

**AN ANALYSIS OF OVERSIGHT MECHANISMS TO PROMOTE GOOD
GOVERNANCE: THE CASE OF EKURHULENI METROPOLITAN
MUNICIPALITY**

By

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DEDICATION

This study is dedicated to the memory of my late parents, Jonas and Elizabeth Cleophas. They taught me the value of education and commitment. They motivated me at every turn and lay the foundation early in life, although I did not realise it then.

My mother's strength and faith during the last months of her life gave me new hope and encouragement. It taught me the significance of believing that one can achieve greater heights and the ever-present Almighty has sound plans for our lives. She fought her terminal illness with bravery, although each treatment was a hurdle, she jumped each like a champion and my confidence grew as I watched this incredible woman. Thank you Mom.

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“The mediocre teacher tells. The good teacher explains. The superior teacher demonstrates. The great teacher inspires – William Arthur Ward”

SUMMARY

This study examines oversight and accountability in relation to good governance in Ekurhuleni Metropolitan Municipality. It also explores the implementation of the separation of powers governance model since its inception in August 2011. The study accentuated the significance of legislative mechanisms to foster greater oversight and separation of powers within the municipality's governance structures. It demonstrates that the relevance of the available mechanisms in current legislation can lead to the practical separation of executive and legislative powers as well as sound oversight within the municipality.

The study acknowledges the conflation of executive and legislative functions in the municipal council as stipulated in the Constitution of the Republic of South Africa, 1996 section 151(2) that resulted in a lack of clarity of the roles of office bearers causing an oversight deficit. The literature review acknowledged that the concept of good governance is conducted through a policy approach that highlights the roles of the political, organisational and economic standards of lawfulness and efficacy in the daily operations of the public sector. The study illustrates the significance of the section 79 committees as an oversight mechanism established in respect of Section 43 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) of the municipal council in relation to the separation of powers governance model. The study applied qualitative research methods, which included open-ended questionnaires and secondary sources to comprehend the separation of powers governance model in local government. Triangulation of data was fundamental to ensure that the case study provided the correct interpretation of the participants' perceptions.

The case study concludes with recommendations as informed by the research to improve the functionality of the separation of powers governance model in the Ekurhuleni Metropolitan Municipality. The commendations could assist policy makers to

institute municipal systems of governance separating the executive functions from the legislative functions to create meaningful oversight to stimulate good governance. The implementation of separation of powers governance model provides an opportunity within local government to contribute towards the attainment of good governance. Ultimately, this study contributes to the knowledge and modernisation in local government within metropolitan municipalities in South Africa.

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LIST OF ACRONYMS

BCM	Budget Cycle Model
CoGTA	Department of Cooperative Governance and Traditional Affairs
EGS	Eastern Gauteng Service
EMM	Ekurhuleni Metropolitan Municipality
IDP	Integrated Development Plan
LGTAS	Local Government Turn Around Strategy
NDP	National Development Plan
PEBA	Programme evaluation and budget analysis
PSOM	Public Sector Oversight Model
PPIPPL	Powers, Privileges, Immunities of Parliament and Provincial Legislatures
SALGA	South African Local Government Association
SDBIP	Service Delivery Budget Implementation Plan
SOM	Sector Oversight Model

CHAPTER ONE

BACKGROUND TO THE STUDY

1.1 INTRODUCTION

The mandate of local government as stipulated in the *Constitution of the Republic of South Africa, 1996* (hereafter referred to as the 1996 Constitution) is to promote an independent and responsible government for local communities. The 1996 Constitution proposes an effective local government that must focus on the basic needs of its constituents. Stemming from the 1996 Constitution, the *White Paper on Local Government, 1998* was published to ensure that local government is an instrument of planning, coordination and mobilisation, with emphasis placed on integrated planning. Picard and Mogale (2015:162) state that the *White Paper on Local Government, 1998* describes municipalities as inefficient and considers them as having rigid management procedures. The *White Paper on Local Government, 1998* further advances a dogmatic method towards municipal transformation. This study analyses good governance principles from a public administration perspective in relation to the question of how oversight mechanisms augment oversight and accountability in local government.

According to the Department of Co-operative Governance and Traditional Affairs (COGTA) (2009:10), inadequate accountability and poor governance are the primary challenges in respect of service delivery in local government. Picard and Mogale (2015:250) posit that the inability of local government to provide public services was the source of violent demonstrations. In response to these challenges, the municipal council of the Ekurhuleni Metropolitan Municipality (hereafter referred to as EMM) approved and implemented the new governance model on the separation of legislative and executive powers in August 2011 (EMM A 2011:8).

The governance model strives to promote effective oversight and accountability through the allocation of powers and functions amongst the legislative and the executive authority in the municipality. This study was conducted as a single case and the goal was to analyse relevant data by exploring the phenomenon. Yin (2014:37) posits the significance of theory development in case studies; therefore the study stipulates theoretical propositions from the outset of the enquiry. This exploratory case study explains what should be explored and the purpose of the exploration. Therefore, the study describes the role of the oversight mechanisms in the separation of powers governance model in EMM. Furthermore, the study explains the legal framework of local government, which defines the roles, responsibilities and mandate for political structures and political office-bearers. Whereas the 1996 Constitution clearly outlines a separation of powers model in the national and provincial spheres of government, it is not specific to the local sphere of government.

Section 18 and 19 of the *Local Government: Municipal Structures Act, 1998* (Act 117 of 1998) stipulates that all the powers and functions of a municipality is conferred on the municipal council. The primary task of the municipal council is political oversight of the municipality's aims and objectives and directing its administration. The powers of local government are conferred on the municipal council and as such, it has the authority to formulate by-laws (legislative authority) and the competences to implement the statutes (executive authority). The municipal council has executive and legislative control over the affairs regulated in Part B of schedule 4 and schedule 5 of the 1996 Constitution. In administering the affairs of local government, the municipal council should endeavour within its capability to achieve the statutory objectives of local government. The conflation of executive and legislative functions in the municipal council leads to a deficiency of conception of the roles of office-bearers as well as a lack of oversight. Current legislation does not stipulate specific committees for the executive or for the municipal council. Thus, the municipal council adopted section 80 portfolio committees to assist the executive mayor but lacked independent oversight. The EMM's separation of powers governance model was designed to comply with existing national and

provincial legislation relating to municipalities. This study elucidated on valuable lessons from practice in EMM of how the separation of executive and legislative powers can create greater oversight and accountability at the local sphere of government. This type of separation of powers may also be considered as a mechanism to prevent the concentration of excessive supremacy in the hands of the executive. The foundation for the creation of such checks and balances is to avoid the abuse of authority by the executive arm of the municipal council.

1.2 HISTORICAL BACKGROUND

Ekurhuleni Metropolitan Municipality (EMM) was established in 2000 from the former existing regional entities, namely: Kyalami Metropolitan and the Eastern Gauteng Services (EGS). These two regional entities shared nine towns and eleven administrations.

Figure 1.1: Map of Ekurhuleni Metropolitan Municipality



Source: Ekurhuleni Metropolitan Municipality Annual Report (2010:11)

At present Ekurhuleni Metropolitan Municipality is comprised of the nine towns, namely: Alberton, Benoni, Boksburg, Brakpan, Edenvale, Germiston, Kempton Park, Nigel and Springs. Included in these towns are renowned townships such as Daveyton, Kwathema, Vosloorus, Thokoza and Katlehong. There are 119 informal settlements within the townships that serve as residential areas for members of the community. Ultimately, this demonstrates the magnitude of service delivery challenges that confronts the municipality (Ekurhuleni Metropolitan Municipality Annual Report 2010:11)

1.3 MOTIVATION FOR THE STUDY

The Local Government Turn-Around Strategy (LGTAS), 2009 identifies governance as one of the challenges facing local government. Governance comprises of aspects such as political guidance, institutional organisation, competence and abilities, oversight and regulation, monitoring and reporting (LGTAS 2009:18). The previous governance model of EMM comprised of a number of shortcomings relating to the role of the speaker in relation to the establishment of committees (EMM A 2011:7). The initial arrangement positioned the speaker as the chairperson of council who was responsible for standing committees prescribed in terms of section 79 of the *Local Government: Municipal Structures Act*, 1998 (Act 117 of 1998), whilst the executive mayor and members of the mayoral committees were responsible for both executive and oversight functions of the section 80 portfolio committees.

Therefore, the previous institutional arrangement did not allow for optimal oversight of the implementation of the municipal council statutory mandate. There was no adequate legislative oversight in relation to service delivery within the municipality. The separation of powers governance model established oversight committees that creates independent scrutiny over the executive (EMM A 2011:4). The establishment of this governance model was premised on a range of benefits such as increased achievement of the statutory objective of section 38 of the *Local Government: Municipal System Act*,

2000 (Act 32 of 2000). This section provides that a municipality must enhance the ethos of performance management amid its political systems, political office-bearers and councillors in its organisation. The role of oversight committees is, therefore, critical to strengthen the municipal council as a legislative and policy-making institution.

Consequently, this study explores the degree to which the new governance model has been implemented and analyses the institutional arrangements of the oversight model. The study demonstrates that the new governance model implemented in EMM created a clear understanding of the roles and responsibilities of the numerous political office-bearers. Therefore, the practice of the promotion of oversight and accountability resulting from the separation of powers in EMM could be replicated in other municipalities. The study endeavours to fill the knowledge gap created in the debate of constitutional conflation of executive and legislative powers, its effects and on how to manage it without amending the 1996 Constitution. Ultimately, this study draws lessons from the practice in the EMM of how the legislative mechanism can be utilised best to separate executive and legislative powers to create greater oversight and accountability at the local sphere of government. Furthermore, the study specifies guidance to enhance oversight, promotion of good governance as well as improve the provision of services in EMM.

1.4 LIMITATIONS OF THE STUDY

The limitations of the study includes various factors such as limited information available on the separation of powers governance model at the local sphere of government and party political bias. According to Marshall and Rossman (2011:77), all research undertakings have limitations, because it is not flawless.

1.4.1 Information

The separation of powers at the local sphere of government was effected in 2011 in metropolitan municipalities, which preceded a pilot project in the City of Johannesburg. Although the information is still in its early stages, benchmark studies are being conducted in the other two spheres of government to replicate best practice.

1.4.2 Party political bias

Most of the respondents are councillors who represent various political parties. Consequently, the respondents would either advance or criticise perceptions of the implementation of the separation of powers governance model based on party political influences. The limitations could be linked to credibility and reliability of data. Moreover, the findings are constructed on critical inquiries (Rudestam and Newton 2015:131). The researcher was a chairperson of the environmental development oversight committee from 2011 to 2016, thus preconceived positions in respect of oversight and accountability could result in bias.

1.5 REVIEW LITERATURE

This section constitutes the literature review and covers the relevant literature and debates on the separation of power, oversight and accountability. According to Hofstee (2015:91), an informative literature review is a comprehensive, analytic study in context with the subject matter. This implies that it will comprise of a theory-based review of published works that relate to the investigation. A literature review can be described as a summary of key sources that follows an organisational design and connects both summation and synthesis within precise theoretical classifications. A summary is a synopsis of the essential knowledge of the subject matter, while a synthesis is a prioritisation of knowledge in a way that expounds the planning to study a research problem (Ridley 2012:03).

1.5.1 Separation of powers

The objective of the separation of powers of the three arms of government into executive, legislature and judiciary is to circumvent the exploitation of authority. According to Landsberg and Graham (2017:62), the principle of the separation of powers is that permissible political authority may not be assigned to individuals or a single institution in a state. Admittedly, the nature of a state and its powers are essentially co-dependent and interrelated, therefore, absolute division is impractical.

The separation of powers was derived from the statutory principle 5 of the *Interim Constitution of South Africa*, 1993 that acknowledged that there should be division of powers between the legislature, executive and judiciary with applicable checks and balances to guarantee answerability, transparency and honesty. Consequently, the 1996 Constitution was obliged to provide validity to this notion. Therefore, the 1996 Constitution assented to the separation of powers by dedicating three distinct chapters: Chapter 4 of the 1996 Constitution bestows explicit power and functions to the legislature; Chapter 5 stipulates that the president collectively with other members of the cabinet applies executive authority by executing and enforcing laws; and Chapter 8 outlines that the judicial authority is vested in the courts and administration of justice.

1.5.2 The meaning of the separation of powers

Mojapelo (2013:37) describes the separation of powers as the division of explicit roles, obligations and tasks to individual institutions, with defined competence and authority. The meaning of the terms legislative, executive and judicial authority in the statutory arrangement is of significance. According to Thornhill (2012:39), legislative authority in all spheres of government has several generic functions, namely: legislative, control, financial, reconciliation and representation functions. Thornhill (2012:149) posits that legislatures have the final say regarding legislation and budgetary proposals deferred to them. Thornhill, Ile and van Dijk (2015:63) acknowledge that executive authority gives

effect to the decisions made by legislatures. The judicial authority is where the regulations and rules of the state are understood, defended and prescribed (Thornhill 2012:18). The meaning of the separation of powers at the sphere of national government underscores that one of the three arms of government is responsible for the enactment of laws.

Consequently, the judicial institution shall not be liable for the execution of laws and the judicial determinations concerning the laws (Mojapelo 2013:37). Section 41(1) of the 1996 Constitution guides the three arms of government to honour the authentic position of government in another arm and not assume any authority or role apart from those conferred on them by the 1996 Constitution. According to De Villiers (2008:4), shared government requires that all political formations and other contributors must endorse value and support the presence of the three arms of government. Furthermore, Van der Vyver (in Mojapelo 2013:37-38) believes that the concept of the separation of powers ultimately advances into a model encompassing the following basic principles:

- The principle of the *trias politica*, which consists of a recognised division to be made between three autonomous structures of government authority.
- The value of separation of personnel according to which the same staff should not be allowed to serve more than one organ of the state simultaneously.
- The principle of the separation of power of functions between the three organs of state authority to prevent interference or performance of tasks entrusted by law in another government structure.
- The principle of checks and balances that involves each organ to be assigned with distinct rules intended to serve as checks on the application of functions.

Therefore, the principle of the separation of functions entails that each institution of the state authority be allocated mandates with its individual appropriate purposes. Explicitly, the legislature ought to enact laws; the executive ought to confine its actions to

managing the activities of the state and the judiciary ought to limit itself to the role of judgement.

1.5.3 The origin of the separation of powers

The intention of the separation of powers is founded in the constitutional theory of John Locke and Charles de Montesquieu (Venter and Landsberg 2013:53). The French philosopher Montesquieu based his rationale on the British Constitution, which observed three pillars of state authority, namely: executive, legislative and judicial functions. These functions should be conferred on the three distinct government organs with different office-bearers. Montesquieu (in Mojapelo 2013:38) states that it would be ineffective if the same individual, or the identical institution of officials, were to implement these three authorities, that is, construct laws to effect community demands, and that of mediating individuals misconduct or disagreements.

Permitting legal state power, the principle of the separation of powers establishes three distinct institutions, which presumes that respective institutions act as a check and a balance on each other. In South Africa, section 55 of the 1996 Constitution necessitates the legislature to establish systems to uphold oversight of the national executive authority. Thus, the same principles were applied in the separation of powers governance model in EMM. This separation limits conflict of interest and a referee/player status, which is comparable to the role of portfolio committees in Parliament.

1.5.4 The debate on separation of powers and oversight

At the local sphere of government, the 1996 Constitution does not explicitly make provision for legislative oversight because the executive and legislative authorities are

vested in the municipal council unlike in national and provincial government where the separation is clearer. This constitutional provisions creates an obstacle for oversight because the municipal council cannot oversee its own affairs. It is more desirable that the executive functions are executed by another structure over which the municipal council will apply oversight. De Visser and Atkintan (2008:24) maintain that the conflict between the office of the speaker and that of the executive mayor necessitates the amendment of section 151 of the 1996 Constitution to give effect to the separation of powers in local government. These proposed amendments to the 1996 Constitution will provide clarity on the roles of the speaker and the executive mayor.

Furthermore, the South African Local Government Association (SALGA) (2015:20) discussion documents state that municipalities must clearly understand the difference between section 80 portfolio committees which report to the mayoral committee and section 79 oversight committees, which are accountable to the municipal council to provide oversight over the executive. The discussion document further states that the legislative and oversight arm concerns the speaker of the municipal council, together with the chairpersons of section 79 oversight committees and its members. Moreover, the discussion document identifies section 79 oversight committees as another mechanism for effective oversight and accountability in municipalities.

Although the 1996 Constitution assigns the legislative and executive power to the municipal council, it should not prevent oversight. The legislative framework for municipalities permits sufficient opportunity to the municipality to promote oversight and scrutiny. Accordingly, the *Local Government: Municipal Structures Act, 1998* (Act 117 of 1998) states that a municipal council should design a system of delegation that will amplify administrative and operational competence and provide for appropriate checks and balances.

1.5.5 Significance of oversight

The term “oversight” is used to define a vast number of functions executed by the legislature in relation to the executive. According to the National Government Oversight Model of the South African Legislative Sector Report (2012), oversight can be described as the active interface between the legislature and the executive structures that improve the delivery of predetermined objectives of government priorities. Griffin and Newman (2005:1206) argue that legislatures effectively position themselves as overseers of the executive and act as protectors of morality on behalf of the residents. In the South African context, oversight can be defined as a constitutionally delegated task of the legislative structures of the state to analyse and guide the executive exertion of other organs of state. Most importantly, oversight entails overseeing the work of the executive in the quest to enhance service delivery to achieve improved living conditions for all residents. Instances in which service disruptions transpire or grievances arise, instruments should be available to hold the executive to respond in terms of their decisions or lack of action (EMM A 2011:9). The *Local Government: Municipal Structures Act*, 1998 (Act 117 of 1998) provides basic requirements for the creation of committees; therefore, section 79 committees must support the municipal council to execute oversight. Thus, the relevance of the separation of powers, which provides checks and balances with regard to the execution of executive duties makes the executive accountable to the citizenry.

1.5.6 Functions of oversight

The National Government Oversight Model (2012) states that oversight comprises of several elements namely: political, administrative, financial, ethical, legal and strategic elements. The purpose of overseeing includes:

- Uncover and end misuse of resources and unauthorised conduct on the part of the government. Fundamentally, the function of oversight is concerned with the protection of the privileges of citizens.

- Ensure the answerability of government in respect of how public funds is utilised. It discovers uneconomical spending within government organisations. Thus, it can enhance the efficacy and effectiveness of government performance.
- Apply and implement policies adopted by government, including analysing the attainment of objectives determined by legislation.
- Enhance openness, accountability and honesty of government operations to strengthen public trust in the government.

1.5.7 Oversight and accountability

One of the fundamental values enshrined in section 195 of the 1996 Constitution is that public administration must be answerable. According to Brugge (2008:2), accountability can be described as a social rapport where ministers, departments and state-owned entities are compelled to explain and validate their actions to the accountability sector, which in this case is the legislature. This generally refers to giving account of actions and spending. In the South African context, this definition responds to the *Public Finance Management Act, 1999* (Act 1 of 1999) concept of administrative accountability of the public officials. At the level of local government, the *Local Government: Municipal Finance Management Act, 2003* (Act 56 of 2003) requires municipalities to prepare and adopt annual reports to advance answerability to the local community for determinations made during the year by the municipality. Hedger and Blick (2008:15) argue that the accountability relationship is a horizontal one made possible by the well-defined separation of powers between the executive and the legislative authority which forms the foundation of an independent system of government. Consequently, the promotion of accountability by the executive is linked with the requirement to accelerate good governance. According to the World Bank Conference Report (2012: xii), good governance refers to a policy process that focuses on the functions of the political, administrative and economic criterion of lawfulness and efficacy in the procedures of the public sector. In this regard, the legislature utilises oversight committees to promote good governance. This implies that government, and in this instance, the local sphere of

government should fulfil their responsibilities and oversight committees must assist to create greater accountability on the part of the executive.

1.5.8 Governance and good governance

The word “governance” originated from the Latin word “*gubernare*,” and from the Greek word “*kubernaein*,” meaning to direct. Thus, governance refers to the method of directing, leading and controlling an institution or a country (Tamayao 2014:4). Williams (2009:22) describes governance as a collaborative and symbolic association between the state and other stakeholders such as civil society, business and non-governmental organisations. Governance includes the methods utilised in decision-making, the supremacy of institutions and the manner in which public representatives are held answerable (Matheson 2004:37). The United Nations Development Program (UNDP) established five principles for good governance. According to Graham, Amos and Plumptre (2003:3), there is a strong indication that these principles acquired international acknowledgement. The principles include: legitimacy, direction, performance, accountability and fairness. The principles often overlap and complex to exercise as it assesses the application of authority. Furthermore, these principles can also inculcate values in public institutions. Lloyd (2007:1) identifies the results of good governance as sound execution of work, proficient management, good answerability and tangible outcomes related to service delivery where good governance occurs. Mogoeng (2014:4) states that the essential element of our constitutional objectives in South Africa is to achieve a definite break from the misuse of state authority and resources. To realise these constitutional objectives, the South African government endorsed accountability, the rule of law and the supremacy of the 1996 Constitution as values of our constitutional democracy (Mogoeng 2014:4). The objective of government is to ensure that democracy subsists within a specific government system so that the rule of law can be applied as well as provide services to the communities.

Table 1.1 Five principles of good governance

Good governance principles	Explanation of principles
Legitimacy and Voice	<p>Stakeholder participation is important in government decision-making processes. Such involvement is built on democratic values such as freedom and association of speech and the capability to participate.</p> <p>Consensus Orientation: Good governance promotes consent and mediates contradictory views to ensure the best interest of society.</p>
Direction	<p>Strategic vision: Public representatives and society have a long-term view of good governance and growth. There is consideration for the historic, traditional and social complexities on which that view is based.</p>
Performance	<p>Responsiveness: Institutions must respond to the needs of society.</p> <p>Effectiveness and efficiency: Processes and institutions deliver outcomes that meet needs and provide value for money.</p>
Accountability	<p>Accountability: Public representatives and officials are accountable to the public.</p> <p>Transparency: Transparency is built on free flow of information. Access to information is encourage in public institution</p>
Fairness and the rule of law	<p>Equity: Equal opportunities for all.</p>

Source: Adapted from Graham et al. (2003:3)

Kjaer (2004:14) posits that the essential components of governance is respect for rules and regulations that derives its legitimacy from the supreme law of the country. This definition reveals that legitimacy and authority is fundamental for the separation of legislative, executive and judicial powers. Consequently, the legislature in EMM must ensure that the principles of good governance is implemented to promote service delivery.

1.6 PROBLEM STATEMENT

The Auditor-General Consolidated Report (2009/10:2) outlined that only 7 out of 237 municipalities received clean audits. The municipalities in Gauteng accounted for 33% of all unauthorised expenditure. The figure increased from R522 million in 2008/9 to R1.7 billion in 2009/10. The report specified the primary reason for poor audit outcomes in municipalities as a lack of political leadership in respect of their responsibility to guide and direct development performance, including oversight and accountability.

The National Development Plan (NDP) (2011:44) further accentuated the need for capable guidance, sound policies and distinct lines of accountability. To accomplish the objectives of a capable and developmental state, it is important to enhance oversight and answerability at the local sphere of government. The NDP (2011:45) identified numerous inadequacies in the accountability chain, such as the general attitude to transfer responsibility to another department or employee. The increase in service delivery protests revealed that local government does not perform optimally in the provision of services to the communities. The supposition is that the absence of the separation of powers affects the lines of accountability. EMMs previous governance model positioned the municipality's executive authority with ultimate power, that is, the executive mayor and members of the mayoral committee were responsible for section 80 portfolio committees executive and oversight tasks. Since Chapter 7 of the 1996 Constitution confers both executive and legislative functions in the municipal council, the best method to achieve separation is through the delegation of authority. The

implementation of the separation of powers governance model was based on the following factors:

- Limited opportunity for scrutiny of the work of the executive arm of a municipality.
- The lack of adequate debates and question time on items tabled in a municipal council to enhance executive accountability.
- Limitations in respect of information flow as a result of section 80 portfolio committees reporting systems.
- Tracking the progress of municipal council resolutions was complex.

The purpose of the implementation of the new governance model is to promote optimal governance structures to strengthen oversight and scrutiny of the executives work. This study contributed towards the debate on the powers and functions of legislators in local government in relation to its ability to effect good governance; and fill the current knowledge gap on oversight and scrutiny at the local sphere of government in South Africa. Therefore, the study evaluated the utilisation of legislative methods to foster greater oversight and separation of powers within local government, and respond to the following questions.

1.6.1 Main research question

- i. How does the separation of powers governance model in local government enhance oversight and accountability?

1.6.2 Secondary research questions

- i. What are the theoretical propositions that provides guidelines to achieve good governance with the implementation of the separation of powers governance model in EMM?
- ii. What are the best oversight and accountability practices at the national and provincial spheres of government?

- iii. What legislative framework was utilised in the separation of powers governance model in EMM?
- iv. What is the role, functions and composition of oversight committees in the separation of powers governance model?
- v. How effective is EMM in utilising the separation of powers governance model to support efforts to enhance good governance?
- vi. What recommendations can the study contribute towards the body of knowledge that subsists in governance, oversight and accountability in local government?

