they make the rules, and by which those rules are enforced and modified. Thus, understanding governance requires an identification of the rulers and the rules, as well as the various processes by which they are selected, defined, and linked together and with the society generally.
1.9.4	**Risk Management**	This is the identification, assessment, and prioritisation of risks, defined as the effect of uncertainty on objectives, whether positive or negative, followed by coordinated and economical application of resources to minimise, monitor, and control the probability and/or impact of unfortunate events, or to maximise the realisation of opportunities
1.9.5	**Performance Management**	Performance management is a holistic process of people management in which the primary objective is the establishment of a culture in which individuals and groups take responsibility for the achievement of high levels of organisational performance through enhancement and full utilisation of their own skills, behaviour and contributions.
1.9.6	**Integrated Development Plan**	An IDP is "a single, inclusive and strategic plan for the development of the municipality". This document is a tool that will enable the municipality to achieve its constitutional objectives. These are: To provide democratic and accountable government for local authorities; To ensure the provision of services to communities in a sustainable manner; To promote social and economic development, etc.

Table 1.1:   Definition of concepts

1.10   ORGANISATION OF THE STUDY

1.10.1 CHAPTER 1: AN INTRODUCTION AND BACKGROUND

This will provide a broad theoretical exposition of the subject matter, including the statement of what the problem to be addressed by research is, and the objectives of the study.

1.10.2 CHAPTER 2: REVIEW OF LITERATURE

The chapter will review all information relevant to good governance and its application to the public sector with specific reference to municipalities. It will pay specific attention to how the model of good governance as suggested in the King Report can find expression in local government. The theoretical foundation of governance, that is, the governance theory, will be explored and applied throughout the study

1.10.3 CHAPTER 3: RESEARCH METHODOLOGY

Here all the methodologies and techniques will be used in conducting the study. This will involve all the stages of research from collecting data to the selection of the sample, to research design.

1.10.4 CHAPTER 4: DATA PRESENTATION, ANALYSIS AND INTERPRETATION

In this chapter, all the data that were gathered will be analysed, and different paradigms on the subject matter will be exposed. The chapter will employ data tables and graphs to illustrate the results of the research

1.10.5 CHAPTER 5: FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

This chapter will be built on the finding which will emerge from the analysis of the data as presented in the preceding chapter. It will focus on the findings of the study, conclusion and recommendations. Some of the recommendations will stem from the researcher's own practical experience.

1.11 CONCLUSION

In the chapter we examined the research proposal, explained the significance of the study and gave a cursory overview of the research methodology to be used to achieve the objectives set out in the proposal. The research methodology will use both qualitative and quantitative methods.

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CHAPTER TWO: **RESEARCH METHODOLOGY**

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2.1 INTRODUCTION

As mentioned in the section on limitations and delimitations of the study in the research proposal in Chapter 1, there has been very little analysis done with the King III since its release on 1 September 2009. Except for some series which sought to explain the difference between the King III and two other reports which preceded it, nothing has been done to attempt to locate the King III in the local government context and postulate as to how its application will improve the governance. For this reason, very little information on the topic is available and knowledge is also limited.

In this chapter the researcher explains the methodology which was employed in collecting and analysing data. The objective of the study is to establish whether the King III is applicable in local government and whether its application will improve the governance profile of municipalities. It is likely that most institutions, including the Buffalo City Metropolitan Municipality, have not developed an action plan for the implementation of the King III, or a set of explanations in instances where the leadership of that particular entity hold a view that deviating from recommended actions, in favour a different set of actions, will have the same or better results.

From the outset, it is important to explain that this does not pretend to be original research. According to Nicholas Walliman, taught masters do not require original research to be carried out. He further explains that by original research he means that, rather than ending up by making a contribution to Knowledge that is novel

and unique, and creating a step forward in that particular branch of learning, the research element in Masters courses is used to deepen one's understanding of the taught subject in an individual way by employing some of the given methods, and thereby providing new and interesting insights into the subject. (Walliman 2005:22)

2.2   RESEARCH PARADIGMS

Qualitative and qualitative research methods are the two main schools of research. In a nutshell, quantitative research generates numerical data or information that can be converted into numbers. Only measurable data are being gathered and analysed in this type of research.

Qualitative research, on the other hand, generates non-numerical data. Rather than using measurements, it focuses on verbal data. The gathered data or information are then analysed in an interpretative manner that can be subjective, impressionistic or even diagnostic. The Research will employ a combination of both qualitative and quantitative methods. This is due to the fact that there is a large amount of statistical information to be processed and interpreted.

This will be an objective exercise. It may include quantification of the resources that could be lost to service delivery due to corruption. The qualitative aspect will be a subjective analysis of the state of corporate governance in local government, which will involve a considerable amount of value judgement on the part of the writer. According to Nicholas Walliman, there is a strong distinction between the two paradigms; they require different techniques for their analysis. He concurs with other authors that studies should make use of both Quantitative and Qualitative Research, letting the two complement each other.

There is a very straight forward way of determining whether the municipality conforms to the minimum criteria set by the King III. It is mainly based on assessing whether there is an implementation plan for the King III and, in its absence, whether the municipality has some of the key structures and policies in place that would set them on the path to compliance. This does not, of necessity, have to be referred to as the King III. The practise on the ground would lend itself to either of the two scenarios. In the findings, the researcher would then make appropriate recommendations. To this effect, the study will examine for the following;

- Whether the BCMM has a King III implementation plan in place
- Whether the municipal council of the BCMM has the structures, policies and procedures in place to provide effective oversight
- Whether the municipality does include, in its annual report, a disclosure on the prospects for the municipality to continue trading the going concern, as it is commonly known.

2.3 DEDUCTIVE APPROACH

Deductive approach is a process of creating knowledge from inference from theory. Through objective testing or verifying of a theory, rather than developing it, the researcher advances theory, collects data to test it and reflects on the confirmation or rejection of the theory by the results (Creswell, 2003).

In this study, the deductive approach will be utilised as an exploratory, descriptive and interpretive tool. The study will analyse existing institutional arrangements at the BCMM to establish whether the municipality has the requisite minimum capacity to implement recommendations that emanate from the King III.

2.4   METHODS OF DATA COLLECTION

2.4.1 TARGET POPULATION

The target population is category "A" municipality in the Eastern Cape, covering the town of East London, King Williamstown as well as other small towns such as Dimbaza, Berlin. It will consist of people of ages between 19 and 60 years, mixed races and both male and female. The study will neither be gender nor race sensitive; all those that work in the specific department will be targeted.

2.4.2 SAMPLING AND POPULATION SAMPLE

Because of the nature of the subject being investigated, it was not possible to use any other form of sampling than theoretical sampling. This technique is used where the respondents must be familiar with the subject matter being investigated. In the case in point, all respondents work for the BCM and must answer questions about events and activities that occur in their place of work. The selected individuals are a subset within the broader population of employees and councillors of the Buffalo City Metropolitan Municipality. As indicated above, they have been chosen largely owing to their first hand knowledge about the issue being investigated.

2.4.2   INTERVIEWS

The researcher will conduct structured interviews with most of the respondents. These will comprise both officials and councillors of the BCM who are in the area of Supply Chain Management, Risk Management, financial management and Internal Audit. These were classified as follows; The Municipal Manager, Chief Financial Officer, General Manager; Supply Chain Management, The Internal Audit Executive, The Member of the Mayoral Committee: Finance and one member of the finance committee, The Chairperson and one member of the Audit Committee, Chairperson and one member of the Risk Committee Planning.

It is expected that problems may be experienced by the researcher in trying to commit some of the respondents to meetings owing to their schedules. The other questionnaires may have to be administered over the phone, should it prove impossible to secure appointments for physical meetings. As will be seen in the chapter dealing with the presentation of the data collected, it is very difficult to ask people questions relating to their work. David Gray observes that within the workplace, people may be very reluctant to answer questions connected to their job responsibilities because they feel vulnerable. He argues that they ask themselves all sorts questions, such as: "Why am I being asked questions about my job?", "Why have I been picked out?", or "What are they going to do with the information?" This nervousness may tempt them to provide answers that they believe are in favour of the company or that the company may like, rather than what they actually believe to be true (Gray 2004:228).

2.4.3 QUESTIONNAIRES

One questionnaire with all the questions relevant to the sample will be designed and administered. The research questionnaire will deal with, among others, the following information: the existence of the King III implementation plans, the Budget and Treasury Office, the Internal Audit Unit, the Audit Committee, and the Risk Committee, and whether relevant disclosures regarding the going concern are made when presenting the Annual Report. Lastly, the public participation practices of the municipality will be probed and examined. It may not be possible to ask specific questions on each of these important issues relevant to the King III, and some of the issues may, therefore, have to be combined into key themes, and dealt with as such in the report.

Where possible, all respondents will receive their questionnaires before the scheduled date of the interview to enable them to look at the questions and prepare answers before the said date of the interview. The researcher will keep

an open line with the respondents to encourage them to ask all their clarity-seeking questions, so as to make the actual interview as seamless as possible.

2.4.4 SECONDARY DATA SOURCES

An extensive review of secondary sources will be undertaken to obtain secondary data on the meaning of good governance, and codes of good practise relating to good governance that may have been adopted internationally. The Annual reports, previous reports of past Audit Committees, reports of the Auditor General, and any other relevant document will be utilised to make findings and support conclusions reached in the study.