1.7 RESEARCH OBJECTIVES

The following research objectives were identified for the purpose of this study:

- i. To analyse the theoretical foundations that underpins the principles of good governance to provide an explanation of the rationale for the separation of powers governance model to enhance oversight and accountability.
- ii. To investigate best practices in respect of oversight and accountability at the national and provincial sphere of government.
- iii. To determine the manner in which legislation, oversight mechanisms and strategies can be utilised to separate executive and legislative powers to enhance good governance in the municipality.
- iv. To describe the institutional arrangements of the separation of powers governance model in relation to meaningful oversight and accountability.
- v. To analyse the roles, functions and composition of the oversight committees since the adoption of the separation of powers governance model in 2011.
- vi. To explore the application of the separation of powers governance model in EMM to identify the strengths and weaknesses of the model and analyse the data collected during the study against the principles of good governance.

1.8 RESEARCH METHODOLOGY

Research can be defined as a methodical enquiry in a particular study field performed to determine facts or principles (Kumar 2014:3). Research design is a plan or strategy a researcher will follow to achieve probable solutions to the research questions. The plan comprises of various methods and procedures to be applied during the research activity. According to Thyer (in Kumar 2014:122), a typical research design provides details of the research approach in respect of variables; sample of the study; data collection to test the hypotheses; and analysis of the results. The research design of this dissertation described the methods of data collection, selection of respondents as well as the analysis of the data. The research design for this study followed the logic order that linked the actual data to a research question and eventually to its findings (Yin 2014:28). The results of this study were not generic to other metropolitan municipalities due to EMMs unique actualities. The institutionalisation of the separation of powers governance model in EMM was introduced when the municipality was contending with the provision of sustainable services to communities.

1.8.1 Mode of enquiry approach

Three methodologies are applied in social research to acquire solutions to research questions, namely:

- The quantitative or structured approach
- The qualitative or unstructured approach
- The mixed-methods approach

The primary variance between the three is the degree of flexibility allowed to the researcher throughout the research study. In the quantitative method of analysis, the entire research procedure is predetermined and rigid, while the qualitative method permits a researcher complete flexibility. The quantitative method is founded on the theory of reason. It adheres to fixed, structured and pre-established objectives and it

quantifies the phenomenon. The measurement of the variables is essential to ensure impartiality of the process. The qualitative approach is embedded in the theory of experience derived from perception and conforms to an open, versatile and unstructured method of investigation. The approach endeavours to achieve variety instead of quantity and focuses on experiences rather than measurement. The mixed-methods approach has features from both the quantitative and qualitative approach. Certain research procedure characteristics may be flexible while others are rigid, subject to the appropriate model (Kumar 2014:14). The selection of a specific approach depends on the aim of enquiry and the utilisation of the findings.

1.8.2 Qualitative research approach

The qualitative methodology was utilised to evaluate the EMMs roles, powers and functions of the oversight committees because an analysis was conducted to establish the distinction in the phenomenon without quantifying it. According to Ackroyd (in Kumar 2014:17), both qualitative and quantitative methods have strengths and weaknesses and neither one is distinctly greater than the other in any aspect. The parameters of the scope of the study and the gathering of information was based on the adherence to the notion of respondent concordance. The researcher explained the purpose and the relevance of the study to the respondents with specific reference to the role, function and the powers of oversight committees as well as the implementation of the separation of powers in the municipality. According to Kumar (2014:173), an essential element of the quality of data is the manner in which the significance of the study is described to the respondents. Primary data was collected through open-ended individual and group questionnaires with members of the legislature, the executive as well as the support staff to acquire the best possible information. The aim of the individual questionnaires was to assess the experiences and opinions of the roles and functions of oversight committee members and members of the executive. According to Kumar (2014:178), a questionnaire is a written list of questions responded to by the participants. Therefore, the respondents are expected to read and comprehend the questions and record their

responses. The questionnaire must comprise of unambiguous questions because the respondent is expected to respond thereto without any clarification. Since oversight committee members are members of various political parties, personal bias could have an effect on objectivity. Avoiding bias is one aspect of a larger set of values that is included in the guidelines of research ethics. Moreover, introductory letters were provided to the respondents to explain the objectives of the research and seek consent to conduct the interview on a voluntary basis.

1.8.3 Research ethics

The National Research Council (2003:23) provides guidelines to conduct research in an ethical manner. These ethical considerations include the following assumptions:

- Attain informed consent from all participants by explaining the nature of the study and formally request participation on a voluntary basis.
- To protect all participants from any harm and ensure honesty in the study.
- Protection of confidentiality of participants to guarantee the right to privacy.
- Take precautionary measures to protect vulnerable groups.
- Decide on participants in an acceptable manner so that individuals do not participate unjustly or being excluded from the study.

To ensure that the research did not violate any of the above assumptions of research, the research design and questionnaires were submitted to the University of Pretoria's ethical committee for approval before undertaking the study. The researcher observed the principle of no harm to the participant, which implies that several strategies were utilised to protect personal information. These strategies included the removal of identifier components and secure data storage methods.

1.8.4 Case-study design in qualitative research

A case could be a single human being, a society, an occurrence, an incident, an event or a subgroup. To be named a case study, it is essential to regard its population as one structure. According to Yin (2014:16), a case study is a practical investigation that analyses a current occurrence comprehensively. A case study depends on several sources of evidence with interconnected data. Gilbert in Kumar (2014:155) mentions that the benefit of the case study design is that the research can be much more accurate than it would be when studying a large sample. The difficulty is that it is often impossible to generalise the findings. This design is of great value when the study underscores exploration and comprehension rather than conform and measure. The researcher adopted an exploratory case study approach because it is a valuable design when investigating a topic with limited information or one wants to have a comprehensive understanding of the current status (Kumar 2014:155). Literature on oversight and accountability is limited at the local sphere of government in the South African context. The separation of powers governance model was implemented in EMM for the first time in August 2011. Primary data was collected through questionnaires and information was gathered from secondary sources such as EMM council reports, government publications, journals and books. Auriacombe (2014:36) explains that secondary sources assist the researcher to gather appropriate information relevant to the study. According to de Vos, Strydom, Fouche and Delport (2011:382), secondary sources as a means to collect data is inexpensive because cost is limited. Another important benefit of secondary data is that it is unlikely that the researcher may manipulate the research findings because the data cannot be altered. However, the disadvantages include author bias as well as complex data that could be difficult to analyse. The unit of analysis for this case study was the municipal council of Ekurhuleni Metropolitan Municipality that comprised of both the legislative and executive authority. This single case study design followed a critical case rationale which illustrated that the proposition of the separation of powers governance model is to enhance oversight and accountability that can be validated through the research study. According to Yin

(2014:51), a single case study can embody a meaningful contribution to knowledge and theory development by endorsing, testing or expanding the theory.

1.8.5 Research instruments

Research instruments are methods utilised to compile data and interviews is a technique to gather information from respondents in qualitative research. According to Monette (in Kumar 2014:176), an interview includes an interviewer reading questions to respondents and documenting their responses. Interviews can be structured, semi-structured or unstructured. Crow (2013:3) postulates that structured interviews are often used in survey techniques with predetermined characteristics. Approaches such as semi-structured and unstructured interviews are commonly utilised in the qualitative research methodology because it provides more flexibility. Substantial categories of qualitative methods use semi-structured and unstructured interviews. According to Mason (2002:62), notwithstanding the huge differences in technique and practice, qualitative and semi-structured interviewing have particular fundamental mutual characteristics such as information that flows amongst two or more participants. A theme, fact-based or depiction method includes subjects or questions for discussion. A perception of appropriate information requires a researcher to ensure that pertinent perspectives are conveyed so that relevant knowledge can be generated. Consequences and considerations are formed in an interface which is a collaboration of the development of knowledge.

1.8.5.1 Survey interviews in a case study

Survey interviews is another type of case study that utilises a questionnaire. Interviewing is a frequently used technique to gather information from individuals which can be described as a reciprocal action that involves two or more individuals (Kumar (2014:176). This study was conducted by using open-ended questionnaires for members of the municipal council. The group questionnaires was distributed amongst

the oversight committee support staff. In a questionnaire, open-ended questions can provide an abundance of information because the respondents can respond to questions spontaneously. The advantages of utilising questionnaires is that it is affordable because one does not interview respondents. This saves time and financial resources. According to Kumar (2014:181), questionnaires are relatively convenient and inexpensive particularly when it is administered collectively in a study population. In the case of public representatives from different political parties, it is helpful because it offers greater anonymity and the respondents can provide information freely. Questionnaires have several disadvantages that could have an influence on the quality of the data. The primary disadvantage is that questionnaires are limited to literate persons and cannot be used for a very young or illiterate set of individuals. Questionnaires have a limited response rate, therefore, it might reduce the sample size. The response rate is subject to a number of factors such as the interest of the sample in the topic of the study. However, the response rate is not a problem when a questionnaire is administered in a collective location. According to Kumar (2014:183), survey interviews are generally more effective when executed face-to-face. Hence, the researcher opted for this method. The open-ended questionnaires provided the participants an opportunity to respond to the questions and request clarity. The survey interviews proved the best method for the participants because the majority comprised of councilors who have limited time for interviews due to their busy schedules.

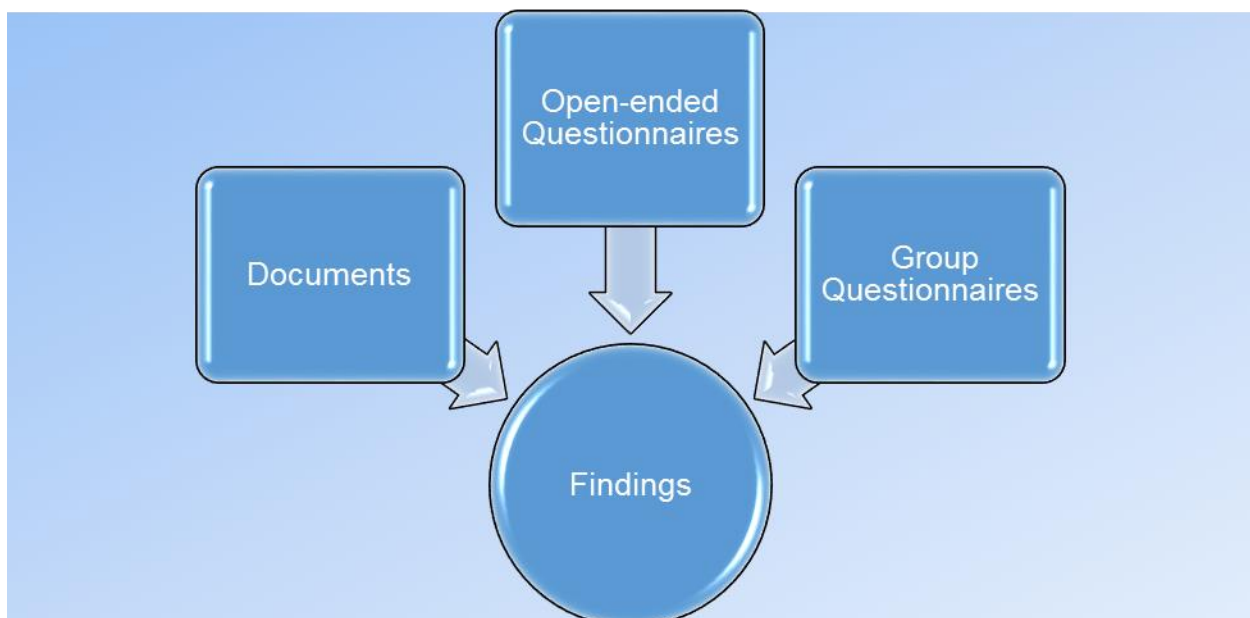
1.8.5.2 Group questionnaires

The group questionnaire is a qualitative technique of data collection at which 6 to 12 participants are convened to respond to questions in writing. The term group questionnaire surveys can be utilised to explain any survey in which a group of persons participate. A group is selected because of their homogeneous qualities of the topic of the study (Mason 2002:45). The researcher administered a group questionnaire for the oversight committee support staff which comprised of 10 members. Figure 1.2 below illustrates the multiple sources utilised to enhance the accuracy of the findings of the study.

1.8.5.3 Questionnaire design

A critical aspect of research design includes ensuring that the questionnaire design relates to the purpose of the research. Two questionnaires were developed for the purpose of this study to achieve and take into account its objectives. According to Burgess (2001:5), the questionnaire design can be split into three elements namely: determine the questions to be posed, select the type of each question and specify the wording and design of the question sequence and its overall outline. The first part of both questionnaires referred to the biographic details of the participants in terms of education levels, experience and training. This information was important to ensure that the best participants were selected in terms of the subject matter. The second part of the questionnaires included open-ended questions that related to the functioning of the governance model, the legislative framework and the strength and weaknesses thereof. The questions were concise and unambiguous to ensure the credibility and validity of the data collected for the study. Furthermore, the methods of collection included primary and secondary data to ensure accuracy.

Figure 1.2: Convergence of evidence



Source: Adapted from Yin (2014:121)

Figure 1.2 below illustrates the multiple sources utilised to enhance the accuracy of the findings of the study. The development of convergent evidence strengthened the construct validity of the case study. Several sources of evidence advanced certain measures of the same phenomenon. The triangulation of data was fundamental to ensure that the case study provided the correct interpretation of the participants' perceptions.

1.8.6 Research population

Sampling is the procedure to select a small number (sample) from a larger group (the sample population) as the foundation to understand a *status quo* or an outcome regarding the bigger group (Kumar 2014:229). According to Auriacombe (2014:104), sampling is utilised when it is impossible to study the entire population. Furthermore, the size of the sample should be in relation to the entire population to achieve the correct representation. Robinson (2013:38) postulates that sampling is conducted to ensure the validity of the data, which the study amasses. The researcher used purposive sampling and selected councillors and officials who are best placed to provide relevant information towards the study. For the purposes of this research, the sample was drawn from ten oversight committees. Seven members of each committee represented various political parties; ten members of the mayoral committee; chief whip; executive mayor; and the speaker of council were selected.

It was important to select diverse participants such as the members from the executive and legislative authority as well as support staff from the legislature. This decision was based on the assumption that it would produce a balanced view of the implementation of the separation of powers governance model. Their contributions and understanding of the governance model added significance to the study. The members of the mayoral committee were selected because they understand how policies are implemented as agreed upon in the municipal council. The members of the legislature from various political parties were selected on the basis that they understand the oversight processes

that promotes good governance. Therefore, they were the most suitable participants to provide insight on the different oversight processes. The support staff is responsible for all the research work including conducting an analysis of reports which are referred to oversight committees. Hence, they played a pivotal role in explaining the functioning of the separation of powers governance model. A total of ten support staff formed part of the group interview: five researchers and five committee officers represented the respective oversight committees. The researcher interviewed oversight committee chairpersons; chair of chairpersons including members of the oversight committees. Table 1.2 below provides a profile of the respondents and illustrates the composition of the study's sample population.

Table 1.2: Profile of respondents

Profile of councillors	Ward	Proportional representatives
Respondent	ANC	DA
ANC	40	
DA	30	
EFF		10
Mayoral committee		10
Speaker		1
Chief Whip		1
Chair of chairpersons	1	
Chairpersons		10
10 Support staff (Group Interview)		
TOTAL POPULATION SIZE: 113		

Source: Author's own illustration

1.9 SAMPLING STRATEGY

The objective of a case study is to provide useful information and a comprehensive understanding of a specific targeted group. To reach this goal, qualitative research accentuates criterion-based sampling techniques to reach the research population. According to Yin (2014:40), sampling refers to a need to acquire statistical generalisation because it is deduced that a population based on empirical data is accrued from a sample. Furthermore, Kumar (2014:243) posits that researchers in qualitative sampling primarily utilise purposive and accidental sampling approaches to select respondents. Expert sampling is identical to purposive sampling. However, the difference is that in expert sampling, the sampling population is comprised of experts in the study field. The sampling techniques comprise of various objectives that equip researchers to justify generalisations from the sample that is being studied.

1.9.1 Purposive sampling

Van Manen (2014:14) defines purposive sampling as the practice that is utilised to determine whether respondents are selected based on knowledge and verbal eloquence to narrate a category to which they belong. Yin (2011:311) describes purposive sampling as the selection of respondents or sources of data to be used in a study based on pertinent information in relation to the research question. Purposive sampling was utilised to gather relevant information in respect of the study. Maphalla (2013:22) asserts that when the researcher selects purposive sampling, they decide on participants whom they know are most likely to provide information required for their study. The study population comprised of 212 participants and the sample size was 113, which constituted more than 50% of the population. Most of the questionnaires were completed in detail and generalisations were inferred from the written responses. It enhanced the study to achieve greater insights into the phenomenon as well as identify common themes evident across the sample.

1.10 CLARIFICATION OF CONCEPTS

To contextualise the research problem in respect of oversight mechanisms in local government, it is imperative to define specific concepts relating to the separation of powers.

1.10.1 Public administration

One of the earliest descriptions of Public Administration is by Wilson (in Gildenhuis 1988:12), who wrote that the discipline of administration is an area of business and the focus of organisational investigations is to free decision-making systems from the perplexity and excessive cost of practical trials, and to set them upon foundations placed in stable principles. Public administration is the comprehensive and methodical execution of public regulations. Every function of universal rule is an action of administration. Thornhill et al. (2015:15) define public administration as the method required to guarantee that the policy framework exists; that a structure is created to obtain human resources to execute the tasks assigned to the organisation. Organisational arrangement is created to clarify roles and responsibilities of each worker to approach their responsibilities with confidence and processes are implemented to enable capable and competent provision of services. It can, therefore, be concluded that the process of public administration refers to a series of associated activities that need to be accomplished in public institutions.

1.10.2 Local government

Section 151 of the 1996 Constitution states that the local sphere of government must comprise of municipalities, which must be developed for the country. Section 152 of the 1996 Constitution describes the objective of local government is to deliver independent and answerable government for local residents. According to Thornhill and Cloete (2014:143), each state has a structure of local authorities. In certain states, local

authorities operate autonomously, while in others as agents of national authorities. In the South African context, both national and provincial government must assist and reinforce local government to administer their own affairs.

1.10.3 Metropolitan municipalities

Venter and Landsberg (2013:136) assert that *metropolis* originated from the Greek word *metros*, which refers to the mother or parent city of states, also known as capital cities. Metropolis, therefore, refers to any large city or complex of municipal authorities. The 1996 Constitution establishes three categories of municipalities. Metropolitan municipalities have been established in terms of Category A. This category of municipality determines that a municipality has sole municipal and legislative power in its jurisdiction. To be classified as a metropolitan municipality, it must have more than 500 000 voters, and govern South Africa's most developed areas. These municipalities are divided into wards. The metropolitan municipality co-ordinates the delivery of services to the area under its jurisdiction and the legislative and executive powers are bestowed in the municipal council.

1.10.4 Municipal council

Municipal council is the council of a municipality referred to in section 18 of the *Local Government: Municipal Structures Act, 1998* (Act 117 of 1998). Section 157 of the 1996 Constitution deals with the composition and the election of a municipal council. Furthermore, it explains that a municipal council involves members elected in accordance with subsections 1, 2, 3, 4 and 5 of section 157.

1.10.5 Governance

The word “governance” originated from the Latin word “*gubernare*,” and from the Greek word “*kubernaein*,” meaning to direct. Thus, governance refers to the method of directing, leading and controlling an institution or a country. Williams (2009:22) describes governance as a collaborative and symbolic association between the state and other stakeholders such as civil society, business and non-governmental organisations. Governance includes the methods utilised in decision-making, the supremacy of institutions and the manner in which public representatives are held answerable (Matheson 2004:37). The concept of governance is also used to explain the interaction and components of the relationship amid government and society.

1.10.6 Good governance

According to the World Bank Conference Report (2012: xii), good governance refers to a policy approach that highlights the roles of the political, organisational and economic standards of lawfulness and efficacy in the daily operations of the public sector. Good governance personifies a bureaucracy inculcated with professional ethos to promote the public good, the rule of law, transparent practices and a strong civil society participating in public affairs.

1.10.7 Legislative authority

The provisions of the 1996 Constitution gave effect to the legislative authority in national government that is conferred in Parliament. The provincial sphere of government is conferred in the nine provincial legislatures. Legislative authority in all spheres of government has a number of generic functions, namely: legislative, control, financial, reconciliation and representation functions (Thornhill 2012:39). Thus, legislatures have the final say regarding legislation and budgetary proposals submitted to them.

Therefore, the primary purpose of every legislature is to approve laws on matters assigned to it.

1.10.8 Executive authority

Chapter 5 of the 1996 Constitution provides for the President and national executive. According to Thornhill et al. (2015:63), executive authority gives effect to the decisions made by legislatures. Thus, the executive authority is sanctioned to implement laws, advance and implement programmes and direct and monitor the work of government departments.

1.10.9 Separation of powers

The separation of powers is a constitutional imperative, specified in the 1996 Constitution as: “There shall be a separation of powers between the legislature, executive and judiciary, with suitable checks and balances to ensure accountability, responsiveness and openness.” Separation of powers between the three arms of the state, namely the executive, the legislature and the judiciary, prevents the abuse of power. According to Venter and Landsberg (2013:53), the principles behind the doctrine of the separation of powers is that legal political power is too incredible to be assigned to a single person or institution in a state.

1.10.10 Oversight

The South African accountability model (2012) explains oversight as a constitutionally assigned function of the legislative structures of the state to analyse and oversee the executive action of any structure of state. Griffin and Newman (2005:1206) state that legislatures effectively stand guard as overseers of the executive and act as custodians of reliability in the interest of the communities. Most importantly, oversight entails

monitoring the work of the executive in search of enhanced service delivery to achieve of a better life for all communities.

1.10.11 Accountability

One of the basic values and principles enshrined in section 195 of the Constitution is that public administration must be answerable. Hedger and Blick (2008:15) argue that the accountability relationship is a horizontal one and it is achievable by the distinct separation of powers between the executive and the legislative authority as it forms a foundation for a democratic system of government. Consequently, the promotion of accountability on the part of the executive is linked with the requirement to accelerate good governance.

1.11 RESEARCH FRAMEWORK

The framework of the research comprises of the following six chapters.

Chapter 1: This chapter introduces the topic and explains the background to the problem. The chapter also expounds on the purpose and the motivation of the study, the research methodology as well as the clarification of the concepts in the study.

Chapter 2: This chapter examines the conceptual and theoretical framework of the topic within the public administration context, and compares practices in the provincial and national spheres of government. The chapter also outlines theoretical propositions that provides guidelines to achieve good governance.

Chapter 3: This chapter considers the legal framework, oversight guidelines and national circulars that can be utilised to separate executive and legislative powers at the local sphere of government.

Chapter 4: This chapter explores the application of the EMM's separation of powers governance model in respect of the roles, functions and composition of oversight committees. It also explains the delegation of powers, terms of reference and reporting systems as tools of oversight as well as the strengths and weaknesses of the governance model. This chapter analyses the actual separation of powers at the local sphere of government. The unit of analysis for this case study is the municipal council that comprises of both the legislative and executive authority.

Chapter 5: The research findings and recommendations are presented in respect of the separation of powers to enhance oversight and accountability. The research data is analysed against the principles of good governance.

Chapter 6: The final chapter of this study provides a summary of all the chapters as well as constructs the necessary recommendations based on the data collected throughout the study. Finally, proposals are made for possible future research arising from the study.

1.12 SUMMARY

This study established the significance of oversight at the local sphere of government to ensure effective governance. Given the 1996 Constitutional limitations on the separation of powers at the local sphere, the separation of powers in EMM does not seek to separate the municipal council but attempts to institute a governance model. Oversight

is one of the characteristics of good governance because it promotes municipal executive accountability. The notion of the separation of powers seeks to establish an environment conducive to oversight and accountability. The study assesses the separation of powers governance model in EMM and the benefits associated with the formation of the section 79 oversight committees of council. Furthermore, the study expounded upon the opportunity for extensive scrutiny of the municipal departments including the reporting and delegation systems as tools of oversight to promote good governance.

CHAPTER 2

THEORETICAL FOUNDATIONS OF THE SEPARATION OF POWERS

2.1 INTRODUCTION

Chapter two responds to the research questions posed in chapter one (section 1.6): *“What are the theoretical propositions that provides guidelines to achieve good governance with the implementation of the separation of powers in Ekurhuleni Metropolitan Municipality? What are the best practices of oversight and accountability at the national and provincial spheres of government?”* This chapter also seeks to achieve the objectives of the study as outlined in chapter one (section 1.7): *“To analyse the theoretical foundations that underpin the principles of good governance to provide an explanation of the rationale of the separation of powers governance model to enhance oversight and accountability. To investigate best practices in respect of oversight and accountability at the national and provincial spheres of government.”* The theoretical foundations were analysed in the broader field of public administration, which is acknowledged as a distinct field of work, as well as compel public officials to observe the basic values and principles that regulate their behaviour to perform their duties. Ethical guidelines emanates from the body politic of the government of the day and the prevalent beliefs of civil society. The 1996 Constitution affirms the basic principles and values that govern public administration. The democratic dispensation assumed responsibility of a public service that was surrounded by complexities. These complexities were rooted in an administration that was based on the previous regimes segregation policy.