2.5 DATA ANALYSIS

It has already been explained how the researcher will go about collecting data from various sources, using interviews and reviewing secondary data, such as the strategic plan of the BCMM, audit committee reports, and management reports from the Auditor General for the period of the study. The researcher will use both the qualitative and quantitative data analysis techniques. The qualitative data analysis technique will be used when analysing data collected during structured interviews. Relevant data will be separated from irrelevant data. Information derived from relevant data will be converted into phrases and sentences that reflect a particular thought. After that, data will be sorted, coded and categorised into themes and interpreted. Quantitative analysis will be used to analyse data collected from questionnaires and secondary sources. Various methods will be used to make sense of the collected data. These will include graphs, tables, and explanatory texts.

2.6 CONCLUSION

This chapter dealt in greater detail with the way in which the research will be conducted. It has been explained that the study to be undertaken requires the researcher to employ both the qualitative and quantitative research designs. The next chapter will deal with the review of the literature in order to review and expose the theoretical foundations of the subject matter being investigated.

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CHAPTER THREE: LITERATURE REVIEW

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3.1   INTRODUCTION

The King III is essentially about governance. The King Committee on governance issued the King Report on Governance for South Africa – 2009 (the Report) and the King Code of Governance Principles – together referred to as 'King III' on 1 September 2009(the Code). Since the King I was issued in 1994 and the King II in 2002, it has been impossible in South Africa to discuss governance without reference to the recommendations of the King Committee.

It has already been stated that the purpose of this mini-dissertation is to analyse the applicability of the King III on local government in South Africa. Each of the principles proposed in The Code will be examined to determine its applicability in local government and to what effect. This chapter will define governance, describe how it relates to good governance, as well as expose the theoretical foundations of governance. To this effect, the researcher will unpack the governance theory and seek to locate the discussions on the King III within this theoretical framework.

Looking at the obtaining state of affairs in the local government arena, it will seek to evaluate what impact the application of the principles proposed in the code, would have on the municipalities, for example, if the principles outlined in The Report and code were to be applied in municipalities, what would the picture painted by the Auditor General look like? Would it change for the better? Therefore, the literature review will focus on the general definitions of good governance, approaches and the general challenges of poor governance in local government in South Africa. The Buffalo City Metropolitan Municipality will form a reference point for the study.

3.2   GOVERNANCE THEORY

Before one proceeds to deal with specific propositions of the King III, it is useful to attempt to locate these within the broader context of theory. The word "theory" is derived from the Latin: *theoria* and the Greek: *theoreo,* meaning contemplation, speculation and insight. From different perspectives, it can be deduced that a theory contains some generalisations based on scientific facts, and can be used to explain or even predict some eventualities (Kanyane, M., Study guide: Admin Theories, University of Fort Hare).

It could be argued, therefore, that theory informs practise, that, in fact, it should enrich practise. Philosophers have given much thought, and have written much in their attempts to interpret the world. Karl Marx argued that while philosophers have interpreted the world, the idea is to change it. According to Mathew Flinders, governance theory raises conceptual and theoretical questions about the co-ordination of complex social systems and the evolving role of the state within that process. He argues that the central aspect of the governance debate focuses on the ability of the national government to address salient national issues (Flinders in Governance and the Public Sector, governance in Whitehall, 2002:480).

According to Joas *et al*, theory is as necessary as it is unavoidable. Without it, they further argue, it would be impossible to learn or act in a consistent manner. The governance theory as advocated by Flinders, argues that governance is not a synonym for government. It accepts that the relationship between the state and society, and particularly the successful implementation of public policy, is increasingly dependent upon a wider array of public, private and voluntary organisations that would traditionally not be included within the governmental framework. Within the context of the local sphere of government, the developmental local state envisaged in the White Paper on Local Government

cannot be a sole responsibility of government. It depends on many non-state actors as well.

3.3   DEFINING GOOD GOVERNANCE

According to Adrian Lefwich (Hodge 2005:46), the first contemporary public appearance of the notion of good governance came in a 1989 World Bank report on Africa. In this report, the bank went further to define governance as the exercise of political power to manage a nation's affairs. It argued that underlying the litany of Africa's development problems is a crisis of governance. Good governance is and should be inseparable from the agenda of pursuing development. Because of the scarcity of resources, there is a real need for governments to do more with less. Therefore, it is to be expected that all those who are interested in extending the quality and quantity of their services will strive to practise good governance

Du Plessis JJ *et al* contend that there is no set definition as to what corporate governance means. They argue that it is "something whose nature we know yet words do not provide an accurate picture" (du Plessis at al., 2005: 1). Professor du Plessis and others further argue that in so far as providing a general working definition is concerned, despite the attempts by several scholars, no single coherent definition could be found. Definitions vary from one scholar to another and often lead to confusion. According to him even the well-regarded UK Cadbury Report (1992) and the South African King Report (1994), basically, only say that corporate governance is the system by which companies are directed and controlled which, he says, falls far short of being helpful.

However, Leftwich maintains that there are two parallel meanings that can be associated with the concept of good governance. These two overlap. The first and more limited meaning is associated with the World Bank which interprets it in

primarily administrative and managerial terms. The second meaning, associated with Western Government, is more political. While it involves this concern for administrative improvement, it also includes an insistence on competitive democratic politics.

To give credence to the above narrative, Leftwich cites the tendency by both Western Government, as well as International Aid Organisations, to attach political conditions to aid in order to promote democracy (Hodges, 2005: 42). As will be argued in this mini-dissertation, even in the public sector there is a tendency to support and strengthen those institutions that have a good record in upholding good governance principles. To this extent, there is a demonstrable seriousness in ensuring that public entities receive clean audits from the Auditor General.

3.4 GOOD GOVERNANCE AND THE PUBLIC SECTOR IN SOUTH AFRICA

The foundation of good governance in South Africa is in the Constitution of the Republic itself. The whole of the public service, its ethos, values, principles and conduct, must respect the principles in Chapter Ten. To this effect, the Constitution establishes the Public Service Commission (PSC) to monitor compliance with these imperatives. The constitution further establishes, through Chapter Nine, institutions that support the constitutional democracy. These institutions, which are often referred to as Chapter Nine institutions, are charged with monitoring and reporting on any conduct that is inconsistent with principles laid down in Chapter Ten of the Constitution. They are, among others, the Auditor General of South Africa, the Independent Electoral Commission, the Public Protector and the Human Rights Commission.

In pursuit of this objective, the South African government, under the leadership of the Department of Corporate Governance and Traditional Affairs (COGTA), embarked upon a campaign to encourage good governance within the public

sector. Dubbed the Operation Clean Audit 2014, this programme is part of the four-legged operation clean-up which includes three other legs, namely, clean cities and towns, debt collection, public mobilisation and revenue enhancement, as well as infrastructure backlogs and economic development

Presenting his statement to Parliament on the Operation Clean Audit 2014, the former Minister of Cooperative Governance and Traditional Affairs, Honourable Sicelo Shiceka, captured the essence of the programme when he said,

> Today, I am here to outline the process of one of the most critical projects that provide government with an opportunity to turn the situation around at both provincial and local government. The latter is particularly crucial as it is at the coalface of service delivery. Local government is the face of government to all our communities – to the electorate (Minister Shiceka - Speech to Parliament, Friday 22 September 2009).

The sentiments expressed by the minister about the role of local government in the value chain of delivery of services ring very true. Local government is indeed the face of government. As has been seen during various service delivery protests in different parts of the country, local government is normally blamed for all ills. Citizens demand answers from local government, even for functions that do not fall within its powers and functions. In some instances, when one tries to get to the bottom of the protests, it appears that they are not so much about water and electricity provision as about the state of the local hospital and education.

Perhaps, the most obvious manifestations of a poor system of governance and financial management are fraud and corruption. Sadly, in South Africa, the post-1994 democratic state has been bedevilled by various allegations of fraud and corruption. These have ranged from a clerk stealing a cheque of two thousand rand to shocking allegations such as those associated with the South African arms procurement, loosely called the "Arms Deal", where millions of rand are alleged to have been diverted to individual pockets in suspicious commissions.

To this very day, the extent of corruption that attended this procurement of arms is not yet known, but continues to unravel.

The reference here to post-1994 democratic state does not imply that there was no corruption before 1994. It flourished then as now, with no serious consequences for the perpetrators. One is simply making a point that there are justifiable expectations that the "democratic project" would act differently. But, it is said that corruption is an is an age-old, and not a modern-day phenomenon - as old, in fact, as human society itself (Dye, 2007: 3008). The Prevention of Corruption Act, 1992 (Act no 94 of 1992) defines corruption as follows;

> Any person shall be deemed guilty of a corruptible offense whenever such a person corruptly accepts, obtains or agrees to accept any gift as an inducement or reward for himself/herself or any other person, the result of such an action leading to favour or disfavour being shown to the party offering the inducement.....and any person who corruptly gives or accepts any gift from a party as an inducement or reward for rendering services on behalf and in favour of the designated party shall be guilty of a corruptible offence.

It is against this background that the public sector, or municipalities to be more specific, must begin to embrace and elaborate clear implementation plans for the King III. This researcher has never come across any document which is as comprehensive as the King III in so far as the processes and procedures to be put in place to ensure that high standards of good governance are upheld are concerned. To underscore the importance of clean governance, Anwar Shah argues that transparent and prudent local financial management has come to be recognised as critical to the integrity of the local public sector and for gaining and retaining the trust of local residents (Shah 2007: 1).

Fourie (2009 1120 – 1121) goes further to identify administrative and managerial tools geared towards ensuring good governance. All the tools identified in the journal article referred to are part and parcel of the principles in the King Code. They are explained under different sections.

These are;

- Strategic and Operational Plans
- Transversal Systems
- Performance Management
- Internal and External Reporting
- Internal Auditing
- Early Warning Systems
- Budgeting

3.4   KING III AND THE SOUTH AFRICAN CONSTITUTION

In South Africa, the foundation of good governance is the supreme law of the land itself, the Constitution of the Republic of South Africa 1996(Act No 108 of 1996). In Chapter Ten, it clearly sets out a number of principles to be observed in the South African public administration. These principles are further given effect to by a number of national legislations, policies and regulations.

3.4.1 KING III – CREATING A CONTEXT IN LOCAL GOVERNMENT

The King Committee on Governance issued the King Report on Governance for South Africa in 2009. It is called The Report and, with it, the King Code of Governance Principles, referred to as The Code. The collective noun used to refer to both The Report and The Code is the King III (King III: 1 September 2009). Its predecessor, the King II, which was issued in 2002 was more focused on the corporate sector. The King III is intended for application by all entities, both private and public, including municipalities. In fact, the King III makes this point very clear, emphatically stating that the King III applies to all entities regardless of the manner and form of incorporation or establishment (King III, 2009).

It goes further to counsel that if the principles it proposes were to be adhered to, it is sure to result in the building and strengthening of good governance. However, The Code is not prescriptive on the approach to be taken in the application of its principles, and it is left to each entity to consider the approach that best suits its size and complexity. The King III is based on the "apply or explain" philosophy. This means that it is expected of all entities to either apply or give explanations as to why it would not implement some of the recommendations

The framing of the language in both The Code and The Report tend to address themselves more to the corporate sector. However, those in the public sector seeking to use the King lll are urged to remember that the terms" company" "boards" and "directors" refer to the functional responsibility of those charged with governance in any entity, and should be adapted as appropriate by reading "municipality", "council" and "councillors" respectively.

Furthermore, as certain aspects of governance are legislated in the local government: Municipal system Act 2000(Act No 32 of 2000) and the Local Government: Municipal Finance Management (Act 56 No 56 of 2003) the use of instructive language is important in reading and understanding The Report and The Code. The word "must " is used where a legal requirement exists and in aspects where it is believed the application of The Code will result in good governance, the word "should " is used. The word "may" indicates areas where certain practices are proposed for consideration (PWC Corporate Governance Series- King lll – a municipal perspective at a glance, 2009:2).

3.5   THE PRINCIPLES OF THE KING III

The following principles are divided into chapters and are addressed in The Code. These are:

3.5.1 ETHICAL LEADERSHIP

According to the King III, there is an unbroken chain that links ethical leadership, institutional strategy and sustainability. As a structure charged with governance, Councils, like boards in the private sector, are supposed to ensure they are charged with governance. The study will look at the council's responsibilities, ethical foundation and community participation. The Municipal Council has to conduct its business in an ethical and responsible manner. To this effect, it is required to establish institutional mechanisms to provide effective oversight over the executive and administrative arms. Even though there is no separation of powers in the Local Government sphere, in the case of a Municipal Executive System, such as at the Buffalo City Metropolitan Municipality, the council is supposed to oversee the mayoral committee which assists the Executive Mayor to discharge her executive functions. The King III places the oversight responsibility of council within the context of what The Report refers to as ethical leadership and corporate citizenship. Section 151 of the Constitution of the Republic of South Africa vests the legislative and executive authority in the municipal council. On the other hand, section 30 of the Local Government: Municipal Structures Act 1998 (Act 117 of 1998) enjoins the executive committee, the Executive Mayor or a Committee appointed by the Municipal Council responsible for the implementation evaluation and monitoring of the Integrated Development Plan (IDP), which incorporates these principles.

According to Mafunisa and Kuye (431), ethical leadership also include activities such as transmitting information to workers, formulating a mission, objectives and plans and explaining these to subordinates, disciplining workers and dealing with conflict.

3.5.2 COUNCILS AND COUNCILLORS

Section 30 of the MSA delegates responsibility to the executive committee, the executive mayor or a committee appointed by council for the implementation, evaluation and monitoring of the Integrated Development Plan (IDP), which incorporates these requirements. The frequency of such meetings is normally on a weekly basis. Section 166 of the MFMA states that a municipality must have an independent advisory body – the audit committee – to advise the councils

3.5.3 AUDIT COMMITTEES

Section 166 of the Municipal Finance Management Act, 2003 enjoins every municipality to have an audit committee. According to the aforementioned section, subsection 4(b), the audit committee must meet as often as required, but not less than four times a year.

It is further required that the Audit Committee must consist of at least three persons with appropriate experience, and the majority of them must not be in the employ of the municipality. It specifically prohibits any councillor from participating as members of the audit committee. The King III requires the audit committee to oversee integrated reporting. However, the MFMA does not make any specific requirements for summarised sustainability reporting. The MFMA makes risk management the responsibility of the Audit Committee to advise council on all matters of risk management. However, it must be emphasised that external audits are conducted by the Auditor General, consistent with the requirements of section 188 (1) (b) of the Constitution of the Republic of South Africa and Public Audit Act.

It is neither desirable nor appropriate for the audit committee to monitor or report on the independence of the Audit General. The scope of external audit is constitutionally defined. There is no specific mention of the MFMA allowing the

audit committee to review the quality of effectiveness of the external audit process. The municipal council must put in place mechanisms for the governance of risk to this effect, while the internal audit unit and the audit committee must develop a comprehensive risk register and policy. The Municipal Manager may be delegated the responsibility by the council, whereas the MFMA assigns the responsibility to the following people or structures;

1. (1) The audit committee to advise council (section 166(2)(b)(ii);
2. (2) Internal audit to advise the municipal manager and report to the audit committee(section 165(2)(b0(ii);
3. (3) The Municipal Manager (section 62(i)(a)(i), and
4. (4) All senior manager or managers directly accountable to the municipal manager (section 78).

In terms of these responsibilities, the council must determine its risk appetite in the approved risk management policy. The Municipal Manager and his/her management team would then have to implement that policy. The Municipal Manager may also delegate this responsibility according to the National Treasury. There is no legal mandate to establish a risk management committee, although, depending on the capacity of each municipality, it can be established in terms of section 32 of the municipal structures Act. Section 165 of the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003) enjoins municipalities to set up audit committees and resource them appropriately so as to ensure that they have requisite independent assurance.

3.5.4 THE GOVERNANCE OF RISK

The concept of risk is not foreign to the public sector, and the existing framework borrowed heavily from the propositions of King II and other government policies, such as Batho Pele principles. Municipalities are required to develop risk management policies, which are supposed to identify all the risks and determine the level to which the municipality has tolerance to what type of risk. The Municipal Finance Management Act, 2003 enjoins municipalities to do risk-based internal auditing. The Audit Committees are then required to ensure that outcomes of this risk-based auditing are implemented by management and where there are departures, these are reported to the municipal council.

3.5.5 GOVERNANCE OF INFORMATION TECHNOLOGY

The municipal council should be responsible for Information Technology (IT) governance. In section 26(f) of the local government: Municipal Systems Act, it is implied that IT governance may be regarded as a responsibility of the council. This may be sub-delegated to a subcommittee, the municipal manager or another official.

The king III requires the IT to be aligned with the performance and sustainable objectives of the council. It further implores board and council to monitor and evaluate significant IT investment and expenditure. To this effect the municipal manager is required by section 63 (1) (a) of the MFMA to prepare a budget and present it to council for approval. It also forms an integral part of the municipality's risk management. Again this responsibility is placed squarely on the shoulders of the municipal manager in terms of section 62(1) (c) (i) of the MFMA.

The municipality is required to establish an IT Governance framework in order to support effective and efficient management and decisions-making around the

utilisation of IT resources to facilitate the achievement of the municipality's objectives and, most importantly, the management of IT-related risk. The National Treasury endorsed the King III and this has now been superseded by the King III. It included a charter, policies, IT governance structures, IT reporting and Internal Control Framework.

3.5.6 COMPLIANCE WITH LAWS, RULES, CODES AND STANDARDS

The local government sphere is one of the most regulated in the Public Sector principal act; the MFMA, gives effect to the sections 213-219 of the constitution of the Republic of South Africa (Act 108 of 1996).

According to The King lll, the municipal councils must ensure compliance with applicable laws and consider adherence to non-binding rules, codes and standards. In the local government environment, the mayor's responsibility for compliance is limited to section 131 of the MFMA, and he/she must inform the MEC for local government in the respective province of any known instances of non-compliance (MFMA, section 27(1). Further, the Municipal Systems Act charges the municipal manager with responsibility and accountability to ensure adherence to the applicable laws.

One of the key responsibilities of those charged with governance is to ensure compliance with laws and regulations, and this includes many non-binding codes and standards. Sections 60 and 131 of the Local Government: Municipal Finance Management Act, 2003 (Act No 56 of 2003) enjoins the municipal manager and the mayor, respectively, to play specific leadership roles in this regard (King III: 2009).