The impact of apartheid created a public service that lacked validity, capability, representation and the ability to provide uniform services to all South Africans. The task of the democratic government was to transform the ethos of the public service and to embrace the need to build an efficient, effective and responsive public administration

that would serve the South African citizenry. This would be in accordance to the basic values and principles stipulated in section 195 of the 1996 Constitution.

The functionality of public administration depends on principles such as transparency and accountability. It determines a government's ability to provide services and to advance the country's competitiveness and economic growth. This chapter explains the classical theory of public administration that viewed bureaucracy as a ruled-based central system that regulates the organisation's structure and processes to maximise efficiency. The evolution of management theories resulted in contemporary approaches being developed that took the broader role of the organisation in its environment into account. Furthermore, the concept of new public administration will be examined in relation to the separation of powers particularly the democratic values and client orientation embedded therein.

2.2 DEFINING PUBLIC ADMINISTRATION

One of the initial descriptions of Public Administration stipulated by Wilson (1886) is that the administration discipline is a domain of business and the aim of administrative analysis is to find solutions for executive systems to reduce the cost of pragmatic experiments and to establish secure foundations. Public administration is removed from the discord of politics and stands above the controversial view of constitutional study. Goodnow (in Shafritz and Hyde 1997:2) posits that politics is the expression of the undertakings of the authority and administration is the application thereof. Thornhill, Ile and van Dijk (2015:15) define public administration as the procedure required to ensure policy implementation. They further state that a structure is established to acquire human capital to perform responsibilities delegated to the institution. A structural agreement should be formed to clarify the functions of every employee to provide them certainty regarding their obligations and procedures to enhance service delivery. Adequate resources should be allocated to accomplish the duties assigned to the

institution and ensure that systems are implemented to hold every official answerable if they have not performed their duties. Nnoli (2003:10) describes public administration as the system through which the government executes its functions. Public administration is a system of distinct interfaces and actions established by the government, assigned to all employees to ensure the distribution of capable services to society. Section 197 of the 1996 Constitution stipulates that there is a public service within public administration which functions and is designed in respect of national legislation. This public service ought to implement the official programmes of the government of the day dutifully.

It can be concluded that the process of public administration refers to several associated events that need to be executed in public organisations. The principles of public administration includes accountability to civil society and the significance of community values in the delivery of services. Consequently, public administration can be described as the management of limited resources to achieve the objectives set by public policy. Public administration theory should reflect the sequential developments of paradigms. Ritzer (1996:637) describes a paradigm as the largest component of agreement within a science that distinguishes between scientific communities. A paradigm infers a standard, system or a perspective of scientific and academic ideas and suppositions. Bourgon (2007:7) deduces that the classical theory does not fully uphold the various complexities of public services systems. Knowledge does not remain stagnant; as the evolution of society takes place, existing theories are enhanced and modernised.

2.3 THEORIES OF MANAGEMENT

Theories are logical instruments for identification, explanation and making projections about the subject. Theories are associated with study fields, while several theories may cut across these study fields. Therefore, a theory indicates a conceptual opinion of an occurrence or a structure and will establish the foundation for a sequence of analysis.

Thus, a theory would contain one or more suppositions (Welman, Kruger and Mitchell 2005:12). The key function of theoretical frameworks as described by Swanson (2013:34) is that the investigation of a variety of information is confined to a study field as the phenomena may be studied in many methods. Concepts are elements of theoretical frameworks that explain a phenomenon and extend current conceptions within the confines of norms (Welman et al 2005:20). Concepts are critical in theory formulation as they form the basis of interpretation and present a viewpoint on the aspect under consideration, as well as specify a mode of classification and explanation.

The theories of management can be categorised into two key schools of thought, specifically classical approaches and contemporary approaches. Management theories are related to the attainment of productivity within certain periods (Smit et al 2013:30). There is no theory that is superior; instead, an eclectic practice exists that uses management standards from various theories as determined by the environment. Managers might use a combination of theories in the execution of their duties. The classical approaches to management present a basis for organisations as they operate today. This approach responds to important issues of that epoch, specifically the demand for productivity (Smit, Cronjé, Brevis and Vrba 2013:39).

2.3.1 Classical approaches

Management is the most vital component of any institution. The term “management” originates from the Latin word *manu agree*, interpreted as “leading by hand”. According to Drucker (1974:25), management endeavours to get tasks done in a collaborative manner. Mastery of management theories is a key element to ensuring the efficient and economic utilisation of resources. Classical management theories evolve to determine and command behaviour in institutions. The following salient features are manifest within classical management theories.

- Chain of command

In classical management theories, management is categorised according to three forms, namely: top management, middle management and first-level management. Similarly, the separation of powers indicates three levels of authority, namely: the legislature, the executive and administration.

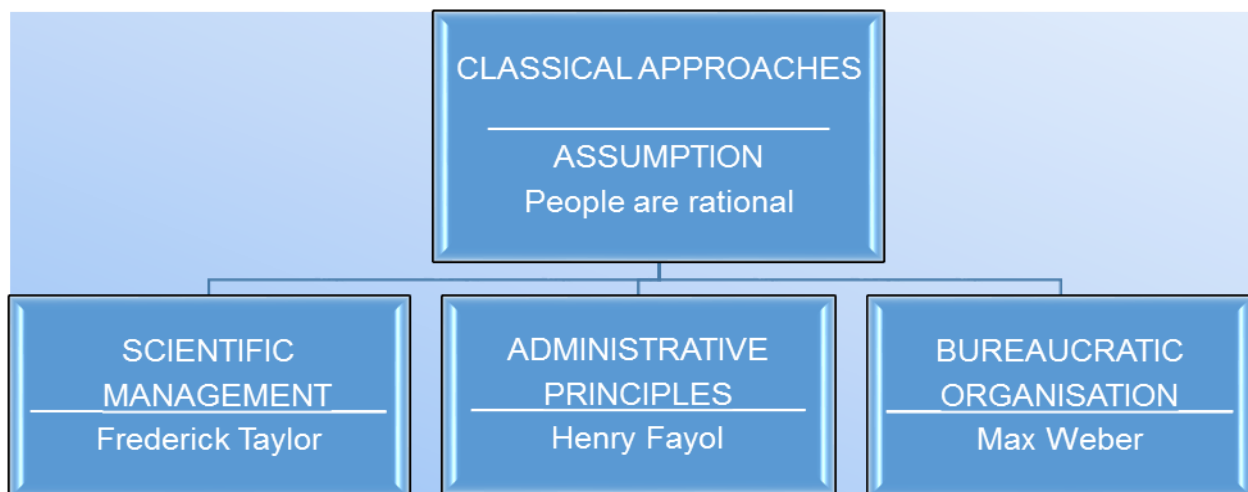
- Division of work

Complicated duties are divided into basic tasks that can be performed easily by workers. There is a clear division of work amongst the executive and the legislature.

- Unidirectional downward influence

One-way communication exists in classical management theories. Top-level decisions are made by top management and directed downwards in the institution. Accordingly, programme decisions are taken by the executive arm of the municipal council and distributed to the legislature through a formal process. Three well-known theories of classical management are scientific management theory, administrative theory and bureaucratic theory (Mahmood and Basharat 2012:514). These theories are displayed in Figure 2.1 below.

Figure 2.1: Three branches of the classical approach to management



Source: Adapted from Smith and Cronjé (2013)

Frederick Taylor developed the scientific management theory in 1911, which is referred to as time and motion studies. Taylor promoted the methodical coaching of employees in the best method rather than permit them individual judgement to execute a task. The theory assumes that money motivates workers. Therefore, as knowledge developed through daily tasks, the workers were paid in respect of the individual piecework system. Employees who generated more production than the set standard were remunerated a higher rate (Smit et al 2013:39).

According to Oyedele (2015:11), Taylor proposed four underlying principles of management. The first principle relates to the need to develop a science to replace dated methods of remuneration packages to reward workers according to work performance measurements. The second principle selects workers scientifically and provides training to achieve excellence. The third principle states that the science of work should be combined with capable instruction to achieve the best outcomes. Lastly, work and obligations need to be shared evenly between workers and management in a collaborative manner. The separation of power illustrates these principles, because it is concerned with the execution of duties that must be perfected to achieve government's set objectives. The legislative and executive arms of government must work together to provide the best services to the citizens of the country. Admittedly, public officials must be trained to assist the executive to achieve its aims and objectives.

Henri Fayol's administrative theory primarily accentuates management's responsibilities and assumes that it is an activity familiar to all human endeavours in business, government and sports organisations. Fayol established five basic functions of administration: planning, organising, commanding, coordinating and controlling. Planning entails the preparation of organisational objectives. Organising recognises efficient coordination of resources to achieve the set objectives. Commanding and control relates to the ability to managing people. Coordinating addresses the actions of divisions to produce an understanding of achievement to guarantee a cost-effective

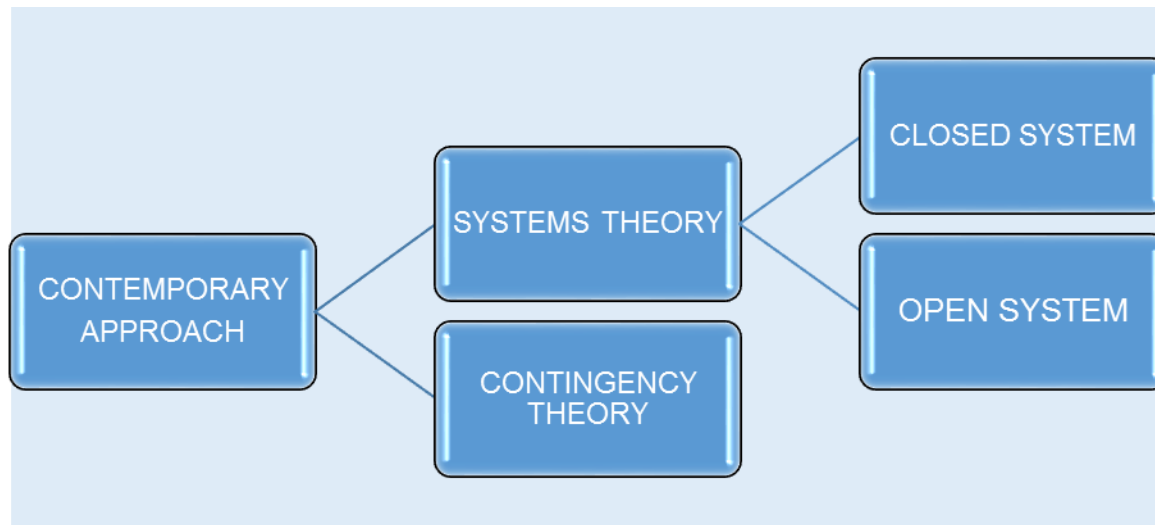
functioning organisation (Smit et al 2013:35). Fayol's five principle roles of management are planning, organising, commanding, coordinating and controlling these are all essential roles of the executive and legislative arm of government. The legislator has a pivotal role to play with regard to control because they analyse the executive's reports to limit government resource abuse.

Max Weber's primary concern was the crucial issue of how organisations are designed. Smit et al (2013:35) explain that the bureaucratic theory underscores the necessity for a well-defined hierarchy, directed by clearly specified procedures and authority. Weber's ideal bureaucracy is founded on lawful power of authority. The bureaucracy was intended as a mechanism to achieve its objectives in the most effective method possible. Essentially, the controls set by the legislator draw inferences from the bureaucratic theory. The legislator is authorised to conduct oversight and scrutiny as specified in terms of reference of oversight committees. The principles of the bureaucratic management theory include well-defined written rules. The separation of powers governance model functions on standing rules adopted by the municipal council.

2.3.2 Contemporary approaches

The contemporary approach considers the organisation and its environment. The business environment plays a vital role in effecting management decisions. The modern approach to public administration is concerned with results pertinent to the client. The application of the contemporary type of public management implies the development of a new paradigm in the public sector. According to Katsamunska (2010:79), modern public management accentuates performance management and the commitment to accountability instead of centralised authority and control. The separation of powers governance model acknowledges the administration as well as the needs of society. Figure 2.2 below illustrates the contemporary approach to management.

Figure 2.2: Contemporary approaches



Source: Author's own interpretation

Oyedele (2015:14) explains the systems theory as an integrated unit comprised of several interdependent parts or sub-systems. The systems theory describes how public administration practices are organised within a system and sub-system and the interrelated nature of the systems. The systems theory also examines the active interface between an administrative system and its external milieu. The execution of public laws necessitates that the foundations of the systems theory, namely: inputs, processes, outputs and feedback, are utilised such that it advances functionality because the actions of the sub-system has an influence on the government. The systems theory gives prominence to the organisation as a collaborative system.

The organisation as an open system has a specific relationship with the environment; therefore, management needs to adapt to the changes therein. Neither the organisation nor its environment can be termed as a self-supporting closed system because they depend on each other for continued survival (Smit et al 2013:62). Thornhill (2015:182) asserts that the systems theory acknowledges the complex nature of governance, given the existence of sub-systems, interrelatedness and interdependence. The municipality implemented oversight mechanisms to ensure accountability by the executive arm of

the municipal council through the application of the separation of powers governance model. The systems theory of management accentuates that the administration should maintain a balance between the various parts of the organisation, including the executive and the legislature to enhance oversight of activities. The link between the executive and the legislature is to ensure that the municipal systems are aligned to provide excellent services to communities. The systems approach underscores that the activities in one part of an organisation affect those in another. Similarly, the executive affects the resolutions of the municipal council while the legislature is required to conduct its oversight role. The systems approach also suggests that the whole is greater than the sum of its parts, which indicates that synergy between the executive and the legislature is essential (Smit et al 2013:62).

2.3.3 Structural-functional approach

Oyedele (2015:15) describes structural functionalism as the interactions between government sub-systems, for example, intergovernmental relations that strive to achieve specific goals through an institutional arrangement. Furthermore, it attempts to explain how structures combined with a range of other establishments operates to provide services to society. The function of the structural approach signifies the influence of an organisation on each other and the interrelation between numerous structures.

Fred Riggs's theory of prismatic society effectively utilised the ecological and structural-functional approach in the study of societies and their administrative systems. The ecological approach observes the interface between administrative systems and the environment. Riggs (1980:108) underscores the effect of the external environment, such as the political, economic, social and cultural systems, and the influence of the administrative system on these environmental structures. Thus, the functional approach clarifies intentions for the development of partnerships as well as how such

collaborations fulfil organisational needs. Therefore, the mandate of oversight committees includes public participation and public hearings to develop relationships with stakeholders.

2.3.4 Contingency approach

The contingency approach is based on the notion that there is no single best approach to manage. Instead, the ideal situation is dependent upon the internal and external conditions. Thus, a contingent leader effectively employs his or her own characteristics to the appropriate circumstances. The contingency approach acknowledges the distinctiveness of an organisation and departments within the same organisation. While the contingency approach highlights a situational approach, it is imperative to acknowledge that not all management conditions are indeed unique. The aspects of the conditions are referred to as contingencies and they can be useful in the identification of the situation (Smit et al 2013:41). The contingencies range from the organisation's external environment to the organisation's own capabilities. Public managers in South Africa must apply multiple methods to achieve the best results in respect of service delivery. The separation of powers governance model accentuates analysis of executive reports, therefore, it must provide guidelines to apply multiple methods to improve service delivery and accountability.

2.4 NEW PUBLIC MANAGEMENT CONCEPT

Globally, the new public management concept was developed in the 1980s as a contrasting view to traditional public administration. South Africa embraced the democratisation process as a stimulus to public sector reforms. Consequently, the process of decentralisation was enacted with the constitutional formation of local and provincial government. Decentralisation is justified because local government is closer to communities.

O'Flynn (in Vyas-Doorgapersad 2011:238) asserts that the new public management paradigm indicates a break from the conventional model of public administration. Thus, it can be described as a transformed public sector that repositions itself away from autocratic approaches in top-down hierarchies highlighted in bureaucracies. Accordingly, new public management is perceived as a body of managerial concepts created in the private sector and introduced in the public sector. According to Vyas-Doorgapersad (2011:238), the elements of new public management concept as a new paradigm includes the disintegration of centralised bureaucracy as well as decentralisation of units in the public sector.

Consequently, it should encourage greater competition in procurement processes and enhance the private sector techniques of management practices. The primary goal of the new public management is to achieve more transparency, more efficiency and excellent quality with reasonable cost. The foundations of new public management include:

- Privatisation, out-sourcing, internal competition and inclusive use of market incentives are necessary;
- Public administration should consider citizens as “customers” to whom government departments ought to be approachable;
- Government should ensure the provision of public goods and services rather than provide the services itself; and
- Centralise bureaucratic command of government operations is unsuitable to outcomes-based public administration and can be substituted by competition and answerability to communities.

Technological developments and communication is a new paradigm in government and according to the new public management concept, improved distribution of information. Therefore, the new public management concept can be beneficial to the separation of

powers governance model because it underlines the principles of efficiency and effectiveness.

2.5 PUBLIC VALUE THEORY

Kelly, et al (2002:35) posit that public value proposes a comprehensive approach to evaluate government performance as well direct policy decisions. Considering this all-inclusive method, taking into account the significance of government, public value could help to enhance policy decisions thus improving the relationship between government and citizens.

The public value theory aspires to strengthen the role of publicly formed values in contrast to the new public management approach that focuses on decreasing bureaucracy through procedures founded on economic efficiency. The public value theory was developed to reduce the rigidities and can be perceived as a contemporary effort to express how institutions subscribe to the common good. This approach within a democratic political framework challenged traditional public administration. The limitations of traditional public administration include the absence of internal mechanisms that restrain the spending of resources devoted to institutional development (O'Toole, Meir and Nicholson-Crotty 2005:46). This study will apply the public value theory to achieve good governance and accountability.

Good governance includes capable management of government resources as well as greater accountability of public representatives. The public value scorecard proposed by Moore denotes two key principles of the separation of powers, namely: cost-effective services and specified outcomes of work, including unintended consequences (Turkel 2016:5). The oversight goal entails scrutiny of predetermined objectives as specified by the executive arm of the municipal council. The executive members of the municipal council have a fiduciary role to play towards the community. In the public sector, the intermediary between public officials and public representatives is the community. A

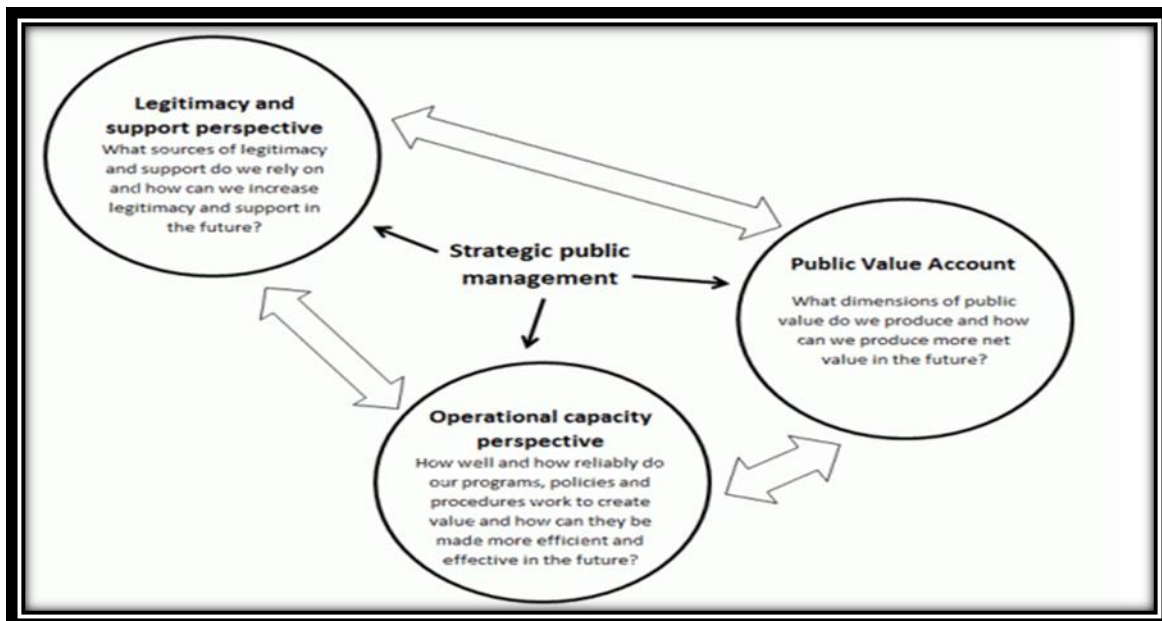
democratic government recognises individuals as key elements of society as well as society as a collective. According to Stoker (2006:55), public value signifies a new paradigm as it serves to solve the conundrum between democracy and efficiency. Christensen and Laegreid (2007:122) postulate that the public value concept accelerated in Britain after the new public management paradigm. Furthermore, Stoker (2006:55) posits that in an epoch of cooperative governance, the new public management paradigm cannot provide a method to respond to challenges. Stoker (2006:56) asserted that the strength of public value lies in its redefinition of how to meet the challenges of effectiveness, accountability and impartiality and its capability to depend on the common good. People are inspired by their participation and relationship with others developed in the context of shared value.

The public value paradigm assertion has broadened beyond the academy to practitioners and think tanks. The Work Foundation, a United Kingdom think tank, has promoted public value as an innovative way of thinking post the new public management theory which provides for 'an all-encompassing framework in which analysis of lawfulness, resource distribution and measurement can be made' (Horner and Hazel 2005:34). Thus, the separation of powers endeavours to enhance accountability and to ensure that public money is spent on programmes beneficial to communities. Poor government is a result of institutional corruption without checks and balances. O'Flynn (2007:353) posits that the public value debate is a post-bureaucratic and post-competitive perspective that advances beyond the restricted market operations versus government failure approaches. According to Thornhill (2012:95), decisions by legislatures are based substantially on authentic information but could be guided by value considerations. Legislatures are responsible for the well-being of society and sanctioned with discretionary powers to resolve conflict. Thus, legislatures have the final decision-making power in respect of the nature and extent of the actions of the executive authority.

2.5.1 Creating public value according to Mark Moore

Moore (1995:94) postulates that his theory is a normative theory of managerial behaviour. According to Turkel (2016:3), the public value approach of Mark Moore underlines two important principles. Firstly, values are entrenched in the needs and opinion of individuals. Secondly, the public sector fulfils two needs of individuals namely, the provision of goods and services that cannot be supplied through the market; and safeguarding individual privileges, explaining tasks and obligations. Therefore, the goal of public managerial work is to produce public value as well as the formulation of closer associations between the values and objectives expressed through citizens' participation in the political process. Essentially, political institutional and community forums are fundamental for the decisions made by administrators. Value is created by fulfilling politically expressed wishes by the citizenry. Moore observes the similarities between public administrators and corporate executives with long-term obligations to their departments (Moore 2013:421).

Figure 2.3: Public value diagramme



Source: Mark Moore (2013:420)

The legislator may use the strategic public management framework to achieve the goals of oversight and scrutiny. Goals must meet three criteria: be extensively valuable, politically justifiable and administratively practical. The legislator recognises the significance of politics and administration as well as the delivery of services. Admittedly, the strategic triangle relates to public programmes that will bring quantifiable outcomes to meet the needs of society. The public value theory purposes greater merging of politics, administration and efficiency as well as the expectations of citizens. The separation of powers governance model underscores accountability and the creation of a public value chain that translates into good governance (Turkel 2016:3). Downer (in Gumede 2014:45) postulates the following elements of good governance:

- Good governance is founded on the creation of a representative and answerable system of government.
- Good governance necessitates reputable establishments with regulations overseeing the actions of individuals and institutions.
- Good governance entails a high level of openness and answerability in the public domain.

Furthermore, Kuye (2007:560) states that the concept of good governance is a key component of governance requirements in any contemporary state. The World Bank (2012: xii) defines governance as the procedure of policy-making through intense consultation among policy-makers who are associated through a comprehensive system. The primary features of good governance are significant in respect of oversight because it refers to accountability and transparency in terms of the delivery of services.

2.5.2 Public values according to Barry Bozeman

Barry Bozeman developed a pragmatic public value theory. In comparison to Moore's managerial perspective, the pragmatic theory is concerned with the societal level. The pragmatic approach follows an institutional, processual and dynamic method rather than

an approach based on accumulating exclusive choices in value formation. Normative publicness specifies that organisations political and economic authority as well as policies are connected and interrelated (Turkel 2016:5). Bozeman is judgemental of market-based methods because they accentuate market associations as merely competitive and do not theorise power disparities and politics. This lack of power and politics does not depict the real position of all contributors of the public sector.

Consequently, the separation of powers governance model is a multi-party approach to decision making in a municipality. Public interest should be included in public policy and accentuate social, economic and political values. Therefore, to refer to public value is to acknowledge the social referent of public interest (Bozeman 2007). Moreover, the public value theory encourages the legislator to ensure that government actions bring value to society. The public value view nurtures a comprehensive approach to the functioning of the public sector since it extends beyond specified processes (Meynhardt 2009:193).