3.5.7 INTERNAL AUDIT

Section 165 of the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003) makes it compulsory for municipalities to have Internal Audit Units. To this end, section 66 of the same act details the functions of the audit committee. King III acknowledged the role of an effective internal audit function in good corporate governance. It emphasises that internal audit should follow a risk-based approach to its plan (Local Government: Municipal Finance Management Act, 2003, section 165 (2) (a)).The King III expects the chief audit executive or the head of internal audit unit to conduct a risk assessment and identify opportunities facing the municipality. In doing this, it is expected that they should:

- Align with the municipality's risk assessment process;
- Focus on providing an assessment of the municipality's control environment;
- Consider the municipality's risk and opportunities identified by management and other stakeholders;
- Take cognizance of industry-relevant emerging issues; and
- Discuss the adequacy of the resources and skills available (King III, 2009).

3.5.8 GOVERNING STAKEHOLDER RELATIONSHIPS

The King III places special emphasis on governing stakeholder relationships. It argues that companies. The boards must appreciate that stakeholder's perceptions affect a company's reputation. Section 55 (1) (0) of the Municipal Systems Act tasks the municipal manager with the responsibility of developing and maintaining a system that assesses community satisfaction with municipal services. To this effect, it is required that development priorities, objectives, key performance indicators and targets should be monitored (Municipal Systems Act, section 41 (1) (c). These should be included in the council's IDP. Section 16 of the Systems Act requires that the IDP is prepared through format-interactive process with the community, stakeholders and council. Further, section 20 of the

MSA requires council meetings to be open to the public, except if not desirable to any business being deliberated upon.

In the public sector, the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003) in municipalities and the Public Finance Management Act, 1999 (No.1 of 1999 as amended by Act 29 of 1999) in the provincial National sphere of government, are comprehensive in the manner in which they propose measures to engender good governance principles in the public service.

3.5.9 INTEGRATED REPORTING AND DISCLOSURE

In order to comply with the recommendations of The Code, it is expected that reporting should be integrated across all areas of performance. According to section 45 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 200), municipalities are supposed to have a performance management system in place. According to the King III, there are a number of areas where organisations need to show more initiatives and these are ethical leadership and corporate citizenship, councils and councillors, Audit Committees, the governance of Risk, the governance of Information Technology, compliance with laws, rules, codes and standards, Internal Audit, Public participation, Annual reporting, and Remuneration of councillors and senior managers. These will be dealt with in more detail later.

The Buffalo City Metropolitan Municipality has experienced several challenges relating to good governance. The instability at the political level that has visited that council for several years, has led to a decline in the performance of the municipality. If one considers the fact that the same municipality was unqualified in the 2003/4 financial year, it is clear that wheels

During the 2010/2011 reporting year, the municipality received a disclaimer of opinion from the Auditor General. This was the fourth one, consecutively. The study will look at what difference the application of the principles of The Code will

bring about in the performance of the municipality. There are a number of initiatives that have, to this date, been undertaken by the government to improve the performance of municipalities across the board. The streamlining of the reporting standards and the introduction of Generally Recognised Accounting Practise (GRAP) as the foremost standards for reporting, is just but one of these initiatives.

However, the introduction of the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003) is the biggest, and, by far, most effective step to have been taken in the sphere of local government. The legislation helped a great deal in bringing about the best practices in the financial management of municipalities. Among other things, the MFMA outlawed the car loans which were given to municipal officials and which were one of the biggest financial burdens to be carried by municipalities. In terms of the old employment conditions, vehicles purchased by the Municipality for the Municipal Manager, and managers directly accountable to him, were supposed to be worth sixty percent of each incumbent's total cost to employer package. This dispensation was, through the agreement in the bargaining council, extended to include up to level four employees. This proved to be too expensive and unsustainable for municipalities and was abolished with the introduction of the MFMA. At the same time, the practise of giving salary advances and loans to employees was also abolished. The principles of good corporate governance, generally, as outlined in the King III Report have now been fully exposed in the above discussion. For the purposes of this research project, it will not be possible to deal with each of these principles as a standalone research question to be investigated. These topics were combined and formulated into four broad themes on which the research questions were based, being:

- Implementation plans for the King III
- The Oversight role of Municipal Councils
- Management of Institutional Risks
- Integrated Reporting and Managing Stakeholder Relationships

3.6   CONCLUSION

The chapter was dedicated to the review of the literature and the exposition of the actual content regarding the subject being investigated. The researcher has defined key terms which will be employed throughout the research, and has dealt with each of the areas that require attention in terms of the King III. These nine broad areas were further narrowed down to four themes from which all eight research questions were formulated. The next chapter will research findings. It will be specific as to how each respondent responded to each of the questions posed.

CHAPTER FOUR: DATA PRESENTATION AND ANALYSIS

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4.1   INTRODUCTION

The purpose of this chapter is to report on the findings of the research study. These findings will be presented, using the combination of descriptive text, tables and figures. To enable the easy flow of the report, its structure will be based on the questionnaires, in other words, the responses that were received per question will be presented and analysed. Importantly, all the questions were based on the four broad themes that were derived from combining the principles proposed in The Code. The questions were framed in such a way as to establish whether or not certain structures or plans existed, as well as to probe their effectiveness.

The total of questionnaires that were issued is twenty-four, and of these, only ten were received back. For each question, the answers differed according to the respondent. It is also very interesting that BCCM councillors polled were able to answer all questions with a 'yes', a 'no' or 'not sure' answer and virtually none of these respondents opted to leave blank spaces.

This discernible trend may mean one of two things: first, those councillors are actively engaged in their role as overseers, and, as a consequence, know what is going in the municipal administration. For instance, they know that the municipality has no implementation plan for the King III and that the audit committee meets regularly as required by law. But it could also mean that they are interfering in the municipal administration. However, the true meaning of this will only emerge once we have looked at each of the questions that were asked,

and the answers that were provided. A discussion on the way forward will be dealt with in far greater detail in Chapter Five where the researcher will be giving conclusions and recommendations about the King III in local government, as well as the opportunities for future studies on the same subject.

In the following section, results of the questionnaires will be presented and analysed. The presentation and analysis will follow the following sequence: first, a table where all answers per theme are summarised will be presented. This will be followed by a text, interpreting the results shown in the table and, lastly, a figure or graph to help put the results into perspective will be presented.

The tables consist of questions one to eight. To make reading easier, two questions per table are presented, and a summary of responses per question for all ten respondents where each was asked to choose between (Y), representing Yes, (N) representing No and (N/S) representing Not Sure. An(X) next to any of the above represents a respondent's choice on each of the questions. Please refer to the legend below for further explanations on the meaning of the information contained in the tables.

ABBREVIATION	EXPLANATION
Question	Question 1 – 8
Respondent	Respondent 1 – 10
Y	Yes
N	No
N/S	Not Sure

Table 4.1:   **Legend for tables**

4.2   KING III IMPLEMENTATION PLAN

In the two questions asked under this theme, six respondents indicated that they have heard about the King III; three have never heard anything about the King III, while one respondent gave a 'not sure' response. To the question of whether the institution has an implementation plan for the King III, which was asked under the same theme, the responses were as follows: three respondents said there was an implementation plan, six said there was none, and again one was not sure. The responses are summarised in the table below;

QUESTION	RESPONSE PER RESPONDENT														
QUESTION 1	RESPONDENT ONE	Y	X	RESPONDENT TWO	Y		RESPONDENT THREE	Y	X	RESPONDENT FOUR	Y	X	RESPONDENT FIVE	Y	X
		N			N	X		N			N			N	
		N/S			N/S			N/S			NS			N/S	
	RESPONDENT SIX	Y		RESPONDENT SEVEN	Y	X	RESPONDENT EIGHT	Y		RESPONDENT NINE	Y	X	RESPONDENT TEN	Y	
		N	X		N			N	X		N			N	
		N/S			N/S			N/S			N/S			N/S	X
QUESTION 2	RESPONDENT ONE	Y	X	RESPONDENT TWO	Y		RESPONDENT THREE	Y		RESPONDENT FOUR	Y		RESPONDENT FIVE	Y	
		N			N	X		N	X		N	X		N	X
		N/S			N/S			N/S			N/S			N/S	
	RESPONDENT SIX	Y	X	RESPONDENT SEVEN	Y	X	RESPONDENT EIGHT	Y		RESPONDENT NINE	Y		RESPONDENT TEN	Y	
		N			N			N	X		N	X		N	
		N/S			N/S			N/S			N/S			N/S	X