2.5.3 Theoretical aspects of public value theory

Bureaucratic legal rational organisation forms an essential part of traditional public administration while the new public management approach underlines economic efficiency. Synthesises of such disparities is vital to address the primary concerns and to formulate it as a continuum. The new public management approach is concerned with the efficient allocation of resources to minimise costs to achieve the organisational goals. The public value theory promotes citizen participation in respect of value creation as well as unify economic efficiencies and organisational arrangements.

The separation of powers is concerned with best value for the public both in monetary and social aspects, thus accentuating the significance of citizen participation. The public value theory underscores citizenship and democracy as principles and relates to

procedural aspects of public affairs. Therefore, the public value theory approaches are process-based concepts of public management and democratic procedures (Turkel 2016:3). Lawrence (2014:480) affirms the significance of Moore and Bozeman's study in the formulation of the public value theory. Moore (2013:421) argues that the application of the new public management approach is limited to government's accountability of economic efficiency and recognises government's distinctive responsibility to impartiality, equality and accountability. Bozeman's other perspective underscores that the new public management approach prioritises market considerations at the cost of purposeful results. Although viewed differently, both include political dimensions and decision-making within the public sector. The proponents of public value theory promote economic efficiency and administration in an open and accountable political context (Dahl 2014:496).

2.5.4 Public values and the democratic process

The public value approach developed by Mark Moore accentuates the evolving function of politics in public administration in respect of economic efficiency. Traditional public administration divided politics from administration. The new public management approach defused politics and the public value theory involves politics (Turkel 2016:4). The goals of the public value theory is to achieve improved concurrence between administration and efficiency. Moore developed the assessment measures for public values to go further than the constricted limits of competence related to the new public management approach. The public value approach concedes that public values need to include the aims and aspirations of larger communities. Williams (2011:1367) mentions that overemphasis of efficiency cannot encapsulate the political and related characteristics of public values. Thus, it cannot provide an appropriate opinion of public administrators and their actions. Public management cannot be only a functional activity; however, managers must occupy a specific fiduciary role in the democratic system that requires exemplary conduct. Moore developed a public value scorecard that has two main features. First, the scorecard identifies decrease of expenditures as an

imperative value-creating aspect. It also permits government departments to record the intended and unintended outcomes. The separation of powers highlights the role of accountability of public representatives to the public as well as participation of the public to achieve collective value social outcomes.

The legislator must ensure that the executive accounts for all their actions and conforms to the municipal service delivery budget implementation plan (SDBIP) as well as omissions thereof. The public value theory is the foundation to assess whether public interest has been preserved in a democratic system. According to Moore (2013:420), public value breakdown takes place when essentials thereof are not specified in social contracts or in public policy. Moore's strategic triangle is an organisational model that motivates public administrators to assess meticulously of how to develop policy programmes based on the political context. Accordingly, the separation of powers ensures that municipal departments develop organisational plans based on the executive authority political milieu of the municipal council.

2.5.5 Managing publicness

Managing publicness necessitates an affirmation of public value as an initial point not as something to be bargained upon randomly. Public value may be surrendered only in extreme circumstances; hence, managing publicness does not imply managing for a specific form of public interest but rather managing in the best interest of communities within the limits of the law. The foundation of public value theory is the balance between democratic access and accountability rather than market imperatives (Turkel 2016:4). The legislator ensures that the integrated development plan is reviewed annually to take into account the needs of the public. The effect of good governance is particular to procedures of government, and its key determination is continual improvement and enhancement of these procedures.

2.6 GOVERNANCE THEORIES

The concept of governance within the field of public administration has been prominent in international and academic debates. Kjaer (2004:24) states that the initial governance debate commenced during the shift in the public administration domain from conventional thinking. This development relates to inadequacies in the delivery of services in the public sector. Consequently, governance debates began at the end of the bureaucratic period as the socio-economic situation in western countries were tarnished with inefficient service delivery to communities (Kjaer 2004:2). The concept of governance is defined and understood by several international bodies, namely: the World Bank, United Nations and the Organisation for Economic Co-operation and Development (OECD). The World Bank (1992:12) defines governance as the manner in which political, economic and administrative authority is exercised to manage a country's affairs at all levels. It includes mechanisms, processes and institutions through which civil society expresses its interest, exercise their rights and resolves their disagreements. The Organisation for Economic Co-operation and Development (OECD 2006:3) stated that governance is the exercise of political, economic and administrative authority needed to manage a nation's affairs.

Scholars such as Huberts (2012:188) defines governance as an authoritative policy-making process on a series of problems and the execution of these policies. Lloyd (2007:2) describes governance within public sector as a government that is committed to do the right thing, in a truthful manner for the citizens in an approach that is timely and where government is accountable for their actions. Ewaldt (2001:11) sets the basis for understanding the association between governance and administration and refers to the following five assumptions:

- Governance is concerned with institutions and internal and external stakeholders;
- Governance identifies the perversion of peripheries and the obligations to attend to socio-economic issues;

- Governance recognises the power reliance involved in the relationships amongst institutions;
- Governance is concerned with autonomous self-governing systems of the stakeholders;
- Governance appreciates the capability to be self-sufficient and not to depend on the power of government.

The above definitions have affected the conceptualisation of the concept of governance within the South African context. Huberts (2012:188) defined governance from a policy perspective, while Lloyd (2007:2) described governance from a public administrative perspective. The separation of powers governance model is founded on elements concerned with governance which includes accountability, democracy, ethics and the rule of law.

2.6.1 Conceptual framework for good governance

According to the World Bank (2012: xii), good governance refers to a policy approach that highlights the roles of the political, organisational and economic standards of lawfulness and efficacy in the daily operations of the public sector. Good governance personifies a bureaucracy inculcated with professional ethos functioning to promote the public good, the rule of law, transparent practices and a strong civil society participating in public affairs. The United Nations (2006:4) defines good governance as the efficient allocation and use of resource to deliver excellent services to society. Governance is seen as good when resources are used efficiently, effectively and economically. The Organisation for Economic Co-operation and Development (OECD 2006:4) defined good governance as referring to the management of government in a manner that is essentially free of abuse and corruption. According to Naidoo (2011:32), good governance is defined as a governance system, which necessitates open and transparent processes in decision-making and policy formulation in the interest of civil

society. Furthermore, Dassah (2013:733) states that good governance is a value driven approach that necessitates the development of policies that promotes quality service delivery outcome and that can be differentiated from bad governance. The separation of powers governance model was implemented to empower the municipal council of EMM to operate in an effective and efficient manner and to promote compliance with regulations, legislation, policies and processes which are aimed at improving accountability and oversight. The conceptualisation of good governance from international organisations and scholars as illustrated above essentially portrays the perfect conditions for good governance within government systems. Good governance in respect of this study has interrelated features and principles, which guides the procedures and mechanisms within the public sector.

2.7 LOCATION OF THE STUDY IN PUBLIC ADMINISTRATION

According to Thornhill (2012:86), the functions constituting public administration are classified into the following categories.

- Generic administrative and managerial
- Instrumental
- Functional (also referred to as line functions)

This study of the separation of powers falls within the class of generic administrative and managerial functions, explicitly the control function. Legislatures assign powers and duties to executive institutions as well as administrative institutions to enhance efficiency and cost-effectiveness. Thus, legislatures must prescribe and promote the application of specific control measures. Furthermore, legislatures prescribe specific procedures to examine the reports of the municipal council, such as the Auditor-General Report and the Annual Report. Legislatures can conduct oversight and scrutiny to determine the effectiveness of a programme and to promote accountability of the executive. Thornhill (2012:44) postulates that if the legislature fails to perform their

control function, it will result in ineffective government programmes. Control can be implemented predominantly through the following two procedures:

- Specification of the objectives of a programme in advance (*a priori*) (by legislation and budgets).
- Obtaining reports based on examination of results (*a posteriori*).

The Constitution provides for specific institutions and functionaries to strengthen the control functions of the legislatures, for example, the Public Protector, Auditor-General and the Constitutional Court.

2.8 OVERSIGHT AND ACCOUNTABILITY IN THE SOUTH AFRICAN PARLIAMENT

From a South African perspective, oversight and accountability are constitutionally assigned roles of the legislatures to analyse and direct executive activities. Oversight entails the informal and formal, vigilant planned and coordinated scrutiny executed by legislatures. Parliament oversees the application of regulations, the control of the budget and the stringent adherence to laws. Essentially, it involves overseeing the efficient organisation of government units and state-owned enterprises to ensure improved service delivery.

Accountability and oversight instruments adopted by the South African Parliament are classified into several categories. The Oversight Model of the South African Legislative Sector (2009) states the following categories, the role played by the portfolio committee in overseeing the executive to ensure accountability on the part of the different organs of the state. The application of processes as well as the utilisation of activities and reports from institutions of the state to support constitutional democracy and to promote oversight roles of the national assembly. Thus, the applicable instrument for legislatures to conduct departmental oversight is achieved by means of portfolio committees. In

executing oversight, a portfolio committee will request a meeting with the national department or conduct a site inspection for information gathering to establish the facts of the matter in the inquiry. At the final sitting of the first democratically elected parliament former President Nelson Mandela stated that it is in the legislatures that mechanisms are formed to improve the life of society. It is here that scrutiny and oversight of government work must be applied (Parliament 1999:2). Within legislatures, the public in all its formations has an opportunity to guide policy and its application.

One of the most significant characteristics of the oversight mandate is the consideration of Parliament's annual report and the Auditor-General's reports by portfolio committees. To have a comprehensive understanding of Parliament's Annual Report, it is important to assess national departments work to understand the outcomes reported. If the portfolio committee requires additional information, Chapter nine institutions can be consulted as specified in the 1996 Constitution. Portfolio committees can also request information from community structures at provincial or local government level to ensure comprehensive information on the reported task. Assessment of an arm of government's work requires the portfolio committee to ratify the inclusion thereof of the various units. State-owned enterprises report to the legislature in terms of section 56(b), 69(b) or 115(b) of the Constitution. Portfolio committees use *ad hoc* methods in respect of oversight and scrutiny resulting in the following:

- Portfolio committees have limited financial-related skills.
- Portfolio committees have a reactive rather than proactive approach to departmental reports.
- The preparation of budgets, currency fluctuations as well as the significance of annual plans perplex portfolio committees.
- Portfolio committees were unsuccessful in reconciling departmental disbursements with policy priorities.
- Portfolio committees do not generally assess performance in crucial programme areas.

- Portfolio committees seldom monitor proposals or performance in fundamental areas of an applied policy to enhance performance.

Therefore, a Public Sector Oversight Model (PSOM) was developed that encompasses fundamentals to support portfolio committees to conduct essential departmental budget assessments. The budget is an imperative entry point for legislatures to influence the trajectory of the state. The PSOM itself is certainly not a directive but represents a paradigm for oversight, which is informed by performance evaluation and budget analysis. The PSOM specifies that the priorities, inputs and outputs of a programme should achieve a desirable equilibrium with the outcomes. The PSOM will make it easier for members to differentiate between those matters that are essential for divergence and discussion to take place. Furthermore, matters which should be deliberated in the General Assembly as well as those of a more methodical kind whereby oversight is limited to the efficacy of public service delivery. The PSOM is one of the enhancements that the Sector Oversight Model (SOM) recommends to portfolio committees in legislatures. Furthermore, the *Public Finance Management Act* (PFMA), 1999 (Act 1 of 1999) provides guidelines for oversight. The PFMA initiates a performance budgeting system in the South African public sector. Thus, the assumptions of the PFMA are manifested in the PSOM to provide a foundation to operationalise it. The principles supporting performance management are integrated into the systematic design of the PSOM by ensuring the regulation of reported data and a sequence thereof to legislatures.

The Budget Cycle Model is instituted upon specific timelines for reporting by departments and functions on the following aspects (Oversight Model of the South African Legislative Sector 2012:19):

- The Budget Information Matrices are founded upon the principle of consistency of information detailed in departmental reports.

- The toolkit is predicated upon the performance budgeting principles that underpin departmental planning and financial management systems.
- The Budget Cycle Model takes into account the system of committee hearings, support staff mandatory functions such as information officers and researchers as well as the function of public participatory processes at respective phases.

At the local sphere of government, the *Local Government: Municipal Finance Management Act, 2003* (56 of 2003) was implemented to ensure sound financial management of municipalities. Effective financial systems are the basis of good governance and it guarantees a municipality's financial capacity to deliver services to the communities. Thus, oversight committees must ensure effective scrutiny over both municipal financial management and budget processes.

2.8.1 Transversal affairs

Crosscutting issues can encompass gender, the physically challenged, poverty reduction and economic growth that can be attended to through particular programmes. Departments would have to create unambiguous strategic goals and allocate resources (inputs) for the various programmes. Outputs should comply with the degree of the transversal issues to ensure appropriate results and achieve key performance areas. There should be an interface between portfolio committees and the applicable organisations, such as the gender equality commission and the commission on human rights including non-governmental organisations involved with crosscutting issues to enhance the oversight process (Oversight Model of the South African Legislative Sector 2012:20). It is imperative for researchers as part of the investigations and assessments to perform budget analyses and project evaluations explicitly directed at crosscutting issues. Accordingly, committees must consider crosscutting matters, include non-governmental organisations, civil society, and request departments to account. The purpose is similar to conventional sectoral issues to create particular suggestions in the oversight reports on crosscutting issues that will become house resolutions subject to implementation of the executive authority. Several legislatures, for example,

Mpumalanga Province, instituted specific committees such as the select committee to improve the quality of life as well as gender committees and people with disabilities in respect of transversal issues.

2.8.2 Determination of policy and agreement on performance plans

It is mandatory for committees to request national departments to submit departmental annual performance plans that conform to the priorities as outlined in the Annual State of the Nation Address. Therefore, it is important for committees to verify that the departmental programmes are aligned to the priorities of the government of the day. Portfolio committees should evaluate whether departmental plans respond to the National Assembly resolutions with respect to programmes. This practice is in accordance with departments and portfolio committees with regard to the measurement of plans against priorities through predetermined indicators and objectives.

2.8.3 Committee hearing structure

The departments are provided a specific timeframe to submit annual performance plans, following the State of the Nation Address. It is the responsibility of a minister to submit such plans to the speaker, which are subsequently referred to the applicable portfolio committee. The committee meeting commences with a consultation session by the committee's support team, and prepares the committee to hold discussions of the annual performance plans. The committee with the assistance of the support staff would be in a position to create a list of questions centred on matters emanating from the plans. The questions are referred to the department for response, and permit a realistic period to respond in terms of the rules of the national assembly. Subsequently, an evaluation of the following matters will take place (Oversight Model of the South African Legislative Sector 2012:20):

- If the portfolio committee is content with departmental responses and establishes the outstanding issues which require elucidation in which case clarification questions will be formulated.
- It would be important to request the department to clarify outstanding issues.

This exercise must reach consensus of the performance plans linked to objectives and essentially key performance indicators that would be applied to measure implementation.

2.8.4 Support services

The portfolio committee support staff utilise a standard meeting schedule in preparation for the briefing session of the portfolio committee. The division of functions highlights the work of the information officer, which includes the compilation of basic information in specific areas of a portfolio committee's work. This basic information must be circulated amongst portfolio committee members and support staff. Furthermore, the information officer must explain to the support staff and portfolio committee member's specific published information on topics emanating from departmental reports. This knowledge can provide the foundation for research and motivate members to identify matters such as the following for further study.

- The portfolio committee co-ordinator is the primary support staff; therefore, the coordinator should possess valuable information and knowledge that concerns the committee. Performance plans will be scrutinised by the coordinator to compile a committee report, take into account all discussions and information from previous annual reports.
- There will be consultation with stakeholders in respect of the performance plans. It remains the responsibility of the stakeholders to submit to the committee their comments in the stipulated timeframes. The Committee Coordinator summarises and distributes the submissions to portfolio committee members for feedback.

- The researcher will be held accountable to investigate the information included in the performance plans. The researcher will utilise the various tools of analysis to establish the facts.
- Ultimately, the committee's report will include the information received from all the stakeholders. Thus, the process will have an element of independent verification to substantiate the department's policy direction. The researcher should utilise the impartial information to assess a plan and determine whether the construct thereof should be appraised.

Other functions relating to the support team would include the formulation of questions to assist the committee to articulate their concerns. The support team briefing will present an opportunity to formulate the questions from the committee deliberations (Oversight Model of the South African Legislative Sector 2009).

2.8.5 Public participation

The SOM requires the continuous utilisation of external data and responses for impartial validation. The annual performance plan phase is more accelerated than the budget development process. These procedures necessitate an attempt to attain substantial external participation to advance the work of the support staff and the portfolio committee. The public participation division in a legislature ought to assist in developing relationships with social partners. Furthermore, such a division must:

- Create adequate participation of social partners through advertising planned portfolio committee meetings;
- Enforce that the annual performance plan is presented to the social partners for efficient feedback; and
- Request external participants of a portfolio committee and relevant citizens to participate in consultations where departments will be communicating annual performance plans.

2.9 SEPARATION OF POWERS IN THE PROVINCIAL LEGISLATURES

The constitutional mandate of the provincial legislatures as articulated in Chapter 3 of the 1996 Constitution is to monitor the effectiveness of the provincial executive. These constitutional provisions conform to the principles of a constitutional democracy as it subjects the executive to oversight and accountability by a distinct organ, thus creating a well-defined separation of powers between the executive and the legislature. In the provincial legislatures, the separation of powers provides for checks and balances in exercising executive power similar to the national Parliament. With reference to section 115 (a) and (b) of the 1996 Constitution provincial legislatures or any of its committees has authority to summon any individual or provincial institution to account.

2.9.1 Gauteng Provincial Legislature

The Gauteng Provincial Legislature Annual Report 2013/2014 stipulates that oversight and scrutiny of the executive is one of the most essential objectives of legislatures and serves as a foundation of democracy. It permits the legislatures to oversee the activities of the government as well as check the quality of governance. The members of the legislature holds the executive accountable through several instruments, which includes: house resolutions, committee consideration of quarterly, mid-year and annual reports, focused intervention studies, ministerial accountability and oral and written motions. Evidently, the Gauteng Provincial Legislature is constantly strengthening and implementing tools of oversight, which include the implementation of Programme Evaluation and Budget Analysis (PEBA).

2.9.1.1 Elements of the programme evaluation and budget analysis (PEBA)

The programme evaluation and budget analysis was informed by the need to a well-defined, predictable and programmed approached to oversight and accountability as

well as the requirements of the PFMA. The analysis comprises of the following three key elements:

- The evaluation of the effectiveness of public service programmes which focusses on efficient service delivery.
- The pertinence of financial resource allocation and management meaning the budget analysis that relates to effective delivery of services.
- The relationship between the variables of PSOM, namely: priorities, inputs, outputs and outcomes.

2.10 SUMMARY

The development of legislative support and parliamentary practices requires the creation of a parliamentary institute to reinforce parliamentary practices in South Africa. The separation of powers requires financial and human resources to ensure effective oversight. Accordingly, a parliamentary institute will promote proficiency in the South African legislative sector. This can be achieved by effecting systematic investigations and disseminating information in aid of legislative developments and parliamentary systems. It is essential for the parliamentary institution to provide training and to validate suitably trained professionals for the sector. The purpose of the parliamentary institute should be to drive the legislative sector as a think-tank that produces principles and practices for the sector's continual development. More trained staff are necessary to assist the legislator to keep the executive accountable and for improved delivery of services. The benchmark study of parliamentary systems at national government sphere provides valuable information to local government that can be used in the separation of powers governance model. The training of staff is highlighted as an important aspect of the successful implementation of the separation of powers governance model. Thus, local government must take cognisance of such imperatives.

CHAPTER 3

LEGISLATIVE FRAMEWORK OF THE SEPARATION OF POWERS GOVERNANCE MODEL

3.1 INTRODUCTION

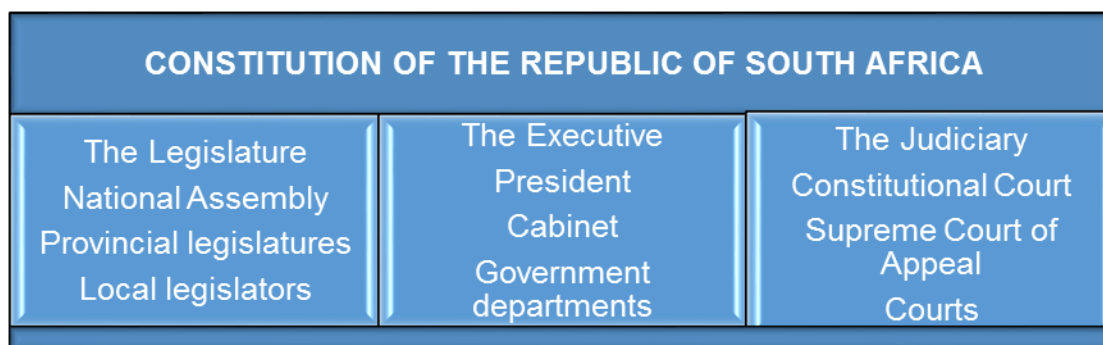
Chapter three investigated the question raised in chapter one (section 1.6): *“What legislative framework has been utilised in the separation of powers governance model in Ekurhuleni Metropolitan Municipality?”* This chapter also responded to the objective in chapter one (section 1.7): *“To determine the manner in which legislation, mechanisms and strategies can be utilised to separate executive and legislative powers to enhance good governance in the municipality”*. The legislative framework stemmed from the 1996 Constitution that accentuates the significance of accountability and good governance. The basic standards of public administration outlined in section 195 of the 1996 Constitution encompass values such as answerability, receptiveness and objectivity. Furthermore, the 1996 Constitution compels the three spheres of government to deliver effective, transparent, as well as dependable services to communities. Evidently, the fundamentals of accountability and honesty are determined at a statutory level. Section 43 of the 1996 Constitution determined parliament and provincial legislatures as the legislative institutions in the sphere of national and provincial government. The 1996 Constitution is explicit with regard to the legislative practice. Therefore, it is mandatory for parliament to ensure that the provisions of the 1996 Constitution are maintained to support good governance.

Consequently, legislatures must institute systems to ensure that all executive authorities are answerable to the Constitution. It also compels the legislatures to provide oversight of the executive authority. This chapter provides a synopsis of the legislative milieu relating to the functions and mandates of oversight committees in local government. The framework commences with the 1996 Constitution and examines numerous statutes in local government pertinent to oversight, accountability and good governance.

3.2 CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA (1996)

The South African government system is based on the democratic principles outlined in the 1996 Constitution. The 1996 Constitution stipulates three separate branches of government namely: legislative, executive as well as the judiciary. Table 3.1 illustrates the three branches of government: the legislature is accountable for the development of policy as well as legislation to guide policy implementation and service delivery. It has a political element in that it comprises of public representatives elected by the citizens of South Africa to represent their interest.

Figure 3.1: The branches of government



Source: Councillor Learner Handbook (SALGA 2011:15)

The legislature must approve laws and budgets, regulate the public service and their powers and exercise parliamentary oversight through reviewing the conduct of the executive. The key objective of the executive authority is to implement the strategy, plans and policies that will ensure effective service delivery. Each sphere of government has its own executive authority. At the national level, the executive authority comprises of ministers; at provincial level it includes members of the executive committees; and at the local level, the executive mayor and members of the mayoral committee.

The judiciary oversees the administration of law and justice in the country. The judiciary is expected to build confidence in the country and ensure that the rule of law is maintained. Hence, the judiciary can verify the misuse of authority by other government institutions. Therefore, it is a constitutional imperative that the judiciary is autonomous and is only subservient to the stipulated provisions of the 1996 Constitution. This separation of powers is common in democracies and it is designed to protect citizens against misuse of authority. In South Africa, the 1996 Constitution is the supreme law and it defines the structure of government, which are collectively liable for the provision of services to the citizens of the country. Hence, the balance of power and cooperation between these spheres of government is a critical component of democracy.

Chapter 7 of the 1996 Constitution outlines the aims and objectives of local government. Section 151(1) of the 1996 Constitution stipulates that local government comprises of municipalities that must be established throughout the country. The municipal executive and legislative authority is bestowed in its municipal council. Therefore, municipalities have the prerogative to administer its own affairs. The 1996 Constitution in section 152 (1) describes the objects of local government as follows:

- Offer democratic and answerable government for local residents.
- Ensure sustainable delivery of services to the communities.
- Stimulate social and economic growth.
- Encourage safe and healthy conditions.
- Promote the participation of societies and community groups in local government affairs.

A municipality should undertake within its pecuniary and organisational capability the objectives outlined in the 1996 Constitution. According to Thornhill and Cloete (2014:21), a municipality must structure and manage its administration, budgeting and planning procedures to give precedence to the fundamental needs of the community

and to stimulate the social and economic growth of society. The following categories of municipalities have been instituted which relate to the 1996 Constitution:

- Category A: The municipality has supreme municipal executive and legislative authority in its jurisdiction.
- Category B: The municipality shares municipal, executive and legislative authority in its jurisdiction with category C municipalities.
- Category C: The municipality has municipal executive and legislative authority in an area that incorporates local municipalities.

Furthermore, chapter 10 of the 1996 Constitution stipulates the basic values and principles which regulates public administration for all spheres of government. Section 50 of the *Local Government: Municipal System Act, 2000* (Act 32 of 2000) resonates this and a code of conduct for councillors is included in section 54. The 1996 Constitution compels public administration to be regulated by the democratic standards and norms embedded therein and comprises of the following principles:

- A high standard of professional ethics must be upheld.
- Efficient, economic and effective use of resources must be fostered.
- Public administration must be concerned with development.
- Services must be provided without bias, objectively and rightfully.
- People's requests must be responded to and public participation must be encouraged.
- Public administration must be answerable.
- Openness must be promoted by providing society with appropriate, understandable and precise information

Sindane (2011:754) states the significance of accountability and administrative morals in the public sector and highlighted that an administration that lacks ethics is an administration with a character deficit. Public administration is experiencing a distinct lack in values and ethics due to poor public leadership. Values establish what is "right"

and what is “wrong” within a specific community. Ethics can be defined as the capability to take a decision among the available options based on the understanding of collective values rooted in an organisation (Sindane 2011:754).

Table 3.1: Ethical and effective leadership should supplement and strengthen each other.

<p>Ethical leadership is personified by honesty, proficiency, obligation, accountability, impartiality and openness. It encompasses the deterrence or improvement of undesirable outcomes of the organisations actions.</p>	<p>Effective leadership is outcomes driven. It includes attaining strategic goals and positive results for the organisation. Effective leadership involves an internal emphasis on effective and efficient application of tasks.</p>
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Source: King IV (2016:20)

The King II report explains seven generic yet crucial global values that should regulate organisations. These include: discipline, transparency, independence, accountability, responsibility, fairness and social responsibility (King II 2002:11-12). King IV (2016) defines corporate governance as the application of efficient management by the regulatory body to achieve the following governance outcomes:

- Moral ethos.
- Satisfactory execution
- Effective regulation
- Lawfulness

3.2.1 Powers, Privileges, Immunities of Parliament and Provincial Legislatures

The Powers, Privileges, Immunities of Parliament and Provincial Legislatures Act (Act 4 of 2004), hereafter referred to as (PPIPPL) expounds on the authority the 1996 Constitution confers on its legislatures and committees. Chapter 5 of the PPIPPL

stipulates: subpoena witnesses; investigate witnesses' statements; privilege of witnesses; and violations relating thereto. Transgressions relating to refusal to provide evidence to a committee can result in a punishment or sentence. This stipulation is also applicable to an individual who intimidates or obstructs a person from providing evidence before a committee. The sentence in this regard can be harsh and imprisonment of up to two years is possible.

Furthermore, section 6(3) of the PPIPPL Act (Act 4 of 2004) stipulates that evidence given under oath or affirmation by an individual before a committee cannot be utilised against that person in any court or place outside Parliament. The provisions provides legislatures with powers to execute proficient and unconstrained oversight as well as protection to witnesses who may fear being implicated themselves. Notably, these powers and functions do not apply to municipal councils or municipal oversight committees which results in a lack of authority.

3.3 WHITE PAPER ON LOCAL GOVERNMENT (1998)

The White Paper of Local Government (1998) relates to municipal political procedures and underscores the significance of vigorous local political leadership. It explains the benefits of sanctioning the allocation of executive powers by a municipal council to an executive committee or an executive mayor and recommends that both alternatives be instituted. Municipal councils must allocate executive powers such as that timeous and effective policy-making as well as the recognition for inclusive management and oversight of the administration. The allocation of powers and functions to council committees might also augment policy-making practices within the municipality.

Furthermore, the White Paper of Local Government (1998) specifies that municipal committees should have designated powers (to take decisions contained in the terms of

reference) or consultative powers (to advise the executive on matters which are contained in the ambit of the terms of reference) or an arrangement of both. The Local Government (1998) White Paper proposes that council committees can play various roles, for example:

- Management of municipal tasks: Committees must oversee the department's activities and function better when they have allocated areas of expertise. Committees should be aligned to the administrative departments to ensure comprehensive decision-making.
- Management within sections of a municipal locality. Municipal councils with vast areas of jurisdiction may wish to assign managerial powers to area-based committees whose areas of authority relate to devolved administrative divisions.
- Policy-formulation: Committees must be created to design policy (or manage a participative policy design procedure) and the ideal operations might occur where the distinctiveness of the committee interconnects with departmental peripheries (for example, poverty reduction or urban management projects as opposed to human settlement or parks).
- Committee system must enable a municipality to fulfil its mandate taking into account local requisites, rudiments and policy priorities. Within committee systems and procedures, the councillors must provide credible reports as a foundation for decision-making.

Ultimately, the White Paper on Local Government (1998) determines that the committee system has typically been guided by reports produced by the administration. Although this is appropriate for regulatory functions, committees with a policy emphasis requires a wide range of knowledge sources. The Local Government White Paper (1998) suggests that various options be considered for committee systems such as:

- instituting policy research divisions;
- investing in policy research capability; and
- Collaboration of research programs amongst municipalities.

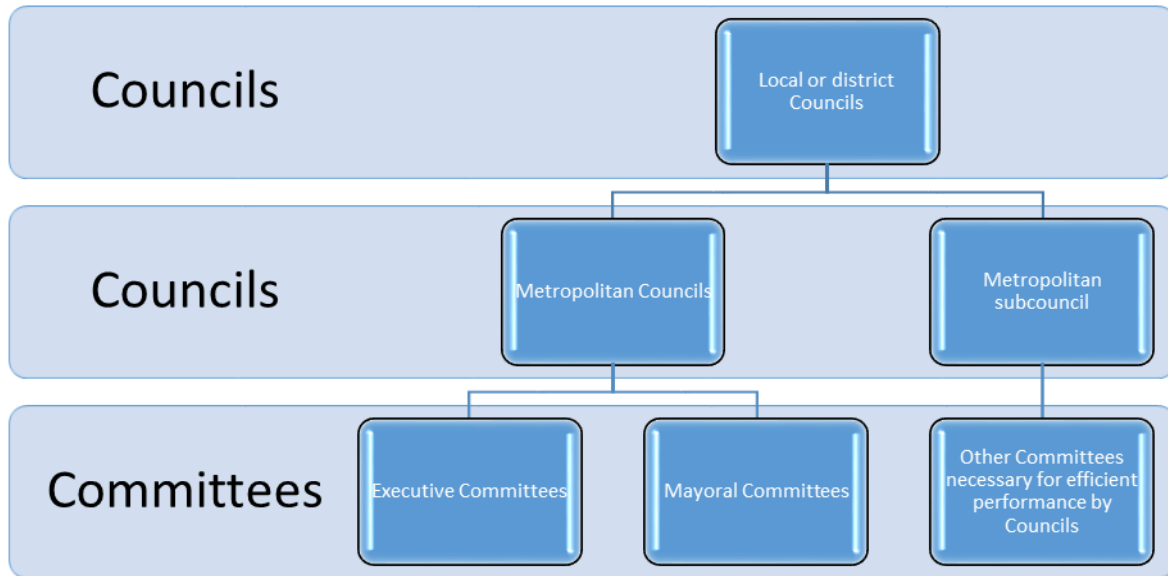
The above approach to committee systems will empower council committees to conduct effective oversight. Following the White Paper on Local Government (1998) the *Local Government: Municipal Structures Act, 1998* (Act 117 of 1998) was proclaimed.

3.4 THE LOCAL GOVERNMENT: MUNICIPAL STRUCTURES ACT (ACT 117 of 1998)

The *Local Government: Municipal Structures Act, 1998* (Act 117 of 1998) provides for the formation of municipalities in relation to the prerequisites of various classifications and types of municipalities. It also provides guidelines to control the internal methods and procedures of the municipalities. Section 33 of the *Local Government: Municipal Structures Act, 1998* (Act 117 of 1998) explains the criteria to establish municipal committees.

The establishment of a committee takes into account the scope of the functions and powers of the municipality. Furthermore, it accentuates the necessity for the allocation of powers to ensure committee systems efficiency and effectiveness. Section 79 committees are oversight committees that may be established for effective and efficient execution of any municipal tasks. The municipal council regulates the role of a committee and assigns duties and powers thereto. It is the prerogative of the municipal council to appoint oversight committees chairpersons as well as the dissolution of committees. The municipal council may permit a committee to appoint advisory members who are not members of the council within the standing orders of council. In terms of this Act, every municipality has its individual legislative, governmental and administrative institutions.

Figure 3.2: Legislative institutions



Source: Adapted from Thornhill and Cloete (2014:28)

3.4.1 Committees

Various committees can be established for municipal councils namely:

- An executive committee; and
- Section 79 and section 80 committees.

Table 3.2: Features of section 79 and 80 committees

Features	Section 79	Section 80
Purpose	Effective performance of functions of the municipal council	Assist the executive mayor
Number of committees	Unlimited	Equal to mayoral committee
Established by	Council	Executive mayor

Members appointed by	Council	Executive mayor
Dissolved by	Council	Executive mayor
Functions determined by	Council	Executive mayor
Powers delegated by	Council	Executive mayor
Chairperson appointed by	Council	Executive mayor
Reports on delegated powers to	Council	Executive mayor
Meetings open to public and media	Yes	Yes

Source: Adapted from Councillor Learner Handbook SALGA (2011:57)

3.4.1.1 Executive committees

The 1996 Constitution provides that a municipal council could select an executive committee. If the executive mayoral committee is established, the office bearers may also constitute a mayoral committee. The *Local Government: Municipal Structures Act, 1998* (Act 117 of 1998) provides extensively for the delegation of powers and functions by municipal councils to committees. According to Thornhill and Cloete (2014:72), an executive committee acquires reports from other council committees and advances these reports with its recommendations to the municipal council when it is not authorised to resolve matters in terms of the delegated powers.

3.4.1.2 Other committees

According to the *Local Government: Municipal Structures Act, 1998* (Act 117 of 1998), councils may or in some cases are compelled to appoint committees. Essentially, municipalities have various council committees that specialise in particular areas. Councillors are afforded an opportunity to set aside time to speak on matters and

thereby gain more knowledge in specific fields. Committees refer matters to the municipal council and final approval of decisions is reserved for the municipal council. It is, therefore, important to discuss section 79 and 80 committees.

3.4.1.3 Section 79 committees

It is evident that the authority to establish committees is derived from the 1996 Constitution and applicable legislation. When establishing committees, municipalities must take into cognisance the scope of its functions, the necessity for delegation of authority as well as availability of financial and administrative resources. The municipal council appoints chairpersons and members of the committee from the councillors and has the authority to dissolve the committee.

Section 79 committees do not report to the executive and are managed independently for effective oversight. However, the oversight committees lack the authority that the portfolio committees have in parliament explicitly the power to summons any person and to direct any person or organisation to report to it. Section 79 oversight committees in its nature are more effective than section 80 committees because it is not accountable to the municipal council executive authority.

3.4.1.4 Section 80 committees

Section 80 committees are associated with the municipal executive authority because its sole purpose is to assist the executive mayor and the mayoral committee. On the other hand, section 79 committees are impartial. The municipal council appoints chairpersons whereas the executive mayor appoints the chairperson of section 80 committees. Hence, the chairperson of section 80 committees is responsible for a

particular municipal executive portfolio. Consequently, it was complex for section 80 committees to have an independent view of the work of the executive authority.

The municipal council may designate the executive authority powers and responsibilities to section 80 committees. This arrangement creates limitations for this committee to conduct impartial oversight and scrutiny. The municipal council executive authority may revoke the resolutions of section 80 committees, which make the latter subservient to the executive. It compromises independent decision-making because the executive authority approves their reports before submission to the municipal council. The preceding aspects specify that section 80 committees are associated with the executive authority and are inappropriate for legislative oversight.

3.5 LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT (ACT 32 of 2000)

The *Local Government: Municipal Systems Act, 2000 (Act 32 of 2000)* stipulates the fundamental rules, systems and procedures that are essential to support municipalities to advance social and economic development of residents. Section 6 of the *Local Government: Municipal Systems Act, 2000 (Act 32 of 2000)* specifies the duties of municipal administrations as follows:

- Be receptive to the necessities of the residents.
- Enable an ethos of public service and answerability between employees.
- Employ procedures to avoid dishonesty.
- Enable collaboration and communication between the municipality and the local residents.
- Provide full and accurate information about the level and standard of municipal services to the community.

Furthermore, the *Local Government: Municipal Systems Act, 2000* (Act 32 of 2000) specifies that a municipal council must design a system of delegation that will augment administrative and operational efficacies and give effect to adequate checks and balances, which allows for the division of powers and functions and ensure that office bearers do not infringe on the authority of another structure. Legislation envisages that there will be a division of functions. Therefore, this Act ensures that office-bearers or structures that execute delegated powers and functions are accountable by recommending certain measures.

3.5.1 National Treasury guidelines on the system of delegation

The system of delegation in the Public Sector has an immense impact on the capability of government institutions to advance decision-making. In implementing any system of delegations, all of the methods and practices related to each delegation are performance driven and must augment the procedures in a municipality to promote efficacies. Circular 73 highlights the following principles of the legal framework:

- Section 238 of the 1996 Constitution sets parameters for delegations and determine that the delegation must be consistent with the enabling legislation.
- Section 59 of the Local government: Municipal Systems Act stipulates that the responsibility and maintaining of developing a system of delegation are assign to the municipal council.
- The duty of the accounting officer is to manage and apply the system of delegation.
- Every system of delegation must be capable to assess performance against approved outcomes that has to be undertaken and attained to enhance the delivery of services.
- The system of delegation must uphold the principles of responsibility, accountability, effectiveness and efficiency and fast track decision-making.

EMM implemented the separation of governance model by utilising the system of delegation to assign authority to the municipal council executive and legislative authority. Hence, the principles of delegation stated in Circular 73 were taken into account when the systems of delegation of the municipality was developed.

3.6 THE LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT (ACT 56 of 2003)

The need to ensure accountability, responsiveness and openness applies to local government as stipulated in the 1996 Constitution. There are various methods through which openness and accountability can be realised such as reporting systems to improve oversight. The principle of transparency and accountability through reporting systems is the subject of a number of legislative practices. In the *Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003)* the reporting mechanisms comprise of the following:

- Periodic budget statements by the municipal manager to the mayor.
- Quarterly service delivery budget implementation plan to the municipal council.
- Mid-year budget and performance assessment reporting by the municipal manager to the mayor and ultimately to the municipal council.
- Reports on failure to submit or execute budget related policy documents to provincial treasury by the municipal manager.
- Submission of financial statements to the Auditor-General.
- Submission of annual reports by the mayor followed by adoption of oversight reports by the municipal council.
- Reports to the public in respect of access to information.
- Compulsory reporting obligations: the municipal manager to report to National and provincial treasury, including the Department of Local Government in the province.

These reporting mechanisms enable oversight over the municipal council executive authority. The annual report as well as the mid-year budget performance reporting relating to the *Local Government: Municipal Finance Management Act, 2003* (Act 56 of 2003) is expounded upon. This Act also assigns various powers and tasks to the city manager as the accounting officer of the municipality. Sections 69 to 79 assigns the following matters to the municipal manager:

- Provide guidance on compliance with the act to political structures, political office-bearers and officials of the municipality, as well as any entity under control of the municipality;
- Fiduciary responsibilities of the accounting officer;
- General fiscal management functions;
- Asset and liability management;
- Revenue management;
- Expenditure management;
- Expenditure on staff benefits;
- Money transferred to institutions outside government;
- Budget planning;
- Budget application;
- Imminent shortages, wastefulness and overdrafts;
- Monthly budget statements;
- Midyear budget and performance assessments; and
- Reports on failures to implement budget associated or other policies.

For the correct application of the *Local Government: Municipal Finance Act, 2003* (Act 56 of 2003), the accounting officer should develop an appropriate system of delegation to ensure operational efficiencies in the municipality's financial administration. The separation of powers finds expression not only in the manner that political structures of the council are designed but also in the delegation of the powers, functions and responsibilities of the political office-bearers, which includes the speaker, executive

mayor, members of the mayoral committee, chief whip and chairpersons of the oversight committees.

3.6.1 Annual reports as mechanisms for oversight

Section 121 of the *Local Government: Municipal Finance Management Act, 2003* (Act 56 of 2003) compels all municipalities and municipal entities to formulate an annual report to account for activities of the municipality for a financial year. The annual report provides an account of departmental actions against the budget and it also enhances answerability to the local residents for decisions taken during the course of the financial year.

Annual reports enable accountability of the executive authority and the administration to the municipal council. This is evident when the mayor tables the annual report in the municipal council for consideration. Consequently, the municipal council exercises oversight and holds the executive authority to account by analysing the implementation of service delivery and budget implementation plan. Furthermore, section 129 of the *Local Government: Municipal Finance Management Act, 2003* (Act 56 of 2003) stipulates that a municipal manager is obliged to attend the municipal council meeting at which the annual report discussion takes place. Thus, the municipal council is provided an opportunity to utilise its oversight function over the executive authority. The municipal council's annual reporting system makes the oversight process feasible due to compulsory requirement to submit documents. Prerequisite for the annual report includes the Auditor-General report on the financial statements, and annual performance report including assessment by the municipal manager of any municipal debt. These specifics in the annual report empowers the municipal council to analyse the functioning of the municipality and its executive authority. Therefore, the municipal council can formulate recommendations in respect of corrective measures in the application of oversight practices.

3.6.2 Mid-year budget assessment reports

Additional instruments for legislative oversight include the mid-year budget and performance assessment reports. The *Local Government: Municipal Finance Management Act, 2003* (Act 56 of 2003) specifies that the municipal manager must assess performance during the second quarter of the financial year. Consequently, this creates two oversight interactions, that is, reporting occurs first amongst the mayor and the municipal manager and subsequently between the mayor and the municipal council.

The municipal manager is directed to evaluate the execution of the budget and municipal performance. The mayor upon receipt of the budget and performance assessment report must table the latter in the municipal council as well as to the national and provincial treasuries. This reporting stage allows the council to apply its oversight function on the application of the budget and the performance of the municipality.

3.7 NATIONAL AND PROVINCIAL TREASURIES

Chapter 2 of the *Local Government: Municipal Finance Management Act, 2003* (Act 56 of 2003) directs that the national and provincial treasuries should perform their oversight commitments over local government's pecuniary management. The national and provincial treasuries may scrutinise and evaluate municipal compliance to fulfil their oversight responsibilities.

3.8 THE AUDITOR-GENERAL

The independent audit institution in most nations is referred to as the Auditor-General, which is the principal assurance association in the structures of government and an

essential basis of knowledge. The fundamental objective of the highest audit establishment is to scrutinise the administration of public money by the authority of the day, as well as the reliability of information in respect of financial accountability of funds that government provides to the legislature (Section 181 of 1996 Constitution).

Chapter 9 of the 1996 Constitution established the Auditor-General of South Africa as one of the state institutions to maintain constitutional democracy. The Auditor-General is a constitutional body and an essential system to advance answerability in all spheres of government. The *Public Audit Act, 2004* (Act 25 of 2004) provides guidelines for audits reports annually on all government departments, municipalities and public organisations. Furthermore, reports on discretionary, performance and other exceptional audits are also generated. The Auditor-General tables reports to the legislature with direct interest in the audit, namely: parliament, provincial legislatures or municipal councils.

3.8.1 National Treasury guidelines on oversight committees

National Treasury issued Circular 32 to provide guidelines in financial governance as well as maintain oversight within the broader governance framework. It focuses on the oversight procedure that a municipal council must follow when analysing the annual report and how to manage the oversight report to promote continuous improvement and enhance answerability. This circular explains that oversight happens at various levels in a municipality and supports the governance framework applicable to local government. According to this circular, the separation of roles is recommended to support a councillor's oversight function.

Thus, the supposition is that the separation of powers is essential to achieve the objectives of local government stipulated in the 1996 Constitution which relate to its democratic and accountable systems. Good governance and effective oversight and

accountability is based on the principles of the separation of powers. The municipal council oversees the functioning of the administration through council and oversight committee meetings. The separation of powers evades conflict of interest and a referee/player situation and is comparable to the role played by Parliament and the National Assembly portfolio committees.

Table 3.3: Oversight framework for local government

Structure	Responsibility	Oversight over	Accountable to
Council	Authorising policy and financial plans	Executive Mayor or Committee	Community
Executive Mayor or Committee	Policy, budgets, results, supervision of /oversight over the city manager	Municipal Manager	Council
Municipal Manager	Outputs and operation	The Administration	Executive Mayor or Committee

Source: National Treasury MFMA Circular 32 (2006:1)

According to Circular 32, the oversight report is the last primary stage in the municipality's annual reporting system. Section 129 of the *Local Government: Municipal Finance Management Act, 2003* (56 of 2003) requires the Municipal Council to reflect on the municipality's annual reports and agree on an oversight report incorporating the council's interpretations of the annual report. The oversight report must stipulate the status of the approval of the report and provide the following information:

- Confirmation that the municipal council approved the annual report with or without objections.
- State if the municipal council rejected the annual report.

- State if the municipal council referred the annual report back for reconsideration of particular sections for review.

The circular explains the oversight report with specific reference to the annual report. However, it highlights the significance of oversight. Furthermore, it describes the distinction between oversight and annual reports. The accounting officer and the mayor presents the annual report to the municipal council. It is the executive's responsibility, including the administration to account for their performance to achieve the objective set by the municipal council.

3.8.2 Process mapping and formation of committees

The municipal councils need to create applicable systems to empower all councillors and communities to process and review the contents of the annual report. There are numerous stages and many stakeholders in the annual report review process. Therefore, a committee process can assist these stages because it establishes manageable components. Circular 32 thus recommends that municipal councils consider the establishment of an oversight committee under section 33 and 79 of the *Local Government: Municipal Structures Act, 1998 (Act 117 of 1998)*. Consequently, an oversight committee is accountable for the comprehensive assessment and review of the annual report followed by submission to council. The committee may solicit submissions in respect of the review from the public. Municipal officials cannot be members of an oversight committee, because this would create a conflict of interest. The independence of the oversight committee is highlighted by recommending participation by an independent specialist advice for oversight committees. This will ensure that the latter committee fulfils the requirement of transparency, good governance practice and accountability of the municipal council in an impartial manner. Circular 32 endorses a number of essential assumptions in respect of good governance and answerability procedures within the municipal sphere. For example, it sanctions that:

- The executive authority is answerable to the municipal council as well as the municipal manager;
- The municipal manager execute oversight over the administration, and is answerable to the mayor or the mayoral committee; and
- The mayor or the executive committee is compelled to solve any malfunction.

Thus, the municipal council is bestowed with the authority and function to oversee both the executive and administration of a municipality. Circular 32, therefore, presupposes a separation of powers between councillors performing executive duties (i.e. mayor or executive committee) and councillors of the legislator. This separation is suggested to guarantee that the municipal council upholds oversight of the execution of particular obligations and delegated authority to the mayor or members of the mayoral committee.

3.9 PUBLIC PROTECTOR

Sections 181 and 182 of the 1996 Constitution provides for the Public Protector. The Public Protector has the authority to examine any activities in state affairs or in public administration in any sphere of government that is alleged to be unlawful. The office of the Public Protector assists citizens to acquire corrective action for transgressions without approaching a court of law. According to Thornhill (2012:80), the previous Public Protector, Adv. Thuli Madonsela, reported that her office receives approximately 15 000 complaints annually. Prominent cases involves allegations that a minister had abused state funds for travelling abroad to visit a friend. A member of the provincial executive council had awarded a tender to a security company in which his family had vested interest. Thus, the office of the Public Protector also plays an oversight role to inhibit corruption and maladministration in government.

3.10 SUMMARY

The 1996 Constitution and the relevant statutory provisions provide a legal framework for oversight and good governance within the national and provincial spheres of government. At the local sphere of government, this is not stipulated because the 1996 Constitution vests the executive and legislative powers in the municipal council. While the *Local Government: Municipal Structures Act, 1998 (Act 117 of 1998)* establishes executive systems such as executive mayors and mayoral committees as well as section 79 and 80 committees although the policy framework is indistinct. The *Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003)* initiates the concept of oversight with no specific reference to the structures that are responsible for oversight in the municipality. It emerges that the National Treasury guidelines are insubstantial because it lacks the regulatory framework. The guidelines should be issued as regulations to enforce oversight in municipalities.