Table 4.2:   **Questions and Responses to theme 1**

To put the information in the above table into perspective, the responses are plotted on a graph.
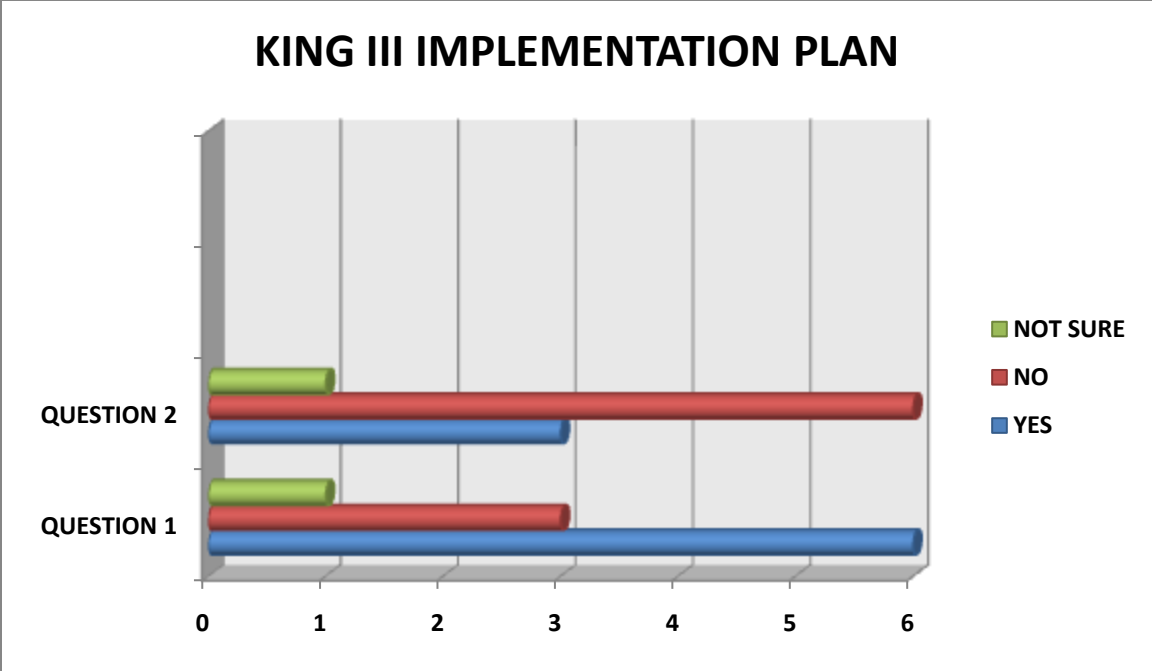
KING III IMPLEMENTATION PLAN

Figure 4.1

4.3   OVERSIGHT ROLE OF THE MUNICIPAL COUNCIL

The question of the oversight role of the municipal council encompasses a
 number of issues, such as ethical leadership provided by those charged with
governance and institutional arrangements in place to ensure that council has the
capacity to play its critical role. These include structures that are both mandatory
and optional to give effect to the requirements for council oversight. The
questions under this theme were whether the MPAC, Audit Committee were in
place and whether these, in the view of the respondents, enable council of the
BCMM to play its oversight role. Respondents were clearly not convinced that the
municipal council of the BCMM was doing enough to exercise its oversight,
neither were they convinced that whatever was being done was producing the
results a municipality of the same calibre would be proud to show. Responses
were as follows; four people thought that the institutional arrangements were in
place, while six people disagreed. None of the respondents recorded a 'not sure'
response. As to the effectiveness of the arrangements, three thought these were

effective, while seven disagreed. Once again, there were no respondents with 'unsure' responses. The table below summarises the results that were received.

QUESTION	RESPONSE PER RESPONDENT									
QUESTION 3	**RESPONDENT ONE**	**RESPONDENT TWO**	**RESPONDENT THREE**	**RESPONDENT FOUR**	**RESPONDENT FIVE**					
	Y	Y	Y **X**	Y **X**	Y					
	N **X**	N **X**	N	N	N **X**					
	N/S	N/S	N/S	NS	N/S					
	RESPONDENT SIX	**RESPONDENT SEVEN**	**RESPONDENT EIGHT**	**RESPONDENT NINE**	**RESPONDENT TEN**					
	Y **X**	Y **X**	Y	Y	Y					
	N	N	N **X**	N **X**	N **X**					
	N/S	N/S	N/S	N/S	N/S					
QUESTION 4	**RESPONDENT ONE**	**RESPONDENT TWO**	**RESPONDENT THREE**	**RESPONDENT FOUR**	**RESPONDENT FIVE**					
	Y **X**	Y	Y	Y	Y					
	N	N **X**	N **X**	N **X**	N **X**					
	N/S	N/S	N/S	N/S	N/S					
	RESPONDENT SIX	**RESPONDENT SEVEN**	**RESPONDENT EIGHT**	**RESPONDENT NINE**	**RESPONDENT TEN**					
	Y **X**	Y **X**	Y	Y	Y					
	N	N	N **X**	N **X**	N **X**					
	N/S	N/S	N/S	N/S	N/S					

Table 4.3: Responses to theme 2

The results are clearly showing that the respondents were quite opinionated when it came to their views about the effectiveness of the oversight function by the municipal council over the operations. On this theme, none of the respondents were unsure of the answer, and the scales were tipped towards one side. The summary of the results is shown in the figure below:
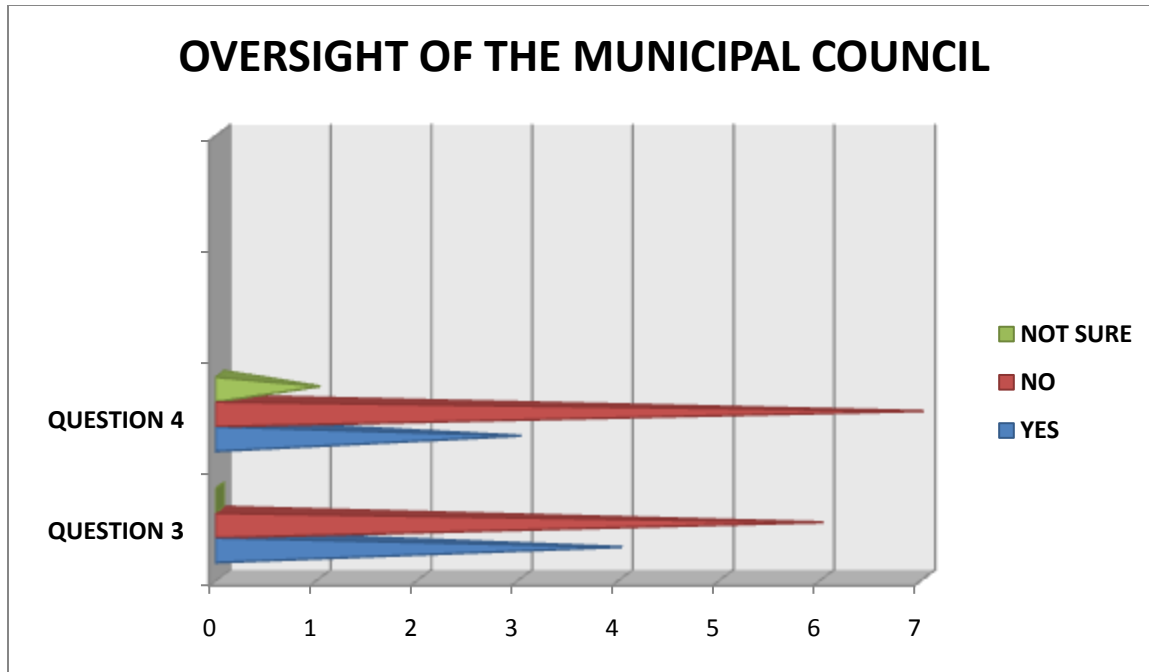
OVERSIGHT OF THE MUNICIPAL COUNCIL

Figure 4.2

4.4   GOVERNANCE OF INSTITUTIONAL RISK

The essential focus of the Code is that the board (council) should "exercise leadership to prevent risk management from becoming a series of activities that are detached from the realities of the company's business." This challenge is particularly relevant in the public sector where risk management has been required by statute for some time. King III positions risk as a cornerstone of governance, and risk governance is substantially different to the requirement to implement risk management. Greater emphasis is placed on the accountability of the leadership structure to ensure that it is satisfied with the management of risk. Both the PFMA and MFMA clearly assign the responsibility for risk management to the accounting officer.

The majority of respondents agreed that there was an integrated strategy to deal with the governance of risk at the BCMM. However, they felt that it was not as effective as it should be. Seven people confirmed its existence against three who said that it was not in place. When it came to the question of effectiveness, a total of eight respondents thought that the strategy or its implementation was not producing the intended results.

On both questions under this theme, none of the respondents were unsure. Once again, the results are detailed in the table below;

QUESTION	RESPONSE PER RESPONDENT									
QUESTION 5	**RESPONDENT ONE**	Y **X** / N / N/S	**RESPONDENT TWO**	Y / N **X** / N/S	**RESPONDENT THREE**	Y / N **X** / N/S	**RESPONDENT FOUR**	Y **X** / N / NS	**RESPONDENT FIVE**	Y **X** / N / N/S
	RESPONDENT SIX	Y **X** / N / N/S	**RESPONDENT SEVEN**	Y **X** / N / N/S	**RESPONDENT EIGHT**	Y **X** / N / N/S	**RESPONDENT NINE**	Y / N **X** / N/S	**RESPONDENT TEN**	Y **X** / N / N/S
QUESTION 6	**RESPONDENT ONE**	Y / N **X** / N/S	**RESPONDENT TWO**	Y / N **X** / N/S	**RESPONDENT THREE**	Y / N **X** / N/S	**RESPONDENT FOUR**	Y / N **X** / N/S	**RESPONDENT FIVE**	Y / N **X** / N/S
	RESPONDENT SIX	Y **X** / N / N/S	**RESPONDENT SEVEN**	Y **X** / N / N/S	**RESPONDENT EIGHT**	Y / N **X** / N/S	**RESPONDENT NINE**	Y / N **X** / N/S	**RESPONDENT TEN**	Y / N **X** / N/S