CHAPTER 4

SEPARATION OF POWERS GOVERNANCE MODEL: EKURHULENI METROPOLITAN MUNICIPALITY

4.1 INTRODUCTION

Chapter four's response to the question as expressed in chapter one (section 1.6) refers: *"What is the role, functions and composition of oversight committees in the separation of powers governance model."* This chapter also relates to the objectives as explained in chapter one (section 1.7): *"To describe the institutional arrangements of the separation of powers governance model in relation to meaningful oversight and accountability. To analyse the roles, functions, and composition of the oversight committees since the adoption of the separation of powers governance model in 2011."*

This chapter examines how Ekurhuleni Metropolitan Municipality utilised available instruments specified by legislation to design the separation of powers governance model with the objective to create independent oversight. The separation of powers between the legislative and executive arms of government is congruent with internationally accepted principles of good governance. According to Botes (2011:19), oversight and accountability are terms that became known as worldwide qualities of good governance. Lastra and Shams (2000:6) posit that accountability can be exercised before and during the decision-making process, or subsequent thereto. Accountability either precedes or follows the decision-making process, and forms the bases of oversight executed by the legislator. EMM approved the separation of powers governance model and the implementation thereof in April 2011. The introduction of the governance model required an assessment of the existing structures and a review of the legislative arrangement employed by Ekurhuleni Metropolitan Municipality. In making the assessment, consideration was given to the overall strategy and corporate environment that the municipality operates in, as well as benchmark the governance model at the national and provincial government spheres. The separation of powers

governance model can only be of significance if it is implemented through a comprehensive governance model that defines appropriate roles, responsibilities and accountabilities, not only for political structures and political office-bearers but also for the municipal manager and the administration. This chapter explores the powers, functions and duties assigned to political office-bearers, oversight committees and the administration in EMM through mechanisms such as the terms of reference and the delegation of power. Furthermore, the composition of oversight committees, their roles and responsibilities as well as functions of the speaker, chair of chairpersons, chief whip and leader of government business is also considered. In addition to the establishment of section 79 oversight committees, a committee of chairpersons and a programming committee was formed. Hence, all the new practices such as research reviews and reports were explored. Moreover, the chapter examines the application of annual reporting as well as mid-year budget assessment reporting as tools for oversight. Key considerations of the chapter is the manner in which the mechanisms specified in legislation have been utilised to separate the executive from legislative functions and thereby create an impartial oversight.

4.2 THE COMPOSITION OF OVERSIGHT COMMITTEES

The previous portfolio committees of EMM ceased to operate in April 2011 with the adoption of the separation of powers governance model by the municipal council of EMM. The portfolio committees were established as section 80 committees to assist the executive mayor and mayoral committee. A portfolio committee is chaired by various MMCs and their roles encompass executive and oversight functions. The separation of powers governance model guaranteed that MMCs do not become either a referee or a player and only execute their responsibilities for their specific functional areas allocated in accordance with delegated authority (EMM A 2011:4). Consequently, ten oversight committees were established in terms of the provisions stipulated in section 79 of the *Local Government: Municipal Structures Act, 1998* (Act 117 of 1998). The oversight committees have an oversight role and monitor the implementation of decisions taken

by the municipal council. Oversight committees have the power to request departments and members of the mayoral committee (MMCs) to account on the performance of their functions. This arrangement supports the separation of legislative and executive powers within the municipal council. The municipal council appoints the chairpersons of section 79 oversight committees and the appointment excludes members of the mayoral committee. The other members of the oversight committees are all councillors appointed according to their percentage of political representation in the municipal council. The function to determine the number of councillors to serve on each oversight committee and the representation of the various political parties are delegated to the chief whip of the municipal council in consultation with other political party whips. The number of permanent committee members varies from 17 - 20, averaging at 18 members per committee (EMM B 2016:12).

According to Ahmed (2011:70), one of the essential aspects of oversight or its efficiency is a powerful party based structure. The association between the governing party and the executive arm of the municipal council has an impact on the oversight process. This is evident in a system of government if the outcome affects the performance of the political party as the executive and the legislator is interconnected. The explanation is that the rise and fall of the two arms of government is alike (Ahmed 2011:70). Councillors are constantly unwilling to insist that the members of the executive arm of the municipal council from their own political party must account, because this can be perceived as compromising the position of the political party (Parliament 2009:36). The use of the party political system in South Africa to fill seats implies that councillors of the ruling party are frequently in a position to execute oversight over high-ranking members of their own party, that is, the same members who could influence the configuration of the party list during the following elections (Parliament 2009:37). The current coalition government in EMM prompted the ruling party to effect changes in the composition of oversight committees. Four of the oversight committee's chairpersons are from opposition parties unlike in the previous term of office where all the chairpersons came from the ruling party.

Table 4.1: List of section 79 oversight committees

Oversight Committees	Committee Chairperson Appointed by Council	Chairperson's Political Affiliation	Number of Permanent Members	Number of Alternates Members	Total Number of Members
Finance and Economic Development	Yes	ANC	18	5	23
Infrastructure Services	Yes	PA	19	4	23
Transport Planning	Yes	ANC	17	5	22
Water, Sanitation and Energy	Yes	ANC	17	5	22
City Planning	Yes	PAC	19	5	24
Community Services	Yes	AIC	18	4	22
Human Settlement	Yes	ANC	19	4	23
Environmental and Waste Management Services	Yes	ANC	18	5	23
Corporate and Shared Services	Yes	ANC	19	5	24
Community Safety	Yes	IRASA	18	5	23

Source: Ekurhuleni Metropolitan Municipality council agenda (2016:31)

Table 4.1 above is a tabular summation of the oversight committees in EMM. The table illustrates the rudiments of the ten section 79 oversight committees. Chairpersons are full-time councillors and appointed to lead and co-ordinate the work of section 79 oversight committees.

4.2.1 Roles and responsibilities of oversight committees

Ordinarily the term oversight in the South African political context is perceived as the purview of opposition political parties intended to monitor and uncover maladministration. Those executing oversight are generally given the opportunity of retrospection and are ultimately dissociated from being held accountable for malfunction. The separation of powers governance model redefines the persona of oversight by establishing such a system founded less on institutional or political conflict. It redefines legislatures as a fundamental element in the public service delivery system. The redefinition is based on the interpretation that if the legislatures' oversight role is applied in the quest of good governance, then the legislatures also assume accountability for overall government performance (Oversight model of the South African legislative sector 2012:6).

On the 26 March 1999, the former President of the Republic of South Africa, Nelson Mandela stated: "It is in the legislatures that the instruments have been fashioned to create a better life for all. It is here that oversight of government has been exercised. It is here that our society in all its formation has had an opportunity to influence policy and its implementation (Parliament 2009:1)." The responsibility of oversight committees in EMM is to oversee the work of related departments. Consequently, oversight committees are instruments through which the municipal council analyses reports from departments. With the implementation of the separation of powers governance model, the core functions of the legislature relates to law making, oversight and public participation (EMM A 2011:12). These areas are explained below:

4.2.1.1 Law-making

The development of policies, plans, strategies and programmes as well as the setting of targets for service delivery is an expertise of the legislature as it forms part of the service delivery budget implementation plan. The oversight committees initiate and review by-laws. After the public participation process, the municipal council must approve the by-law. It is also the duty of oversight committees to consider all matters reserved for the municipal council (EMM A 2011: 10). Ultimately, oversight committees ensure the scrutiny and review of the efficacy of policies and by-laws as a means to enhance accountable and responsive government. The duty to remedy injustices by taking steps to correct deficiencies in policies or by-laws can be termed amendatory accountability. It requires acceptance from the executive branch of the municipal council that improper conduct took place (Oversight model of the South African legislative sector 2012:11). The executive is responsible to execute the municipality's mandate through the implementation of by-laws, policies, strategies and council decisions to ensure the EMM operates effectively.

4.2.1.2 Oversight

Oversight committees have a critical role to play in overseeing the effective, economic and efficient utilisation of public funds. In the South African context, oversight and accountability are constitutionally mandated legislature functions to promote the analyses of executive actions. Smith (2003:4) asserts that oversight can be defined in terms of the actions of legislatures that involves reviewing and monitoring the activities and policy implementation of the executive. Madue (2012:435) states that legislatures perform oversight to achieve the following objectives:

- Guarantee honesty and openness of the executive actions. Oversight committees convene public hearings to solicit public opinions to strengthen policymaking.

- Hold the executive branch of the municipal council accountable. The obligation to answer or give details is encapsulated in the principle of explanatory accountability that necessitates the giving of reasons and the explanation for action taken.
- A component of explanatory accountability is the obligation to provide financial records demonstrating the regularity of government spending. Financial information should contain the goals of government spending so that oversight committees can make judgements about whether funds are spent effectively and in accordance with predetermined objectives.
- Oversight committees should protect the right of citizens by monitoring policies and possible misuses of executive power.

Furthermore, Madue (2012:435) identified a weakness in the execution of effective oversight namely: political party loyalty that prevents the execution of meaningful oversight responsibilities. Johnson and Nakamura as cited in Madue (2012:435) postulated that although legislatures have particular oversight powers, effective oversight is challenging to execute because it requires information about the actions of the executive. It also requires legislative capability to process the information and the power to demand that programmes are improved. Oversight places the legislature into an adversarial relationship with the executive branch of the municipal council. Thus, the oversight role of the legislature differs from that of the executive. The legislature concentrates on accountability of performance rather than to decipher administration matters or problems. The legislature is the last point of accountability and must ensure that the executive acted appropriately (EMM A 2011: 4).

4.2.1.3 Public participation

According to the *Merriam Webster Dictionary* (2011), the term public refers to the general population or the ordinary citizens of a country. In a diverse society such as

South Africa, the term public is inclusive and distinct in nature. The legislature must inculcate a culture of municipal governance that compliments formal representative government with a system of participatory governance including community involvement and relationship building. Oversight committees must ensure that departments conduct civic education and public participation programmes to empower communities to enable meaningful participation (Parliament 2009:37).

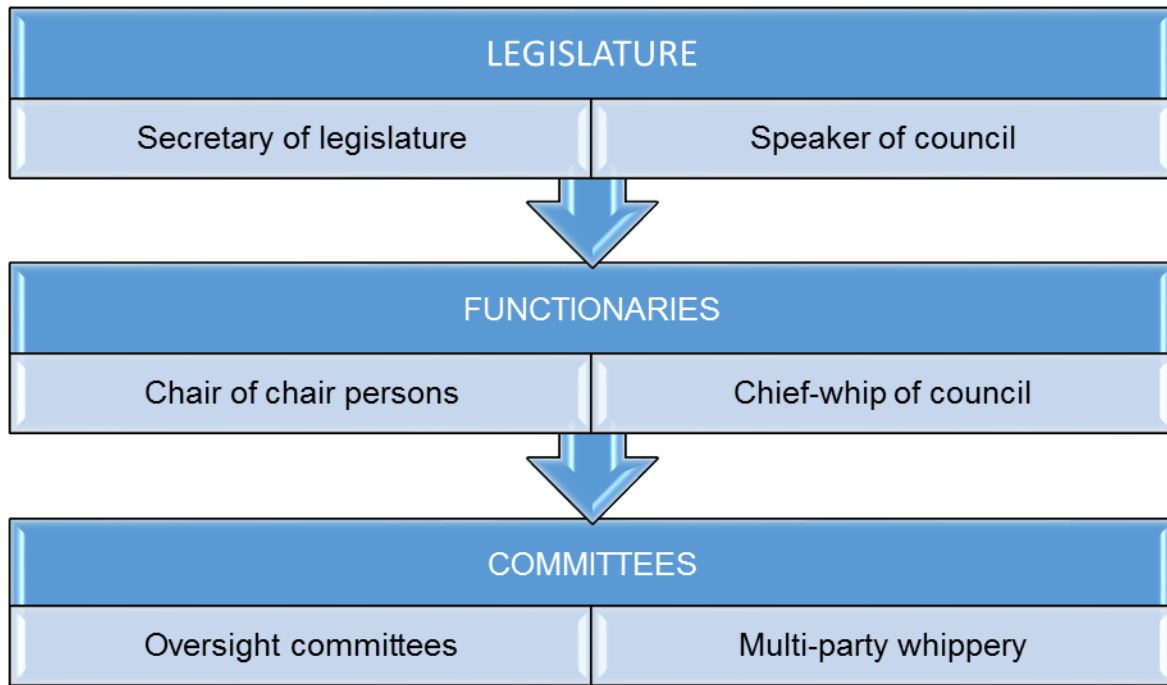
The duty to remedy injustices by taking steps to correct deficiencies in policies or by-laws can be termed amendatory accountability. It requires acceptance from the executive branch of the municipal council that improper conduct had taken place (Parliament 2009:37). The executive is responsible for executing the municipality's mandate by implementing by-laws, policies, strategies and council decisions to ensure the EMM operates effectively. The oversight committees execute the oversight role supported with public participation to ensure that the legislature plays an appropriate role within the context of the separation of powers (EMM 2011A: 7). Accountability is also intended to promote accessible government and it augments public confidence in state institutions. Section 32 of the 1996 Constitution stipulates that access to information is a significant prerequisite for effective public participation in a manner that is meaningful for the public and ensure that the government is close and responsive to the people it serves. The International Association of Public Participation (2007) developed core values for the latter to ensure the right of all communities in the decision-making processes. The values underscore that public participation includes the undertaking that the public's contribution will influence the decision.

4.3 INSTITUTIONAL ARRANGEMENTS FOR THE LEGISLATURE

In order for EMM to achieve the necessary separation between executive and legislative functions, the municipal council had to redesign its structures, powers and functions such that it supports this separation. The institutional arrangements for the legislature

includes the role of the speaker, chair of chairpersons and chief whip of the municipal council and the respective support staff.

Figure 4.1 Institutional arrangements for the legislature



Source: Ekurhuleni Metropolitan Municipality council agenda (2011:8)

Figure 4.1 above illustrates the institutional arrangements for the separation of powers governance model designed for the legislature and explains the composition of the functionaries. The roles of the speaker and the chief whip of the municipal council are defined within the separation of powers governance model. The speaker is the head of the legislative arm of the municipal council and presides over the council meetings. It is the responsibility of the speaker to ensure regular municipal council meetings as well as compliance with the code of conduct for councillors.

4.3.1 The speaker

The speaker plays a coordination and management role in respect of the section 79 oversight committees. The role modifications of the speaker includes the broadening of

the span of control and to preside over the newly established programming committee. The speaker is assisted by a chairperson of committees to guide and evaluate the oversight committee's work.

The powers and functions allocated to the speakers in terms of section 37 of the *Local Government: Municipal Structures Act, 1998* (Act 117 of 1998) is classified as follows:

The speaker of the municipal council has the authority to formulate mechanisms for public participation in the municipality. The approval of all systems to administer petitions and to supervise and command the performance of ward committees also resides within the authority of the speaker. Thus, the speaker is obligated to submit reports and recommendations to the council and to oversight committees on matters within the scope of the committees. Additionally, the speaker must ensure the development of the standing rules of the municipal council as well as the establishment of ward committees. The powers and functions under which the speaker is the convener of the programming and rules committees.

Ultimately, the authority of the speaker is in respect of council processes, meetings, petitions, ward committees and council committees. In terms of the separation of powers governance model, the power of the speaker has been delineated to the municipal council, ward committee and petition processes. The functions of the speaker deals explicitly with the municipal council differentiating the speaker from the executive and administrative systems of the municipality. The institutional arrangements promotes interaction beneficial to oversight and scrutiny (EMM B 2016:28).

4.3.2 The chairperson of committees (chair of chairs)

The chairperson of committees' role entails assisting the speaker by overseeing and coordinating the work of the oversight committees. The chairperson of committees reinforces the separation of powers governance model by providing advice to the chairpersons of oversight committees in performing their independent oversight

function. The key functions of this role is to provide guidance and advice to chairpersons with regard to rules, procedures and functions. The chairperson of committees' facilitates capacity building for chairpersons and ensures the smooth management of committee activities. The function also includes co-ordination, supervision and monitoring of *ad hoc* committees or other forums of the legislature as well as assist the speaker to evaluate the performance of the committee. The current legislative framework for local government does not provide for the appointment of a chairperson of committees as a political office-bearer. Hence, the municipal council delegated this responsibility to one of the oversight committee chairpersons (EMM A 2011:9). In addition to the chair of chairpersons' position, programming committees were established to augment the Speaker's mandate.

4.3.3 Programming committee

The programming committee is also an additional committee established by the municipal council in the separation of powers with the objective to assist the speaker in setting the municipal council agenda and programme. The programming committee considers the input from different political parties, ensures that the agenda is ready for discussions, and debate in the municipal council. The chairperson of the programming committee is the speaker of the municipal council. The additional members include: the chief whip, chair of chairs, whips of political parties and the leader of government business (EMM A 2011:9).

4.3.4 The chief whip

In the parliamentary system of government, the role of the chief whip of a political party is to manage other whips within the party to ensure that its members uphold discipline and good conduct. Furthermore, and more specifically, to ensure that party members speak with one voice on matters of policy. The same principle applies in local

government; the municipal council chief whip's primary responsibilities is to ensure agreement between the executive and municipal legislature.

The notice on the upper limits of councillor remuneration was introduced in the office of the chief whip of council in 2006. The chief whip of council is not an office bearer in terms of the *Local Government: Municipal Structures Act, 1998* (Act 117 of 1998), thus the council is not lawfully obligated to implement a terms of reference for the chief whip. In the EMM, the chief whip's responsibilities include: maintaining positive relationships between political parties in council as well as facilitate the resolution of disputes between political parties. The chief whip also allocates councillors to oversight committees in consultation with the whips of other political parties. In addition to the existing roles and responsibilities, the chief whip is required to liaise with the leader of government business and attend to the programming committee to consider political party presentations to serve at the municipal council (EMM 2011A:15).

4.3.5 The leader of government business

In terms of the current legislation as well as the establishment notice of EMM, section 12 of the *Local Government: Municipal Structures Act, 1998* (Act 117 of 1998) specifies that the municipal council may only appoint the speaker, executive mayor and MMCs as political office-bearers. The members of the mayoral committee are fulltime councillors and in order to comply with legal establishment provisions, one of the members of the mayoral committee is designated to act as the leader of government business. This role is executed in addition to the members' responsibilities for a specific functional area of the municipality.

The leader of government business is a new position in the separation of powers governance model. This position ensures effective interface between the legislator and the executive of the municipal council. The role and responsibility of the leader of government business includes acting as a central point of coordination between the

executive and the legislature; and serves as a communication link between the executive and the legislator, which includes the interaction with the speaker and the chief whip.

A core competency of the leader of government business is to liaise with the speaker when a special meeting of the municipal council is called outside the normal programme; and processing matters which have to be referred to the section 79 committees and the municipal council. Furthermore, the leader of government business liaises with the speaker to allocate time to discuss matters of public importance on the council agenda, either directly or in the programming committee (EMM A 2011:16).

4.4 APPLICATION OF THE TERMS OF REFERENCE OF OVERSIGHT COMMITTEES AND SYSTEM OF DELEGATION

The terms of reference of oversight committees is designed to guide the latter committees in the execution of its oversight mandate, powers, duties and responsibilities. The municipal council adopted the terms of reference of oversight committees on 7 September 2011 and amended it in March 2012. The scope of the oversight committees' work is described in the terms of reference and the parameters of the annual programme includes the setting of performance monitors for the MMC and the department, planned oversight visits, planned study tours, petitions mainstreaming initiatives and public participation outreach programmes. The separation of powers finds expression not only in the way or manner that the political structures of the municipal council is designated, but also in the delegation of powers, functions and responsibilities of the political office-bearers including the speaker, executive mayor, MMCs and chief whip. Section 59 of the *Local Government: Municipal Systems Act, 2000* (Act 32 of 2000) stipulates that a municipality must develop a system of delegations that will maximise administrative and operational efficiency and provide for adequate checks and balances. The system of delegation in EMM encompasses

aspects such as the delegation of powers, functions and duties by the municipal council subject to the conditions of delegation. The municipal council has reserved certain powers for itself such as the approval of the budget and delegated, while the remaining powers to the executive mayor in terms of section 56 of the *Local Government: Municipal Structures Act*, 1998 (Act 117 of 1998), and chapter 7 of the *Local Government: Municipal Finance Management Act*, 2003 (Act 56 of 2003). The municipal council also delegated responsibilities to the speaker, chief whip and the leader of government business as well as the chairperson of committees. The executive mayor exercises the powers delegated to him/her in conjunction with the members of the mayoral committee. The wide-ranging delegations of all executive functions to the executive mayor assigns extensive powers to the mayor. The executive mayor is authorised to sub-delegate certain of his powers to the MMCs and to the city manager who is authorised to further sub-delegate to heads of departments. The municipal council established oversight committees within its legislative arm and adopted its terms of reference. It is evident from the system of delegations that the executive powers and functions have been assigned to the executive mayor with the support of the mayoral committee. However, the remaining powers and functions reside with the municipal council. The executive mayor and the MMCs are councillors, therefore, they are members of the municipal council. Although they are distinct functionaries when executing executive duties, they form part of the municipal council, which exercises both legislative and executive functions. Irrespective of the fact that the executive mayor and the MMCs forms part of the municipal council, there is a separation between the executive functionary and the municipal council which allows the municipal council to exercise oversight over the executive (EMM A 2011:24).

4.5 VALUE CHAIN

In the previous governance model, reports emanated from heads of departments, often bypassing the city manager to the MMCs, and then advanced to the section 80 portfolio committee to the mayoral committee and ultimately the municipal council would consider the tabled documents. The new oversight mechanisms and updated delegations are designed to give effect to the separation of legislative and executive

authority and it was imperative to ensure the flow and exchange of information across both arms of the municipality (EMM A 2011:26).

4.5.1 The value chain in the separation of governance model

The value chain was developed to describe the process of how the legislative arm and the municipal council receives information and reports to exercise its legislative mandate effectively in respect of the matters which emanate from the executive.

Figure 4.2 Diagramme depicting flow of information



Source: Ekurhuleni Metropolitan Municipality council agenda (2011:12)

The first step in the value chain emanates from the municipal administration to MMCs and ultimately to the municipal council. The section 79-oversight committees is the last step in the value chain before submission to the municipal council. This accentuates the significance of the oversight committees mandate because their recommendations are crucial in the deliberation at the level of the municipal council.

4.5.2 Administrative level

Reports from the municipal departments are considered by the internal administrative committees and thereafter by the strategic management committee before submission to the MMCs who are responsible for the specific functional areas concerned. This ensures that the municipal manager and the head of department has knowledge of the reports and is satisfied with the contents thereof to political office-bearers and the structures. It will also ensure integration of issues that interconnects more than one department or discipline.

4.5.3 Political office-bearers and structures

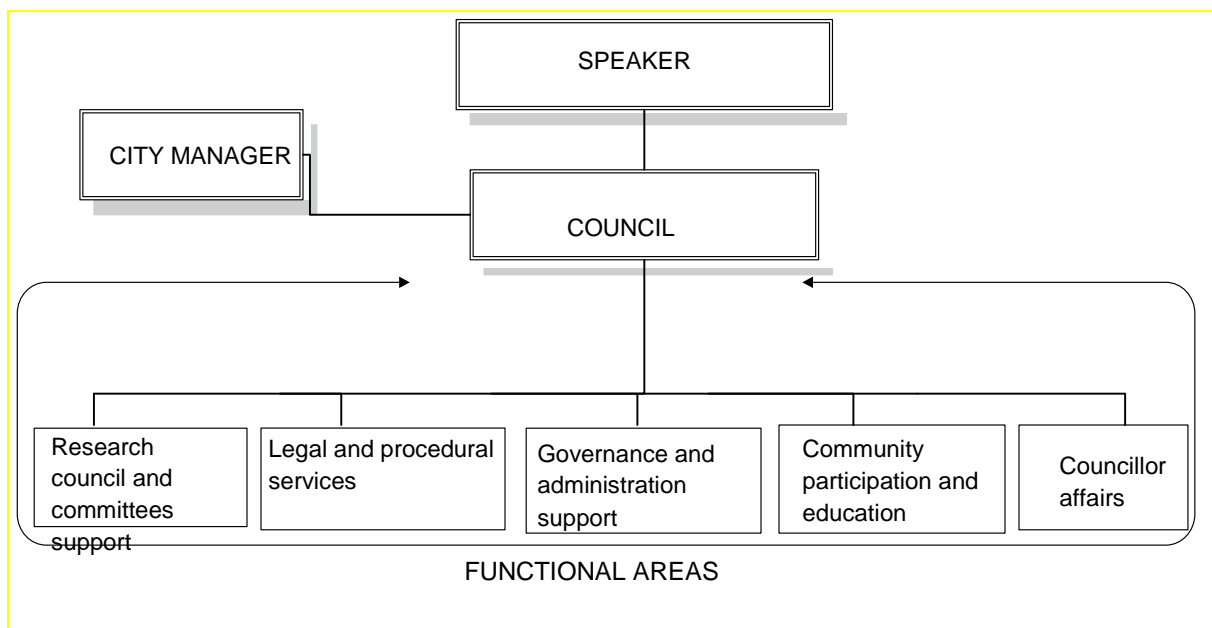
Reports and information from the municipal administration are submitted to the MMCs who will finalise matters in terms of their delegated authority. Administration may also submit reports to the cluster for consideration if the matters affect more than one department or if it has to be considered by the mayoral committee. If a matter does not affect more than one department, the report may be submitted directly to the mayoral committee. Cluster reports will be submitted directly to the mayoral committee who will finalise the matter in terms of their delegated authority or to the relevant specialised oversight committee if the matter falls within the terms of reference of such committee (EMM C 2011:28). The mayoral committee reports on matters that are reserved for council and tables it in the programming committee after which it will progress to the relevant section 79 oversight committee and ultimately to the municipal council. However, there are instances in the value chain where the flow of information will pass directly from the executive to the municipal council. This will happen only in instances if the final decision-making resides with the executive but if the matter has widespread implications, the executive may refer the matter to the municipal council for consideration. Furthermore, also in instances if the executive reserves its final decision in concurrence with the delegated authority. In the case of the draft budget, the executive submits the draft budget directly to the municipal council for consideration and

refer it to oversight committees for further input. The final approval of the budget is vested within the municipal council. If there is a matter of an urgent nature and it requires immediate attention by the municipal council (for example, a natural disaster), the executive tables the item in the municipal council. The leader of government business will, after liaison with the speaker submit such matters to the programming committee to be placed on the council agenda (EMM A 2011:28).

4.6 FUNCTIONS TO SUPPORT SEPARATION OF POWERS

A separate arm of government was established referred to as the legislature to ensure the efficient operation of the municipal council. The legislative administrative support functions were designed to provide administrative support to the legislature. The legislature is comprised of key institutional structures that play a role in the delivery of its mandate. The separation of powers requires a separation of the legislature from the executive. In order to effect such separation, the structural arrangement which supports the council was reviewed (EMM A 2011:30).

Figure 4.3 Legislature administrative support structure



Source: Ekurhuleni Metropolitan Municipality council agenda (2011:26)

To fulfil the mandate of the separation of powers governance model it was essential for the legislature to have its own fully functional autonomous resourced secretariat. The legislature secretariat is supported through five core functional areas that cover the primary legislative functions:

Research, council and committees support, the legal and procedures service, governance and administration support, community participation and education as well as councillor affairs.

4.6.1 Research, council and committee support

The research, council and committee support unit is the core in terms of the legislature administrative support. The core function of the unit is to manage the proper documentation and reporting in terms of the process flow to ensure that the municipal council takes informed resolutions. According to the Oversight Model of the South African Legislative Sector (2012:22), the committee support staff ensures that the appropriate oversight committee considers reports that are finalised by the executive. The committee support office is also responsible to summon departments and members of the mayoral committee's on behalf of the oversight committee. The capturing of all oversight committee proceedings and resolutions also resides with the unit.

Functionaries such as oversight chairpersons are a new introduction to the legislature. Therefore, the new administrative roles supports these functions. Additional staff in this office included the committee secretarial support as well as general administrative support for the legislature (EMM A 2011:31). The research office is a new function necessitated by the need to assist the legislature with the review and analysis of documentation and reports received from the executive. Research included compiling reports to assist the oversight committee to probe the departments to ensure that comprehensive reports are referred to the municipal council. Kumar (2014:2) states that research is imperative to develop an understanding and to formulate tenets that

regulate a particular procedure to ensure analytical thinking. In the previous model, research was only conducted by the executive, therefore, the separation of power augmented this function because it is critical for the legislature to analyse reports from the executive.

To ensure objectivity, transparency and independence, the research function for the executive cannot be utilised by the legislature to inhibit administration bias. There has to be clear separation as one arm of government is involved in the oversight of the other arm of government. The research unit ensures that departments report in line with the integrated development plan, service delivery budget implementation plan and other key performance areas which supports the municipality's mandate (EMM A 2011:30). Information management is an additional function of this office, that is, manage the information flow from registration, distribution, filing and archiving of reports and documents that are presented to or by the legislature. This new function were necessitated by the separation of powers because it was previously centralised in the executive arm of the municipal council. The unit is responsible for coordination of all legislative records that will be stored in the current registry and records section within the legal department (EMM A 2011:31).

Legislative and procedural services is a new secretariat unit. The purpose of the legal and procedures unit is to offer legal as well as procedural advice to the legislature. The oversight committees require dedicated legal support compared to the previous model in which the executive provided such support. Legal advice assists the legislature to interrogate and corroborate legal based information from the executive. Procedural advice is in terms of guiding the speaker on the application of municipal council standing orders (EMM A 2011:32). The community participation and education unit is a rearrangement of the previous public participation and petitions unit. The unit assists with community participation in respect of public hearings on proposed by-laws. The 1996 Constitution asserts a participatory democracy that calls for active citizenry

participation. Furthermore, the unit also supports stakeholder engagements with various non-governmental organisations. Community empowerment forms part of the functions of the unit to enable meaningful citizen participation. The process in particular requires the legislature to gather public opinion or stakeholder input. Community participation, therefore, inspires a culture of municipal governance that compliments formal representative government (EMM A 2011:33).

4.7 TOOLS OF OVERSIGHT COMMITTEES APPLIED IN EMM

The aim of the oversight process is to select the tool that is best suited for the particular oversight being undertaken.

Table 4.2 Oversight tools

Tool	Description	Efficacy
Questions	These are written or oral questions that can be asked in the municipal council	It allows oversight committee members the opportunity to pose a question to the executive that will enable an answer or highlight a particular matter
Summoning of the executive before an oversight committee	The MMC can be subpoenaed to appear before the oversight committee to answer key questions. This is usually exercised in instances when there has been a lack of responses to requests made by an oversight committee or there is a serious incident (e.g. a disaster)	It allows the oversight committee the opportunity to interrogate matters in depth. It also enable dialogue between the oversight committee and the executive

Site visits	The members of the oversight committee undertake a visit to a site where service delivery is happening or where an incident occurred.	This gives the oversight committee the opportunity to gather its own information first-hand rather than getting the information from somewhere else. The oversight committee gathers empirical data.
Research reports	The oversight committee conducts research on trends and opinions.	This gives the oversight committee the opportunity to generate its own information provided by the executive.
Public hearings	The oversight committee creates an opportunity for the public in general or affected stakeholders to give input on a matter.	It gives the public in general or stake holders in particular the opportunity to comment on pertinent issues.
Focused intervention studies	The oversight committee undertakes a study with a very particular focus. The intention is to gather in-depth information and to make recommendations that are solution driven.	These studies enable the gathering of in-depth information and provide the opportunity for the committee to recommend solutions (specific rather than general) that could be addressed.
Reviews	Reviews entail the review of information provided by the executive (e.g. plans, budgets, policies) that enable the committee to highlight gaps and recommendations on how these should be addressed.	Reviews give the committee the opportunity to systematically consider information before it and creates the spaces to give input.
Performance reports	This entails the oversight	This report could be used to

	committee formally rating the performance of departments as well as the assessment of the annual report.	highlight key areas of weaknesses that need to be addressed. Such a report ensures that outstanding matters must find expression in the next financial year.
Resolution tracking	This process ensures that the recommendations or resolutions that have been passed in respect of a particular department are addressed.	It ensures that the executive implements the recommendations of the municipal council.
Workshops and conferences	This allows the oversight committee to engage with stakeholders and the executive in a focused manner around particular issues (e.g. concurrent matters such as health that require collaboration between all three spheres of government)	This promotes cooperative governance and unblocks issues that are usually deflected.
Cooperative governance and intergovernmental relations	This encourages joint oversight activities between the legislatures of the spheres of government	Promotes intergovernmental relations.

Source: Adapted from terms of reference of oversight committees (2011:17)

In overseeing the executive, the legislature has various oversight tools at its disposal. The general oversight tools include: committee meetings, questions, and oversight visits. According to Pelizzo and Stapenhurst (2004:4), oversight tools can be grouped into two dimensions. The first dimension is concerned with the timing of the oversight

activity. If legislative oversight is performed prior to the adoption a specific policy or becomes engaged in a specific activity, then the oversight tools are instruments of control *ex ante*. The second dimension is when the legislative oversight is performed after the government has enacted a policy to check whether the policy is implemented properly. Thereafter, the oversight tools are instruments of control *ex post*.

4.7.1 Tools for a co-operative model of oversight

The assumption is that oversight is essentially adversarial and necessarily requires conflict between the executive and the legislature. However, mechanisms that can be implemented to ensure a more cooperative approach. The EMM applies the following approach: the executive recognises that they are the first line oversight, which is fundamentally about cooperation (EMM C 2011:38). The elements of coordination mechanisms and formal adoption of performance reports encompasses such an approach. Coordination mechanisms include quarterly meetings between office bearers and members of the mayoral committee; and regular meetings between the speaker and the executive mayor as well as effective programming and scheduling thereof. Formal adoption of performance reports by oversight committees forms part of the executive planning process to ensure resolution tracking and solving.

4.7.2 Programmatic oversight

The form of oversight employed by EMM is referred to as programmatic oversight since the legislature reviews the municipality's budgets, plans as well as quarterly and annual reports. This form of oversight focuses on the strategic and annual plans; budget; and the extent to which the executive delivers against these plans and the budget. This also translates into oversight over the integrated development plans as well as the service delivery budget implementation plans (Oversight Model of the South African Legislative Sector 2012:65). The programmatic oversight follows planning and reporting cycles as required by National Treasury. In terms of current practice in South Africa, the legislatures spend most of their time and effort on programmatic oversight (Parliament

2009:3). Furthermore, oversight committees in EMM also focus on whether the executive conducts its business in a manner that is legally compliant and based on principles of good governance.

4.7.2.1 The practice of annual reporting, mid-year budget, and performance assessment reporting

The *Local Government: Municipal Finance Management Act, 2003* (Act 56 of 2003) obliges municipalities to report its activities through an annual report and mid-way in a financial year through a mid-year budget and performance report. This is one of the mechanisms prescribed per legislation to facilitate transparency, accountability and oversight.

In EMM, the responsibility to ensure the preparation of the annual report and financial statements is assigned to the member of the mayoral committee for finance. This is in contrast to the prescripts of the legislation. Legislation requires that the executive mayor tables the annual report. After the annual report is tabled in the municipal council, it is referred to oversight committees. The process limits the municipal council in respect of debating the annual report. Customarily, the municipal council merely notes the report and refers it to oversight committees without debate. There is a process of annual reporting in EMM; however, there are deficiencies in the nature of the debate and deliberations in the municipal council as well as in the oversight committees (EMM A 2011:40).

4.7.2.2 Mid-year and performance assessment reporting as an oversight process

In EMM, the Budget Implementation Policy (2011) stipulates guidelines on the mid-year budget and performance assessment. The specifications of the policy stems from the assessment of the service delivery and budget implementation plan (SDBIP) results. The process is informed by *Local Government: Municipal Finance Management Act*,

2003 (Act 56 of 2003) circular 13 of National Treasury. Furthermore, the policy assigns the responsibility of the assessment report to the accounting officer, which conforms to the legislation. Financial adjustments are facilitated by the finance department and then referred to oversight committees, which makes recommendations before the council adopts the amendments. The process permits the municipal council and its oversight committees to exercise oversight over the executive and administration against the budget and service delivery budget implementation plan.

4.8 SUMMARY

For an oversight committee to perform effectively against its mandate, it is crucial that it develops an annual committee plan or what is occasionally also referred to as an annual oversight plan. The purpose of the plans is to align the committee work to the overall strategy of the legislature. It assists with the prioritisation of issues that the committee wants to focus on and ensure that the oversight committee engages in activities that covers its core areas of oversight, public participation and law making. Committee planning incorporates elements of business planning but the nature thereof is largely operational because it focuses on the various activities that a committee has to execute. It also serves as a programme of activities that must be undertaken which should ideally be aligned with that of the legislature. The planning approach utilised in EMM is consistent with the results based planning applied across all spheres of government. Furthermore, the chapter revealed that the EMM applied the terms of reference of oversight committees and the system of delegation to allocate powers and functions to office bearers and structures as a method to separate the executive and legislative arm of the municipal council. The municipality applied these mechanisms to assign functions to the section 79 oversight committees. The allocation of oversight functions to the section 79 oversight committees permits the committees to regularly oversee the performance of the executive and the administration. The chapter further reflected on the application of the annual reporting, mid-year budget, and performance assessment reports as useful tools of oversight. However, the challenge of significant debates in the municipal council was revealed.

CHAPTER 5

DATA ANALYSIS AND STUDY FINDINGS

5.1 INTRODUCTION

In the previous chapter, oversight mechanisms and structures provided by legislation for local government was examined. The investigation reflected how the Ekurhuleni Metropolitan Municipality (EMM) utilised the mechanisms and structures to design their governance system in an attempt to separate executive and legislative functions to promote good governance. Directed by the statement that purposeful application of the mechanisms specified by legislation can enhance oversight and accountability to promote good governance, this chapter analyses and presents the findings of the data collected on the separation of powers governance model. Chapter five also responds to the objective in chapter one (section 1:7): *To explore the application of the separation of powers governance model in EMM to identify its strengths and weaknesses and analyse the data collected during the study against the principles of good governance.*

5.2 RESEARCH DESIGN

The analysis of oversight mechanisms in local government to promote good governance in Ekurhuleni Metropolitan Municipality was a qualitative study because the analysis was performed to establish the peculiarity in the phenomenon without quantifying it. A research design is constructed on a set of decisions taken of aspects such as what subject is to be investigated in which population and identify the research techniques to be utilised for the intent (Babbie 2013:116). According to Yin (2014:28), research design follows a rational order that connects the actual data to a research question and ultimately to its findings. An exploratory case study method was adopted by the researcher because it is an effective paradigm when investigating a topic and inadequate information is available to propose improvements and comprehend the current status (Kumar 2014:155). There was limited literature on the topic of oversight and accountability at the level of local government as the separation of powers

governance model was initially implemented in August 2011 by the Ekurhuleni Metropolitan Municipality. Primary data was gathered through questionnaires and information acquired from secondary sources such as EMM council reports, government publications, journals and books. Auriacombe (2014:36) explains that secondary sources help the researcher to acquire applicable information pertinent to the study. This study adopted the open-ended questionnaire method for members of the municipal council. Furthermore, group questionnaires were administered amongst the ten oversight committee support staff. In a questionnaire, open-ended questions can produce a plethora of data because the respondents can respond to questions spontaneously. According to Kumar (2014:181), the utilisation of questionnaires is relatively convenient and economical, especially when it is administered collectively in a study population. In the case of public representatives from various political parties, it is useful because it offers greater anonymity and the respondents can provide information freely.

5.3 PRESENTATION OF DATA ANALYSIS AND STUDY FINDINGS

Kumar (2014:317) postulates three methods to analyse data in qualitative research, namely: the development of a narrative to describe a situation, episode, event or instances; identification of the primary themes that became known from questionnaires; and quantifying the primary themes to specify their frequency. According to Yin (2014:135), an analytic strategy aids the researcher to search for patterns, insight or concepts to analyse the data collected during the research study. The desired strategy should follow a cycle encompassing ones research questions, interpretation of the data and the ability to state certain findings.

5.3.1 Data analysis in relation to the research question

The primary research question of the study reflects on how the separation of powers governance model in local government enhances oversight and accountability. Secondary questions also probed the legislative framework utilised to foster greater oversight and accountability. The institutional arrangement of the separation of power governance model is one of the key determinants of the governance model. Therefore, broad themes were established from the contents of the responses to articulate the views of the respondents to the open-ended questions (Kumar 2014:318). The responses relate to questionnaires in Appendix A and Appendix B of the study.

5.3.1.1 Institutionalisation of the governance model

Across the spectrum, the respondents reported that the governance model was institutionalised at the start of the municipal council term of office in 2011 to ensure that the executive is held accountable to executing its duties. From the legislature and the executive, the respondents understood and reported that the model was introduced to ensure oversight on the work of the executive, ensure that there are adequate checks and balances and all councillors contribute meaningfully in the overall governance of the municipality.

The respondents mentioned that: “the model was introduced to create an environment where the implementation of municipal council resolutions and the implementation of executives’ programmes will be thoroughly and effectively scrutinised by the legislature”. The model also addressed the weaknesses associated with the previous section 80 portfolio committee system, and thereby ensured efficient and improved service delivery and transparency as well as effective monitoring by the municipal council of the executive performance and the administration of key municipal programmes. Certain respondents were more direct in their response and highlighted

that section 80 portfolio committee's compromised of oversight because members of the mayoral committee who also served as chairpersons of portfolio committees. Consequently, decisions could be taken from a position of bias.

While the above was the view raised by most of the respondents, certain respondents held that the separation of powers model was not the initiative of the municipality, hence it could not have been the vision of the municipality to implement the model. Instead, upon realising the benefit of the model at the provincial and national spheres of government, a decision was taken to implement the governance model at the local sphere. The roll out of the separation of powers governance model at the local government sphere was, however, preceded by a pilot project in the City of Johannesburg Metropolitan Municipality during the 2006 political term because numerous benefits were reaped. Hence, the Department of Co-operative Governance and Traditional Affairs (COGTA) decided to roll out the governance model to metropolitan municipalities. In response to the question of the inadequacy of the separation of powers governance model and the readiness of the environment for the roll out thereof, certain respondents revealed that it was a unanimous decision by Municipal Council to embrace the shift from section 80 portfolio committees to section 79 oversight committees with the view to improve accountability. However, the popular view was that the change was not easy because the executive felt undermined by the new system because it meant that the members of the mayoral committee would no longer preside over committee meetings. Salih (2005:252) states that in the process of the execution of oversight roles by the legislature, the executive also contends to govern. The significance is that both parties contest to guide policy making and in-turn its outcomes. Johnson (2005:1) asserts that this should not be the situation as contemporary states are typified by shared decision-making between the legislative and executive branch of government.

It was in this context that certain respondents held that not enough was done prior to the roll out of the governance model to ensure that it was institutionalised properly.

Furthermore, they maintained that both politically and administratively the environment was not ready for the roll out of the governance model because the systems were not in place for its implementation. The respondents held that the complexities of the governance model were not immediately clear to all the councillors and the transition was confusing to most councillors. What compounded the challenges further, according to certain respondents, was that politics of patronage persisted and it would take time and political maturity to overcome this challenge. The majority of the respondents who revealed that the institutionalisation of the governance model was not smooth, accentuated that the municipality continued to rely on the dated systems and processes even after the introduction of the separation of powers governance model. This was more at the inception of the separation of powers governance model and it resulted in confusion in respect of the roles and the responsibilities. The current municipal council comprises of sixty percent new members which results in challenges relating to comprehending and capacity. The respondents also highlighted the lessons learnt from the roll-out of the separation of powers governance model in the City of Johannesburg Metropolitan Municipality and the critical imperatives of the governance model, because it was useful in the implementation stages thereof.

The study confirmed that the councillor skills levels is limited and most of the respondents had no tertiary education. Thus, oversight committee's lacks capacity and research capacity to question the executive arm of the municipal council with vigour. The study further noted the imbalance of support staff amongst the executive and the legislator because the members of the mayoral committee comprises of senior officials with years of experience to support them. However, the legislator comprises of junior staff with limited experience. Consequently, arguments by departments are often of a legalistic nature which leaves the oversight committees at a disadvantage. A further and related limitation is that there are inadequate channels or requirements for the executive to provide feedback to oversight committees. Therefore, oversight committees are seldom in a position to recommend policy adjustments to the municipal council.

5.3.1.2 Functionality and impact of the separation of powers model

The participants responded to the functionality of the governance model including the extent to which it has provided benefits to the performance of the municipality across the key performance areas such as governance and council effectiveness in respect of the oversight responsibility, administrative and executive capability as well as accountability. All the respondents identified significant concerns with regard to the strengths and weaknesses of the governance model. The following key strengths were highlighted: the governance model has for the first time enabled extensive scrutiny of departmental reports, which could not be done under the section 80 portfolio committee system; and the model now accommodates oversight visits by committees as well as public engagement, which assisted to encourage efficient and improved service delivery. Zvoma (2010:3) accentuate that the objectives of oversight is to enhance the efficiency, economy and effectiveness of government. Certain respondents reported the following, which demonstrated a very positive review of the model:

“There is improved accountability on the side of the executive arm of the municipal council”. The legislature has now been allocated powers through the oversight committees. The oversight committees have an important advisory role to play in the municipal council”. “There is an integration in the manner in which things are done, and the separation of powers governance model provides an opportunity for learning between departments as well as between the executive and legislative arms of the municipal council”. The separation of powers governance model minimised opposition party disagreements, as every councillor is involved to ensure accountability, creating public value for the common good. The coalition government in the municipality endeavours to move away from party lines to promote the delivery of efficient services and good governance.

The study established that the majority of the members of oversight committees are from the majority party, which effects decision-making. The political culture and ethos of the majority party encourages commonality, rather than analytical engagement or public debate. Members of the oversight committee from the majority party seldom critically question a member of the mayoral committee in the municipal council. Mickler (2013:423) implies that partisan theory supports the role of political parties in government. Political parties in this theory are the main role players which makes public representatives accountable to their own parties. Fredriksson and Wollscheid (2014:54) define party loyalty as the extent to which elected public representatives keep their party's campaign promises after being elected. This indicates that public representatives are compelled to safeguard the interests of their political parties to achieve the objectives as set out in the manifesto. Moreover, most oversight visits are reactive than proactive. Oversight committees conduct site visits because a problem exists. For oversight committees to be effective and ensure credible oversight and accountability, public hearings should be increased at which society can make presentations or submissions. The secondary sources revealed that insufficient public hearings took place and most of the legislator's work was confined to the official chambers of the municipal council. Thus, consultation with stakeholders is inadequate and the public perceive the municipality as ineffective in terms of the delivery of services. The study also acknowledged that accountability is paramount in a democratic government and a symbol of good governance. Therefore, it concedes that oversight committees have increased the level of participation in discussions in matters of the municipal council. Furthermore, with the appropriate training, oversight committee members can develop in-depth knowledge of specific committee work.

A member of the executive arm of the municipal council was more specific in response to the question in (Appendix A) of the strengths of the governance model and highlighted that it was largely because of the implementation thereof that Ekurhuleni Metropolitan Municipality was able to attain a clean audit outcome for the 2013/14 financial year (EMM B 2016:40). The respondent underscored that the executive was

capable of achieving most of the priorities of the municipality because the governance model provided the legislature with adequate power to hold the executive accountable.

In brief, the respondents highlighted the extent to which the executive has to account to the legislature as a positive action brought about by the governance model. It is now known and acknowledged that the oversight committee has authority that is derived from their terms of reference. Oversight committee meetings are no longer a matter of compliance as expressed by a member of the executive in the questionnaire. Instead, thorough preparation for meetings are imperative to avoid being exposed for inefficiencies. The most common challenge raised by members of the executive is delays in decision-making, including the propensity of the legislature to want to review, occasionally even reverse decisions made by the executive on matters which the executive should manage. To this effect, a case relating to the finalisation of an organisational structure following the approval of the municipality's long-term strategy was highlighted in the responses to the questionnaire. According to the respondent, this matter should follow logically and once the function is clearly defined, an appropriate organisational structure should be developed. The respondent accentuated that the municipal council was keen on the strategy and approved it, however, when the executive developed an organisational structure that was appropriate to implement, the legislature made it extremely difficult to have it finalised, and demanded to be involved in this area that is the prerogative of the executive. This raised an issue of the principle of the delegated powers and whether it is fully understood. A member of the executive captured this concern as follows: *The separation of powers governance model tends to slow down the decision-making processes. Decisions may take about six months to be approved*".

Another challenge that was common among the respondents was the lack of a clear legislative framework to guide the roll-out of the separation of powers governance model at the local sphere of government. According to the respondents, such statute would assist to clarify the roles and responsibilities of the various functionaries in the

municipality, including the executive and legislative arm of the municipal council as well as the chief whip, which seem to lack clarity. The study established that this challenge did not only raise questions about the system of delegations but also ascertained a very critical aspect of oversight committees that lack the powers to either summons departments or members of the executive to appear before the committee or take disciplinary action in instances of non-cooperation. Furthermore, the fact that the *Local Government: Municipal Finance Management Act, 2003 (56 of 2003)* makes provision for the executive mayor and the municipal manager to account directly to the municipal council has a potential to render the oversight committees redundant or ineffectual in the reporting value chain. Furthermore, the municipal budget that remains under the control of the executive makes the separation of powers governance model less effective. The study acknowledges that although the municipal council has a legislative responsibility in terms of Chapter 4 of the *Local Government: Municipal Finance Management Act, 2003 (56 of 2003)* to determine and approve the municipal budget, once it is completed, the daily management of the approved budget is delegated to the executive through the city manager. This effectively makes the executive responsible for the financial and non-financial performance of the municipality, including the matters of the legislative arm. Inevitably, this situation creates role confusion between the legislature and executive in the separation of powers context. It makes it difficult for the legislature to comprehensively and independently execute its oversight responsibility. The situation tilts the scales in favour of the executive as far as power relations is concerned.

A respondent from the legislative arm highlighted that oversight committees are further constrained by the limited time available to provide input into critical aspects of the municipality such as budgets, which makes them inefficient. It was also reported by the respondents that key issues are not always adequately addressed by the oversight committees. Moreover, another member of the legislature presented a critical view: *“Political agendas overshadow the initial intention of the separation of powers governance model. The executive does not appreciate what it takes to make a decision*

on the items referred to the legislature. The view also expressed that the executive arm of the municipal council has an inclination of bending the rules. Thus, items are redirected without proper analysis and this result into serious financial implications”.