Table 4.4:   **Responses to theme 3**

The results of both questions asked under theme 3 on integrated risk management, of which responses are shown in the table above have been dramatised in the figure below;
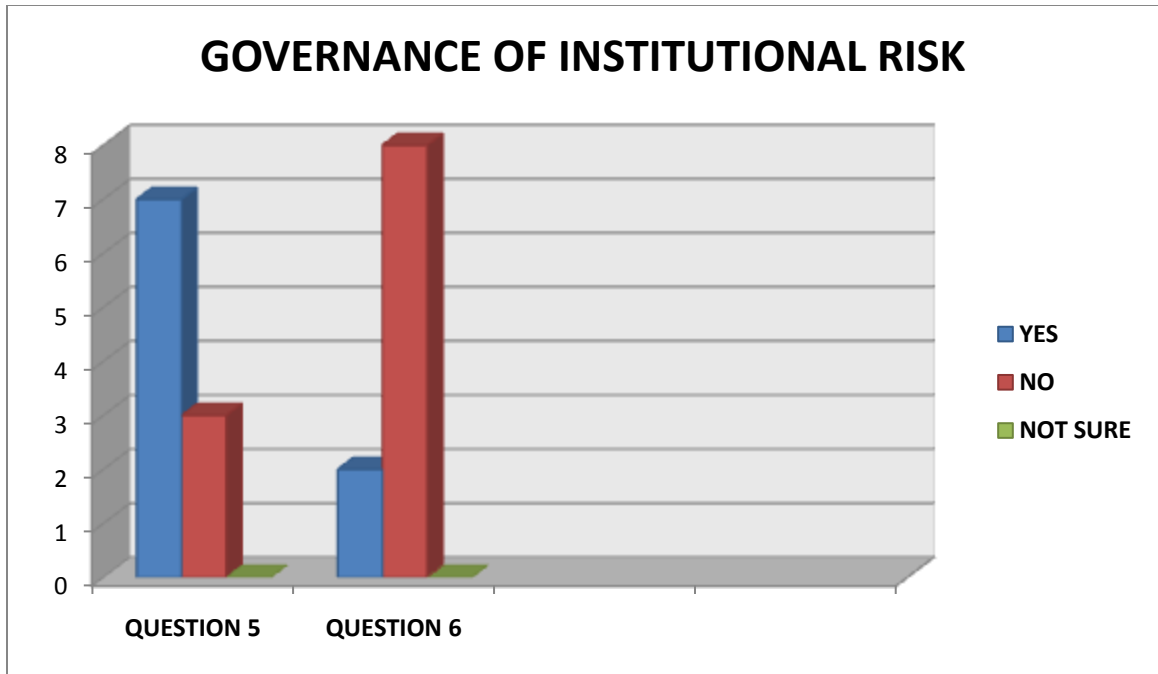
GOVERNANCE OF INSTITUTIONAL RISK

Figure 4.3

4.5   STAKEHOLDER RELATIONSHIPS/ COMMUNITY PARTICIPATION

The king lll places special emphasis on governing stakeholder relationships. It argues that companies and their boards must appreciate that stakeholders' perceptions affect a company's reputation. In local government, section 55 (1) (0) of the Municipal Systems Act, 2000, as amended, tasks the municipal manager with a responsibility of developing and maintaining a system that assesses community satisfaction with municipal services. To this effect, it is required that development priorities, objectives, key performance indicators and targets should be monitored (Municipal Systems Act, section 41 (1) (c). These should be included in the council's IDP. Section 16 of the MSA requires that the IDP is prepared through formal interactive processes with the community, stakeholders and council. Further, section 20 of the MSA requires council meetings to be open to the public except if not desirable to any business being deliberated upon. This requirement was probed by means of two questions, namely, whether the IDP processes were interactive enough, and whether the community understood and accepted the genuineness of the vision and mission of the BCMM.

QUESTION 7 — RESPONSE PER RESPONDENT

RESPONDENT ONE			RESPONDENT TWO			RESPONDENT THREE			RESPONDENT FOUR			RESPONDENT FIVE		
	Y	X		Y			Y			Y			Y	X
	N			N	X		N	X		N			N	
	N/S			N/S			N/S			NS			N/S	
RESPONDENT SIX			**RESPONDENT SEVEN**			**RESPONDENT EIGHT**			**RESPONDENT NINE**			**RESPONDENT TEN**		
	Y	X		Y	X		Y	X		Y	X		Y	
	N			N			N			N			N	X
	N/S			N/S			N/S			N/S			N/S	

QUESTION 8 — RESPONSE PER RESPONDENT

RESPONDENT ONE			RESPONDENT TWO			RESPONDENT THREE			RESPONDENT FOUR			RESPONDENT FIVE		
	Y			Y			Y			Y			Y	X
	N			N			N	X		N	X		N	
	N/S			N/S	X		N/S			N/S			N/S	X
RESPONDENT SIX			**RESPONDENT SEVEN**			**RESPONDENT EIGHT**			**RESPONDENT NINE**			**RESPONDENT TEN**		
	Y	X		Y	X		Y	X		Y			Y	
	N			N			N			N	X		N	X
	N/S			N/S			N/S			N/S			N/S	

Table 4.4: Responses to theme 3

In terms of these responsibilities, the council must determine its risk appetite in the approved risk management policy. The Municipal Manager and his/her management team would then have to implement that policy. The Municipal Manager may also delegate this responsibility according to the National Treasury. There is no legal mandate to establish a risk management committee, although, depending on the capacity of each municipality, this can be done in terms of section 32 of the Municipal Structures Act.
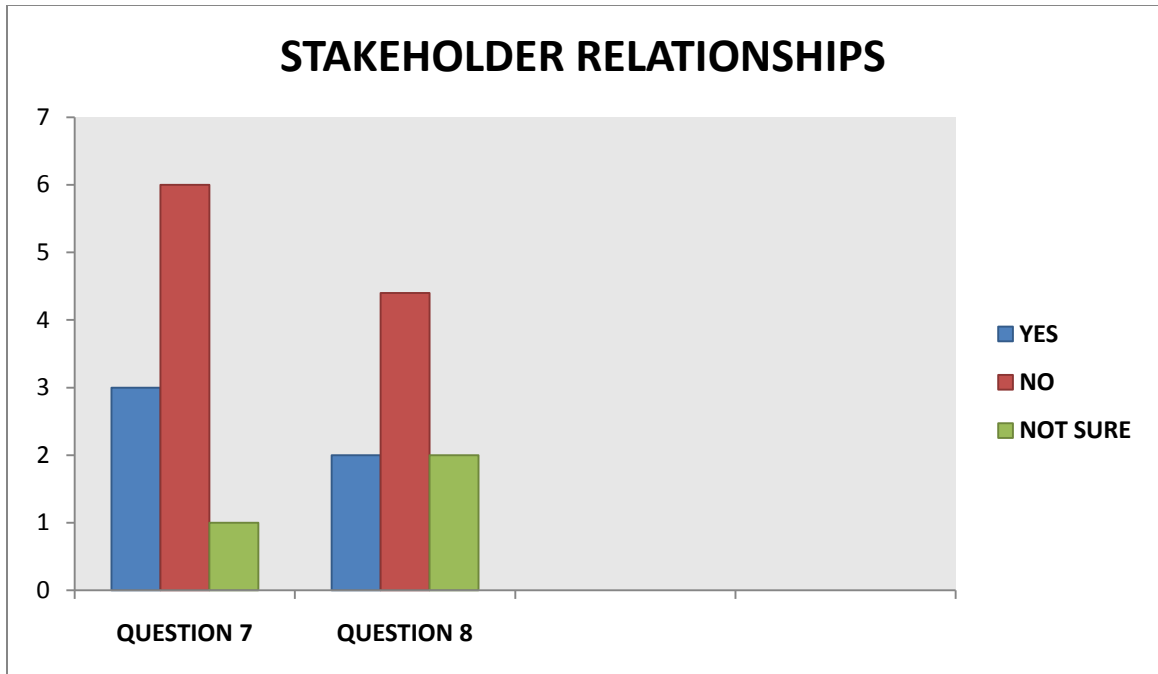
STAKEHOLDER RELATIONSHIPS

Figure 4.4

4.6 ANALYSIS OF THE DATA FROM SECONDARYSOURCES

After reviewing answers to the questions posed in the questionnaire, the researcher went further and reviewed four secondary data sources, namely, the Integrated Development Plans of the municipality for the period under review, the capacity assessment reports by the Municipal Demarcation Board (MDB) on the municipality's ability to carry out its powers and functions, the Auditor General's reports, and the Audit Committee reports on the 2009/10 financial year.

4.6.1 INTEGRATED DEVELOPMENT PLANS

The IDP which was reviewed is comprehensive and included the general Key Performance Indicators found in the Municipal Performance Regulations of 2001. There was also evidence presented to the effect that there was intensive stakeholder engagement in the processes leading up to the adoption of the IDP. However, in terms of the King III, community must not only be consulted for the sake of this engagement, but must have a say in how the affairs are run. They

must be part of determining the service standards, and these must be made public so that communities know upfront the kind of service they must expect. The municipality must find means to test the views of the community regarding the level of satisfaction. It could not be established whether and how the BCMM conducted these surveys. Recommendations in this regard are:

- The IDP must include service standards, and these must be published annually after each review;
- The Accounting Officer must, at least once a year, conduct community satisfaction surveys;
- Where other service providers are providing basic services in the municipal area, this must be done in terms of a Service Level Agreement between the municipality and whatever alternative delivery mechanism there may be. The issue of ESKOM is the case in point. Where they provide electricity directly to consumers, this must be in terms of an agreement with the municipality, which in turn contracts with citizens.

4.6.2 MDB ASSESSMENT REPORTS

There are periodic reviews conducted by the MDB on the capacity of each municipality to carry out functions allocated to it in terms of the Powers and Functions. The 2008/2009 report which was reviewed indicated, to the credit of the BCMM, that it was performing the highest number of functions within the district of Amathole. Further, it emerged that the BCMM is home to some 43.5% of the total district population and that between the 2001 Census and the 2007 community survey, the population of the BCMM grew from 702 279 to 724 312, which represents about 3% growth during that period. This places enormous pressure on the municipality to increase its capacity to provide services in keeping with the demand.

The Report recommended that there should be no change in the allocation of functions, in other words, the MDB was satisfied with the performance of the municipality, generally. However, with regard to good governance, the following issues require attention from both the management and councillors of the municipality;

- The staff turnover, especially in critical departments, such as the engineering services and the budget and treasury office, needs to be reduced to significantly lower levels;

- The internal control environment needs to be improved to such an extent that fewer incidents of fraud and corruption occur and, consequently, fewer officials are suspended for these reasons at any given time;

- The turnaround time for the filling of vacancies needs to be reduced as vacancies for longer periods leave departments with fewer people to perform functions.

If the results that emerged from the MDB assessment during the above period are true, the municipality may want to pay special attention to the issues of staff turnover in the Budget and Treasury Office, halting the loss of skilled personnel and the loss of institutional memory. This will, no doubt, affect the project of a clean audit by 2014. In fact, good governance requires stability at both leadership and operational levels.

4.6.3 THE ANNUAL REPORT OF THE BCMM

As already mentioned elsewhere in the research report, the AG has not been giving the BCMM any flattering reports on its Annual Financial Statements for the period of the study. In 2008/2009, the municipality received a qualified opinion, in 2009/2010a disclaimer of opinion, while the report of 2010/2011 was an adverse opinion. It is difficult to explain these results, in the light of the capacity and resources at the disposal of this municipality. If one considers eThekwini Metropolitan Municipality, for example, it has been unqualified for the last five years. This is despite the Auditor General's concerns about a number of

compliance issues, which are reported in detail under Matters of Emphasis in the Auditor General's report.

There are other risks confronting the municipality. These include the growth of the local population and the demands made on its services. The current refuse removal access percentage of 69% should be a matter of concern when viewed against the rate of the population growth and demand for access to services. The municipality will have to eliminate backlogs in order to plan properly.

4.7   CONCLUSION

In this chapter, the gathered data were analysed and interpreted. What emerged very clearly is that the BCMM falls short of a number of the principles for good governance as recommended by the King III. Even though the municipality has not adopted the King III formally, there are a number of practices that are mandated by laws and regulations that correspond to the King code. The next chapter will draw broad conclusions and make recommendations about the actions that can be immediately taken by those charged with governance. It will also seek to make recommendations about future studies that can be done to enrich practise on governance.

CHAPTER FIVE: **FINDINGS AND RECOMMENDATIONS**

5.1 INTRODUCTION

In this chapter, resulting from the presentation of the data and its interpretation in the preceding chapter, the researcher will draw broad conclusions and make some recommendations. It has emerged from the chapter above that the BCM has several challenges regarding good governance. These have been evidenced by the reports of the Auditor General, the latest of which, the 2010/2011, where the AG issued an Adverse Opinion on the Annual Financial Statements of municipality. Clearly, the municipality is on a downward trajectory, and all role players will do well to developed a plan on how to get the municipality out of that situation

5.2 SUMMARY OF FINDINGS

It has emerged from the study that, in the main, the BCM has many of the systems and procedures in place to ensure good governance. What seems to have been the problem, though, is that the effectiveness of these structures was compromised by a lack of leadership. It should be clear by now that the leadership plays an important role in public institutions. The AG always emphasises that the right tone must be set at the right level. This is a consistent message that the leadership of public institutions must be at the forefront of efforts to engender good governance. In fact, they should be the ones who rise or fall on the basis of the performance of the institutions they lead. To this effect, some of the lessons that emerged from the study are that the following state of affairs cannot coexist with good governance: political instability, administrative instability, poor management of politico-administrative interface, ineffective

governance structures, and poor performance management practices. Each of these findings will be dealt with briefly below.

5.2.1 POLITICAL INSTABILITY IN THE MUNICIPAL COUNCIL

What is clearly emerging is that the municipal council of the BCCM is severely weakened by political instability and infighting among councillors. This is clearly evidenced by the fact that since the inception of the municipality after the local government election on 6 December 2000, it has had five Executive Mayors. Considering that it is now just over eleven years since those elections, and that a council term is five years, each of these mayors have led for an average of 2.26 years, which is just under half a term.

The life cycle of an IDP is five years. This is a blueprint in terms of which the development of each year has to be undertaken. Although the IDP is reviewable every year, it is expected that some of the projects it proposes may take well over five years to realise. It can be concluded the 2.26 years is inadequate for a leader to make a meaningful difference. In fact, five years is the minimum period allowable for each administration to implement its manifesto, and then test the will of the majority through an election.

The one interesting feature of this instability in the BCMM is that, unlike the Western Cape, where instability has been due to defections from one political party to the other and, therefore, the unpredictable changes in the composition of municipal councils. This has, in most instances, seen many municipalities governed by uncertain coalitions. However, the ruling African National Congress (ANC) has always been in power at the BCMM. What is clear though is that the instability has been due to power shifting from one faction to the other.

The Local Government Budgets and Expenditure Review for 2006 – 2013 (LGBER) make an important observation in this regard:

> To date, there has been a tendency to attribute all failings in municipal performance to lack of capacity. However, when evaluating municipal performance failures, the reality is that many municipal failures can be directly attributed to failures in local political leadership…where there are dysfunctional councils and distrust, important decisions such as the appointment of senior staff or approvals of plans or budgets are delayed or not taken. This holds back service delivery. (LGBER, 2011:23).

5.2.2 ADMINISTRATIVE INSTABILITY

The same trend has been playing itself out at the administrative level. In fact, it could be inferred that the political instability has had a direct influence on the level of administrative instability that has attended the BCMM. It is common for each mayor who is chosen to want to select his/ her own team. The number of mayors that have served the BCMM in such a short period of time contributed to the high turnover of eight municipal managers the municipality has had over the same period. If one applies the same principles as those above, the average tenure of each municipal manager has been 1.4 years. I have already said that the term of each council is five years. In all fairness, no manager can be able to put in place systems, evaluate and monitor their effectiveness in such a short time.

5.2.3 POOR MANAGEMENT OF ADMINISTRATIVE – POLITICAL INTERFACE

There is, and will always, be a tension between politics and administration. These are caused, in part, by the fact that politicians are elected by the voters and will only be re-elected if they are seen to have delivered on the promises

made during the preceding elections. However, for politicians to realise those promises, they depend on the administrators. Sluggish administrators mean one thing to politicians, namely a diminished chance for re-election. This causes tensions and one often hears accusations such as 'this or that manager is sabotaging me', being thrown to whoever is deemed to act or omitting to act in a particular way. There are, however, instances where politicians want to meddle in the administration for mischievous reasons. It is not uncommon to hear, for example, of instances in municipalities where councillors want to determine who gets which tender or who gets employed in what position. When the municipal manager points to the law to help discourage these actions, he/she is accused of the same sabotage, and calls for his/her head abound. This is however, a normal tension which was widely written about by the American Professor, Woodrow Wilson, who coined it; politics and administration dichotomy.

5.2.4 INEFFECTIVE GOVERNANCE STRUCTURES

While it is clear that the BCMM has established most of the structures that are recommended to ensure good governance, most of these structures have not delivered the results expected of them. It is difficult, for an example, to understand what role the Internal Audit Unit is playing if the municipality keeps on getting bad audit opinions, if at all, from the AG. Where internal audit is effective, it serves as an early warning system and management has an opportunity to correct weaknesses before the external auditors raise it again. It seems apparent then, that one of the key tasks of the leadership is to ensure that structures such as the audit committee are supported by an independent, efficient internal audit service. It is recommended that the municipality should:

- Conduct a public-participation based review of the functionality of its structures, beginning with the municipal council itself.
- Set clear performance standards for its governance structures, with clear lines of accountability defined.

5.2.5 POOR PERFORMANCE MANAGEMENT PRACTICES

It is clear from the responses and examination of internal documents that the BCMM does have Performance Management System in place. It is also clear that it is not, as should be the case, used as an early warning system to detect under performance, and implement remedial measures. It cannot be over emphasised that where PMS is not monitored, evaluated and rewarded, the system is as good as not being there.

In most instances, municipalities which do not receive favourable reports from the Auditor General on both financial management and performance against predetermined objectives, are municipalities where PMS is in place for malicious compliance rather than as a management tool. The BCMM should consider strengthening its PMS as well as cascading it to levels below section 56 management.

The municipality has over six thousand employees (6000) and it is, therefore, clear that level of management below section 56 managers form part of strategic management and their performance is vital for the success of municipality's operations. It is therefore prudent to monitor and review their performance, even though this is not mandatory in terms of legislation. Internal policies should enable this.

5.3   CONCLUSION

While it is clear that the BCMM is faced with many challenges, it is also clear that none are insurmountable. The situation is not out of control for the municipality. It will largely depend on what action it will take to reach its objectives. The Operation Clean Audits by 2014 is now government policy and municipalities are expected to comply. It can be deduced, therefore, that 2014 will see municipalities that fail to live up to expectations of cleaning up, explaining themselves to the Minister for cooperative governance.

In this regard, what can be deduced from the finding of the study is that the BCMM has a fairly long way to go before reaching that point. To this end, a number of building blocks will have to be put in place. These include the ensuring that the municipal council plays its role of being an overall oversight structure to which all others account. The municipal council must ask questions when in its quarterly meetings there is a failure to submit audit reports on the implementation of the risk plan. The road to clean audit by 2014 will mean that all resources at the disposal of the municipality are consolidated and utilised in single-minded approach towards the objective. These resources are illustrated in the figure below:

Fig 5.1: Role players towards clean audit

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Appendix: 1

354 Mokoena Street
Mzamomhle Township
Burgersdorp
9744

The City Manager
Buffalo City Metropolitan Municipality
P.O.Box
East London
5200

18 November 2011

Dear Accounting Officer

My name is Thembinkosi Mawonga and I am currently enrolled for a Masters in Public Administration at the University of Fort Hare. As part of the requirements for the successful completion of the aforesaid degree, I have to complete a dissertation. My topic is as follows, "*A Critical Analysis of the Applicability of the King III in the Local Sphere of Government: A case of the Buffalo City Metropolitan Municipality*"

I hereby request your permission to undertake this study at your municipality.

It is hoped that the information gathered through this research will contribute valuable information and insights that can help strengthen the governance arrangements at the local government level and thereby ensure sustainable delivery of services.

Thank you very much for your kind understanding and cooperation in this regard.

For any queries, I am contactable at the following details; Email: thembinkosi@gariep.gov.za or mobile number 082 788 7770.

Regards,

Thembinkosi Mawonga
Student

Appendix: 2

<div align="right">
354 Mokoena Street
Mzamomhle Township
Burgersdorp
9744
</div>

Prof, Dr, Mr, Mrs, Ms, Rev

_____

_____

_____

Dear Respondent

My name is Thembinkosi Mawonga and I am currently enrolled for a Masters in Public Administration at the University of Fort Hare. As part of the requirements for the successful completion of the aforesaid degree, I have to complete a mini-dissertation. My topic is as follows, "*A Critical Analysis of the Applicability of the King III in the Local Sphere of Government: A case of the Buffalo City Metropolitan Municipality*".

I now request you to take not more than 20 minutes of your valuable time to complete this questionnaire. I hereby give you my assurance that your responses will not be used for any purpose other than the one stated above. Your personal details, such as name, position, qualifications, will be treated with utmost confidentiality. Further, your identity will not be disclosed to unauthorised parties under any circumstances.

Should you feel that the space provided is too limited or the options provided are too limiting, please feel free to use additional paper and include options that you think are important. It is hoped that the information gathered through this research will contribute valuable information and insights that can help strengthen the governance arrangements at the local government level and thereby ensure sustainable delivery of services.

My sincere appreciation for taking your time to complete this questionnaire and should you need to contact me, please feel free to use the following details; Email: thembinkosi@gariep.gov.za or mobile number 082 788 7770.

Regards,

Thembinkosi Mawonga
Student

APPENDIX 3:   QUESTIONNAIRE

SECTION A: GENERAL QUESTIONS			
INSTITUTION	BUFFALO CITY METROPOLITAN MUNICIPALITY		
NAME OF RESPONDENT			
POSITION HELD			
QUALIFICATIONS			
Kindly indicate your answer by putting a cross next to your choice.			
How long have you been in your current position?	**0 – 5 years**	
	5 – 10 years	
	10 years+	
How many people report to you?	**0 – 20**	
	20 - 50	
	50+	
On a scale of 1 – 3, where 1 represents satisfactory and 3 represents unsatisfactory, how would you describe your working conditions?	**1-satisfactory**	
	2-fair	
	3-unsatisfactory	
Have you done the minimum competency requirements in preparation for the January 2013 compliance deadline?	**Yes**	
	No	
How often to you attend training to update yourself on changes in the regulatory environment of local government financial management?	**1- always**	
	2- sometimes	
	3- almost never	

SECTION B: SPECIFIC QUESTIONS				
NO	QUESTION	YES	NO	NOT SURE
THEME ONE: KING THREE IMPLEMENTATION PLAN				
1	Have you ever heard about the King III report?			
2	Does your institution have an implementation plan in place for the King III?			
THEME TWO: COUNCIL OVERSIGHT				
3	Does your council meet regularly and at least four times a year?			
4	Do you have an AC, MPAC, IA? Does your council adopt an oversight report when considering an Annual Report?			
THEME THREE: INSTITUTIONAL RISK				
5	Do you have a risk register and a policy that is updated at least once a year?			
6	Does your audit Committee perform risk- based audits and present these for the management of corrective action?			
THEME FOUR: COMMUNITY PARTICIPATION				
7	Do you have functional ward committees in all the wards in the municipality?			
8	Does your ward councillors have regular ward meeting sat least once a month and which build into quarterly meetings?			

DECLARATION BY CANDIDATE

I, Thembinkosi Arthwell Mawonga, hereby declare that this dissertation is my own original work and effort and that it has not been submitted anywhere for any award. Where other sources of information have been used, they have been duly acknowledged and have been fully disclosed in the bibliography. It is hereby submitted in partial fulfilment of the requirements for the degree of Master of Public Administration. It will not be submitted to any other university for any award.

_____

THEMBINKOSI ATHWELL MAWONGA

ACKNOWLEDGEMENTS

Firstly, my most sincere gratitude goes, posthumously, to my mentor and colleague, the late Dr Koos Smith who first suggested that this was a topic worth exploring. Even though we never pursued detailed brainstorming of the topic before his untimely death and I never became acquainted with his views – I decided to pursue it in his honour - May his soul rest in peace.

I would also like to thank my supervisor; Professor EOC Ijeoma for his encouragement, advice and support in the compilation of this dissertation. The whole staff of the Department of Public Administration deserve acknowledgement for their patience and support.

I owe my wife; Angel a great debt of gratitude for her love, support and encouragement and, most importantly, her efforts in typing this mini-dissertation for me. I love you my angel

My daughter; Olwethu had to make peace with not seeing her father for extended periods of time while I was away attending classes, writing exams or even preparing this mini-dissertation. Daddy loves you lots baby girl!

My old friend from my alma mater; University of Port Elizabeth, Dr Sitembele Wiseman Vatala provided professional advice and guidance. You remain my inspiration Doc!

To my childhood friend and mentor, Sibusiso Tshabalala, who introduced me into reading and thereby planted the first seed of scholarship, I will always hold you in high regard;

Thanks to my colleague and sounding board; Mcebisi Patric Nonjola for telling me never to throw in the towel when that was imminent. I suppose once a teacher, always a teacher

DEDICATION

This dissertation is dedicated to my beloved Grandmother; Nosingile Sinah Mawonga, who passed away, aged 96 in January 2006. She was an illiterate domestic worker whose passion for and commitment to our (grandchildren) education remains unparalleled. May the Good Lord give her soul eternal peace, until we meet again beyond the horizon of the grave.

ABSTRACT

The purpose of this mini-dissertation is to investigate the applicability of the King III in the Local Government Sphere, as well as to evaluate the impact it is likely to have if its principles and recommendations were to be fully implemented. Local government has been plagued by very serious challenges of poor service delivery and this has been attributed, in the main, to a lack of adequate resources to address backlogs and maintain existing infrastructure. It is therefore very important that all resources are harnessed and channelled to where they are most need, in service delivery. The investigation of the systems and procedures that are in place to ensure prudent financial management and accountability is a worthwhile study. The BCM, is one of two economic hubs of the Eastern Cape

The mini dissertation commences with assessment of governance arrangements that are in place at the BCM against the minimum standards proposed by the King III. It explores the full range of principles proposed in the codes and compares that to practices and procedures at the BCM. To avoid a long winded discussion because the principles are close to ten in number; these have been combined and formulated into four broad themes. A consolidated discussion on manifestations on bad governance or poor adherence to good governance in the public sector is discussed in detail. Finally, the impact of various initiatives currently being pursued to promote good governance will be examined, key lessons will be drawn and recommendations for further studies will be made

LIST OF ABRREVIATIONS AND ACRONYMS

AC – Audit Committee

AFS – Annual Financial Statements

ANC – African National Congress

AG – Auditor General

BCMM – Buffalo City Metropolitan Municipality

COGTA – Cooperative Governance and Traditional Affairs

DTLGTA – Department of Local Government and Traditional Affairs

IDP – Independent Development Plan

LGBER – Local Government Budget and Expenditure Review

MEC – Member of Executive Council

MFMA – Municipal Finance Management Act

MSA – Municipal Systems Act

MPAC – Municipal Public Accounts Committee

OCA – Operation Clean Audit

PSC – Public Service Commission

PMS – Performance Management System

SALGA – South African Local Government Association

SCM – Supply Chain Management

LIST OF TABLES AND FIGURES

LIST OF FIGURES