The study also noted the tight and restrictive timeframes between oversight committee and municipal council meetings. This raised questions of the practicality of oversight committees playing an effective oversight role over departments. There is a need for oversight committees to establish what needs to be done which require proper investigation to solve problems at a policy level. The need for oversight committees to be impartial is important. Consequently, the descending views of opposition parties must always be tabled in the municipal council and the standing orders must accommodate minority views. The question whether the oversight mechanisms enhanced accountability and improved good governance, the study revealed mix perceptions. Interestingly, the views expressed did not depend on whether the respondents were members of the executive or the legislature. For example, a respondent from the legislature reported that the model had adequately improved oversight and accountability in the manner of how matters are done, which was in agreement with a member of the executive who categorically stated that decisions are made to improve efficiencies in the municipality because the oversight committees advise the municipal council on critical matters. Another member of the legislature wrote the following response:

“Reports are interrogated post the fact, which renders oversight redundant as some reports are reviewed after four months. The executive also undermines the role of oversight committees, as they do not abide by the standing orders of the municipal council. There is no uniformity on norms and standards in responding to the community problems and as such, the executive is not responsive enough. Thus, the respondent concluded that the executive has no urgency in responding to matters”.

A common view was expressed to the question of decision-making by the municipal council, in the past the municipal council played a minimal oversight and scrutiny role over the executive and the administration in the decision-making process. The implementation of the separation of powers governance model has strengthened decision-making and oversees the execution of the executive's delegated functions and powers. For example, on a number of occasions the executive and the administration had been instructed to review decisions they had taken. The introduction of the governance model empowered the municipal council to scrutinise proposals by the executive before adopting any recommendations made for approval.

The study also established that oversight committees are still unable to generate own items for deliberation in the municipal council. It also confirmed that there is poor tracking of the municipal council resolutions under the separation of powers governance model, specifically the implementation thereof. The administration held that the municipal council resolutions are not communicated effectively. Public participation under the separation of powers governance model revealed that there is confusion, especially in relation to the role of the municipal council to that of the executive. It was mentioned that public participation is limited thereto and petitions committee. This study noted that public participation had not changed under the governance model and is conducted for compliance purposes only against stringent timeframes that do not allow for meaningful engagement with the communities. In certain instances, communities are unaware of public engagement of certain matters, which affects them. Furthermore, oversight committee meetings are not open to the public as envisaged by the separation of powers governance model. Council reports revealed that community petitions are often not responded to, and public participation and oversight is compromised by oversight committees' lack of resources.

Certain respondents revealed that the governance model had brought about certain improvements in public participation, which raised a dissenting view. The view raised

highlighted that because the oversight model requires the executive to be responsive to the needs of the communities, it hosts Imzibizos bi-annually. Another respondent made reference to community development programmes that were implemented based on commitment with communities. The aim of the programme is job creation and fight poverty in the municipality at the ward level. The supposition of the programme is based on the municipality's intervention to build an active and responsive citizenry in the effort to fast track service delivery in the region. According to the respondent, this was necessitated by the executive's desire to involve communities with the introduction of the separation of powers governance model.

On the question of the institutional arrangements, the respondents held that the chief whip of the municipal council does not play a positive role because he/she tends to be biased and the decisions are overshadowed by party politics. Certain respondents were more positive about the role of the chief whip. They reported that the municipal council chief whip has to play a balancing act among political parties. Certain respondents revealed that there is cooperation between political parties on oversight work, which would not be achieved in the absence of a chief whip. For those who stated this view, the municipal council chief whip has in many respects improved the work of the municipality under the separation of powers governance model.

The study confirmed the most critical challenge of the separation of powers governance model was the lack of legislation that adequately clarifies the roles and responsibilities of the chief whip. This often leads to the misunderstanding of roles between the work of the speaker of the municipal council and that of the chief whip. The role of the leader of executive business was described as important and ensures the flow of information between the legislature and the executive, thereby facilitating efficient and effective decision-making by ensuring constant information sharing between two arms. Challenges facing this model included that there is a dual responsibility within the role of the leader of government business because the functionary is also a member of the

mayoral committee responsible for finance. Moreover, the individual does not always execute its functions effectively. This is further compounded by the fact that the office of the leader of government business is not adequately capacitated with support staff. The role needs to be clarified under the separation of powers governance model. For example, the study revealed that this role is currently only limited to interaction with the programming committee that seems inadequate and ineffective. These unfavourable views were maintained by the majority of the respondents despite the same arrangement being implemented at the Gauteng Provincial Government. With regard to the role of the speaker of council, certain the respondents accentuated that the new governance model requires someone that is assertive and a visionary. They revealed that this could either be the reason for the success or failure of the model. Certain respondents revealed that the current speaker is extremely helpful and ensures that the model is rolled out properly. Furthermore, the incumbent carries the responsibility very well, and is able to conduct the council business and oversight adequately. The lack of capacity to support the oversight committees was reported as the biggest challenge faced by the office of the speaker and EMM legislature. The staff compliment supporting portfolio committees is ample, containing of Researchers, Content Advisers, Legal Advisers and Information Officers ((Oversight Model of the South African Legislative Sector 2012:60) The study determined that the role of the speaker is fundamental for the success of the separation of powers governance model. The speaker is responsible for oversight committees and presides over the municipal council. The role requires one who thoroughly understands and is passionate about the separation of powers governance model. Furthermore, the study acknowledged that role clarification should never be ambiguous if the speaker is to make a positive impact.

5.3.1.3 Legislative environment and governance considerations

The respondents expressed strong views on the lack of a legislative framework that guides the implementation of the separation of powers governance model at the local sphere of government. The opinions expressed moved from the premise that even

though numerous municipalities in the Gauteng Province implemented the separation of powers governance model, the lack of such legislative framework has resulted in difficulty to implement it as efficiently as envisioned. Across the spectrum, the respondents stated that there is an absolute and urgent need to introduce a piece of legislation that would formalise the separation of powers governance model at the local sphere of government. Certain respondents categorically stated that: *“There is a need for legislation that will assign powers and functions to section 79 oversight committees similar to portfolio committees in parliament and the provincial legislatures. Legislation is necessary to define clear line functions between the legislature and the executive. Such legislation should also legislate on the role of the whipper in the separation of powers model. It should adequately defined the separation of powers at local government level, and clear roles and responsibilities of the different functionaries.*

The study established that the existing legislative framework, including the *Local Government: Municipal Structures Act, 1998 (Act 117 of 1998)*, *Local Government: Municipal System Act, 2000 (Act 32 of 2000)* and *Local Government: Municipal Finance Management Act, 2003 (56 of 2003)* must be reviewed to adequately provide for the separation of powers governance model at the local sphere of government. Through the investigation of best practices in the national and provincial sphere of government, it is evident that all councillors should be permanent, full-time and paid from the national fiscus if the separation of powers model is to serve its purpose at the local sphere of government.

Issues related to greater accountability, fraud and corruption and particularly how the separation of powers governance model has enhanced EMM’s ability to manage this complexity, certain respondents reported that the introduction of the governance model has created avenues for the timeous disclosure of fraud and corruption. Consequently, such acts have received adequate attention in the oversight committees. Certain respondents held that the model had encouraged whistleblowing on fraud and

corruption, which serves as a contributory factor towards principles of good governance. The study attributed this to the value chain as explained in Chapter four (section 4.5) which improved the flow of information between the executive and the legislature and made it possible to detect possible fraud and corruption early. However, almost all the respondents still felt there is still much work that needs to be done in this regard to change public perception on issues of fraud and corruption.

5.3.1.4 Strengths and weaknesses of the separation of powers governance model

The respondents underscored that resources have to be committed to the governance model for it to operate optimally, especially in terms of finances and human resources. They also highlighted that continuous training is a very critical component of resourcing the separation of powers governance model. Financial and human resource constraints remains a major challenge in the implementation of the separation of powers governance model. The respondents also held that there is a serious lack of research and advisory skills for oversight committees.

The study revealed that the oversight committees lacked resources to undertake oversight visits as well as community engagement processes. The current staff of EMM is overextended because one researcher serves two oversight committees. Consequently, poor quality work is delivered which in turn affects the committee's output. The South African Local Government Association (SALGA) plays a critical role in mobilising training support for those involved in the implementation of the model. The researcher holds that if correctly implemented, with the necessary resources, the separation of powers governance model could greatly improve the municipality's functions and performance. The model is an essential component for local government and must be implemented properly through adequate legislation. Furthermore, the comprehensive implementation of the separation of powers governance model could professionalise local government. The study revealed that the separation of powers governance model does enhance oversight and accountability since the adoption of the

tools of oversight as explained in Chapter four (section 4.7). The tools of oversight includes questions, site visits, research reports, public hearings, focus intervention studies, reviews, performance reports, resolution tracking, workshops and conferences as well as cooperative governance and intergovernmental relations. The existence of these activities created a new dimension for the municipal council committees because the previous section 80 committees served at the pleasure of the members of the mayoral committee. The chairpersons of oversight committees are appointed by the municipal council, thus they have an obligation to report to the municipal council. There is greater transparency in respect of the work of the executive arm of the municipal council because information is perhaps the most important restraint against maladministration. Thus, the executive is held more accountable for actions or omissions in their area of responsibility.

5.4 DATA ANALYSIS APPLYING THE PRINCIPLES OF GOOD GOVERNANCE

According to Graham et al (2003:3) there are five principles of good governance namely: legitimacy and voice, direction, performance, accountability and the rule of law. The data analysis is in relation to the principles of good governance and responds the research question posed in Chapter one (section 1.6): "*How effective is EMM in using the separation of powers governance model to support efforts to enhance good governance*"?

5.4.1 Legitimacy and voice

Legitimacy participation by stakeholders is important in government decision-making processes. Ntshakala and Nzimakwe (2013:114) assert that community participation is the belief that society will participate in the decision-making processes within the municipality. In pursuit to promote accountability and broaden public participation, the municipality demonstrated a strong commitment of community-centred participatory approaches. Significant strides were made in engaging communities through the

utilisation of various governance structures at the municipal council executive and legislative authority level. However, the secondary sources revealed that oversight committees are not open to the public although there are records of programmes with specific stakeholders that the municipality utilises a number of communication platforms to reach out to the public. Amongst these platforms is the mayoral imbizo, which is held on a quarterly basis that presents the municipality with an opportunity to engage communities on the progress of the integrated development plan. Other platforms include: petitions management system, outreach programmes such as taking legislature to the people, sub-committees established by ward committees and project specific forums which support national and provincial initiatives.

5.4.2 Direction

The programmatic oversight follows planning and reporting cycles as required by the National Treasury. In terms of current practice in South Africa, the legislatures spend most of their time and effort on programmatic oversight (Parliament 2009:5). This type of oversight is aimed at the strategic and annual plans and budget and the extent to which the executive delivers against these plans and the budget. This also results in oversight over the integrated development plans as well as the service delivery budget implementation plans. Furthermore, oversight committees in EMM also scrutinise whether the executive executes its business in a way that is legal and based on good governance principles. Oversight committees have an understanding of what they seek to achieve by analysing various reports namely: audit report, annual report and the budget. The purpose of oversight is to enhance the integrity of governance and to reduce corruption and abuse of power. Chapter 4 revealed that the oversight committees in EMM utilises various tools for oversight. The concern is the capacity and the competency of the members of the oversight committees to provide the municipal council with effective direction. Oversight committee members are political deployees and replaced on a regular bases during elections. This results in a certain level of instability of skills development and institutional memory.

5.4.3 Performance

The municipality recorded positive strides regarding its performance against predetermined objectives and targets as stipulated in the service delivery budget implementation plan. Other results in terms of the EMM performance included the observable fiscal prudence of how the financial rating agencies had opined over the years. The Ratings Africa analysis of the audited financial statement 2015/2016 revealed that the municipality has an adequate level of sustainability and certain measures of consistency over the last five years. Other commendable results, which can be attributed to the institutionalisation of the separation of powers governance model are observed in the consistent achievement of good governance results in terms of the external regularity audit led by the Auditor-General and the lack of hung municipal council meetings. Since the adoption of the governance model, the municipality has entrenched governance mechanisms which were evidenced by two successive clean audits in 2013/2014 and 2014/2015 financial years, while a backward slide manifested in the 2015/16 financial year during which only unqualified results were achieved.

5.4.4 Accountability

The governance model implemented by EMM since 2011 follows the doctrine of the separation of powers as explained in Chapter four of the study. This model makes a clear distinction between the legislative and executive powers. The governance model is implemented within the framework of the 1996 Constitution and other local government legislation as well as National Treasury guidelines as described in Chapter three of the dissertation. The focus is on promoting effective oversight and accountability through the allocation of powers and functions to both the legislative and the executive authorities in the municipality. A system of checks and balances to guarantee answerability, transparency and responsiveness is evident in the municipality. The Auditor-General report for 2015/2016 financial year revealed that 70 cases of alleged irregularities relating to financial misconduct, fraudulent acts, theft and

non-compliance of policies were investigated. The municipality's forensic department investigated all the cases internally of which 35 cases were finalised, 5 cases were cancelled or closed and 30 of the investigations were in progress at the time of this study. The municipal council executive authority promotes good governance and it is a direct result of effective scrutiny on behalf of the legislature.

Furthermore, the municipality adopted a system of delegations as expounded upon in Chapter three (section 3.5.1) which guides and supports the implementation of the governance model. The implementation of this governance model has had a positive impact on promoting transparency and responsiveness thus making a sizeable contribution towards the benefits accrued to the EMM residents. Mechanisms for accountability result in organisations becoming more responsive, and it improves its transparency of how matters should be executed. Fox (2010:137) describes transparency as all actions to public management and administration being conducted in public and not under the disguise of confidentiality.

5.4.5 Rule of law

Accountability for compliance lies with Council, whilst responsibility to ensure compliance is delegated to the administration. The King IV Report (2016) on corporate governance for South Africa incorporates a supplement for municipalities and outlines principles for corporate governance, risk, ethics and compliance with laws. Principle 13 specifically provides that the municipal council should govern compliance with promulgated laws, non-binding rules, codes and standards in a way that supports the municipality to be ethical and a good corporate citizen. Therefore, the municipality prioritised compliance with laws and regulations as a minimum requirement to govern effectively and efficiently.

The compliance management programme forms part of the enterprise risk management framework and the system of internal control designed to assist the municipality to

comply with laws and regulations to reduce the risk thereof. Continuous scrutiny and reporting has been pursued by oversight committees to provide the municipal council with the assurance that compliance is prioritised, the lack thereof is detected and critical high risk areas are escalated and attended to. As part of continuous engagement with stakeholders, the prescribed mitigation plans, which are a critical component of the control environment, continues to be enhanced and advocated. The separation of powers governance model is founded on the provisions of the 1996 Constitution and other relevant legislation as explained in Chapter 3. The legal regulations provide a framework for good governance and the functioning of the municipal council. The legal framework assigns authority to the legislature to oversee the work of the executive authority to enhance oversight and accountability.

5.5 FINDINGS OF THE STUDY

According to Yin (2014:220), case studies are complex, therefore, it is dependent on multiple sources of evidence, which includes questionnaires, documents and archival records. Thus, a case study should triangulate the evidence of the multiple source to validate the findings of the study. This study utilised documents such as municipal council reports, Auditor-General reports, national and provincial reports and documents, open-ended questionnaires as well as group questionnaires to triangulate evidence and establish the findings of the study.

5.5.1 Role clarification

The separation of powers governance model as instituted in EMM since 2011 created challenges in terms of the different roles of the functionaries. Linked to the lack of an explicit legislation dealing with the separation of powers at the local sphere of government, role clarification remains critical for the model to operate smoothly. The enquiry revealed that all role-players require rigorous, generic and committee specific capacity building training to understand the governance model. The understanding of the separation of powers governance model has also regressed with the new coalition government in EMM because most councillors were elected for the first time during the

2016 local government elections. There is a lack of common understanding of the governance model between the executive and the legislature. Aberbach (2002:62) emphasise that oversight ought to be bi-partisan. In other words, it should be an institutional activity, putting aside trivial political intentions. This will make oversight valuable, methodical and impartial, Furthermore, a lack of role clarity continues to present a challenge, particularly for the offices of the various political principals, namely, the speaker of the municipal council, the chief whip, the executive mayor and the leader of executive business. This challenge is also attributed to a lack of a specific legislative framework that supports oversight, accountability and the separation of powers governance model. Thus, the need to refine the roles of these functionaries is essential to meet the demands as a result of the separation of powers governance model. It is essential that these offices are repositioned for effective functioning of the governance model within the current legislative regime. While the current legislation stipulates the role of the speaker and the mayor, it does not refer to the chief whip and the leader of government business. Consequently, it allows for interpretation of these functions as well as utilisation of the practices in the other two spheres of government.

5.5.2 Capacitation of the legislative arm of the municipal council

The study determined the role of the speaker as very important for the successful implementation of the separation of powers. It was also revealed that the model requires an active speaker of council who would unremittingly champion and advance the course of the separation of powers. The respondents identified passion, objectivity and dedication as some of the most significant attributes for the speaker of the municipal council. The investigation established that more support for the optimal application of the separation of powers governance model is necessary in terms of personnel and the capacitation of councillors. The office of the speaker must ensure that the necessary tools are availed to the councillors be enable them to execute their oversight function without difficulties. The councillors do not scrutinise, question and review reports tabled in the municipal council or in the oversight committees effectively. Payne (2009:22) states that while questions time remains essential wherein councillors

are given the opportunity to raise questions, it has enormous flaws such as inappropriate replies. Regardless of inappropriate replies provided by the executive as they uses less time responding to questions, and more time making lengthy speeches. This is attributed to the fact that councillors do not appreciate the contents of the reports and lack requisite proficiency of oversight processes.

5.5.3 Full-time status of councillors

The challenge of having to perform the critical work of oversight while being appointed on a part-time bases as a councillor is a great concern because such councillors often have fulltime employment elsewhere. Given the nature of the work that the councillors have to manage in terms of the separation of powers governance model, it is recommended to pursue different authorities including the national and provincial government structures to review the status of councillors for probable fulltime appointment. The councillors might be able to provide more attention to matters that they manage in the municipal council if on a full time basis as their counterparts at the national and provincial spheres of government. The full-time appointment of councillors might enhance committees work, for example, through regular committee meetings and public participation.

5.5.4 Late submission of reports and irregular provision of information

The respondents held that the separation of powers governance model may unintentionally delay decision-making. This important matter requires further enquiry to establish its root cause because it could certainly diminish the advances made by the implementation of the governance model. The following explanations could be studied for clarity: length of time taken by administration to conclude matters, some of which may be urgent; and delayed submission of items to the programming committee, which frequently results in committees being constrained and in turn deemed inefficient. The legislator is challenged by a deficiency of capability, councillor's part-time status, or

other systemic issues related to the lack of a legislative framework that directs the overall application of the model in the local sphere, which could exacerbate this challenge. The section 79 oversight committees as established by the *Local Government: Municipal Structures Act, 1998* (Act 117 of 1998) require relevant timeous information from the executive to perform meaningful scrutiny. Contrary to this expectation, the investigation revealed that oversight committees still receive reports late from the executive and occasionally in different formats depending on the department that submits the information. This erratic nature of submissions makes the role of the oversight committees insignificant and lacking in terms of impact. The municipal council should approve penalties for non-compliance as well as the establishment of a consequence management system.

5.5.5 Limited community participation

Conceptually, the separation of powers governance model at the local sphere of government should have a strong community participation component. This investigation acknowledges the community participation initiatives undertaken by the municipality. However, this is not conducted optimally as initially intended. Communities barely get involved, even as observers during the oversight committee meetings. Evidently, the principle to ensure that communities become central in the municipality's planning processes provides them with a sense of ownership and control which has not been entirely realised. This could be due to the poor status of the public participation structures and the lack of adequate time and resources by oversight committees linked with part-time councillors. The data collected revealed that the municipal council approved numerous policies, however, there is a lack of the implementation thereof. Oversight committees are reactive rather than proactive to reports they receive and in most instances they deal with past issues. Oversight committees find it difficult to reconcile departmental expenditure with policy priorities. There is a deficiency to enable information technology in the municipality to promote interaction with stakeholders. Thus, the legislature experiences challenges to engage effectively with stakeholders

and society, which defeats the objective of public participation and greater accountability.

5.5.6 Lack of a specific legislative framework

The preceding findings refer to the need for legislative reforms including the allocation of powers to the section 79 oversight committees and part-time appointment of councillors. The weaknesses of the current legislation in relation to the separation of powers do not necessarily afford the oversight committees powers to amend decisions taken by the executive, nor do they have the right to summons the members of the executive. Section 43 of the 1996 Constitution establishes parliament and the provincial legislature as the legislative authorities within the respective spheres of government. There is no explicit provision in the 1996 Constitution, which requires the municipal council to oversee the executive. Both the executive and legislative authority is vested in the municipal council. However, a number of provisions in legislation as discussed in chapter three of the study provides opportunities for oversight by the municipal council over the executive and administration and vice versa. Such provisions include oversight mechanisms that have been the subject of this study and the potential to augment oversight and accountability.

5.5.7 Oversight mechanism

The study also revealed that a number of mechanisms provided for per legislation is utilised by EMM to provide for the separation of powers and promote oversight. This includes the terms of reference of oversight committees as well as the system of delegation as required by the *Local Government: Municipal Systems Act, 2000* (Act 32 of 2000). The utilisation of annual and audited reports including the service delivery budget implementation plan (SDBIP) are important instruments to enhance good governance practices.

In terms of separating powers and functions, the terms of reference and delegations of authority are significant in that it enabled EMM to design the governance model such that it segregates the executive from the legislature. The utilisation of the terms of reference is also essential to facilitate the separation of powers and functions between the executive and legislative arm of the municipal council and to improve oversight and accountability. The service delivery budget implementation plan (SDBIP), the annual and audited report are mechanisms that provide oversight at different stages of the financial year. Annual reports enable oversight after the implementation process and provides *ex post* oversight. In respect of good governance, the study revealed that the principles of good governance were observed in and by the municipal council. These principles included accountability of public representatives in terms of providing account and tabling reports on a regular basis in the municipal council. Scrutiny of reports revealed that the oversight committees promote the effective and efficient utilisation of resources. Systems have been implemented to adhere to the rule of law and the legal framework conforms to the stipulations of the 1996 Constitution. In terms of performance, the municipal council is responsive to the needs of society because the oversight committees also engages with the municipality's integrated development plan. When public decision-making is conducted in an open, transparent and accountable manner, and in accordance with good governance qualities, public representatives are inclined to perform their duties in compliance with their constitutional and statutory obligations.

5.6 SUMMARY

The study considered the significance of oversight at the local sphere to ensure efficient service delivery to all communities as well as promote good governance. The institutionalisation of the separation of powers governance model in Ekurhuleni Metropolitan Municipality does not separate the powers in the municipal council but attempts to institute a governance model that promotes oversight and accountability. Accountability and oversight is a fundamental requirement of good governance. Local

government public representatives have an obligation to report, explain and be held accountable for the consequences of decisions it has made on behalf of the community it represents. For effective and efficient oversight, it is essential to ensure that committees are well resourced in terms of capacitated support staff and the availability of financial resources. There is also a need for continuous capacity development for oversight committee members to reinforce their understanding of the concepts of oversight and accountability.

CHAPTER 6

CONCLUSIONS, RECOMMENDATIONS AND SUGGESTIONS FOR FURTHER STUDIES

6.1 INTRODUCTION

This chapter concludes the research study and expounds on the findings in relation to the study objectives. It also provides a summary of the chapters. The final considerations in terms of recommendations and inferences as well as suggestions for future studies will be expounded upon in this chapter. The aim of the study is to analyse oversight mechanisms in local government to promote good governance. Thus, the purpose of the study was to determine the effectiveness of oversight mechanisms and the existence of good governance principles relating to the implementation of the separation of powers governance within local government. The recommendations are based on what the Ekurhuleni Metropolitan Municipality can do to enhance oversight and accountability.

6.2 SUMMARY OF CHAPTERS

The chapters reflect the compositional structure of the study:

The first chapter introduced the topic and explained the background to the problem. The chapter also expounded upon the purpose and the motivation of the study, research methodology as well as the clarification of concepts. It poses primary and secondary research questions in terms of oversight mechanisms to promote good governance in local government. The literature review acknowledged that good governance is executed by means of a policy approach that highlights the roles of the political, organisational and economic standards of lawfulness and efficacy in the daily operations by the public sector. According to the World Bank Conference Report (2012: xii), good governance refers to a policy process that focuses on the functions of the political, administrative and economic criterion of lawfulness and efficacy in the

procedures of the public sector. According to Hofstee (2015:91), an informative literature review is a comprehensive, analytic study in context with the subject matter. This chapter reviewed published work to form a synopsis of the essential knowledge of the subject matter: *An analysis of oversight mechanisms to promote good governance in local government*. The second chapter examined the conceptual and theoretical framework of the topic within the public administration context, and compared practices in other national and provincial spheres of government. This chapter explained the classical theory of public administration that considered bureaucracy as a ruled-based central method to regulate the institutional structure and procedures to maximise efficiency. With the evolution of management theories, contemporary approaches progressed that took the wide-ranging functions of the organisation in its environment into account. Furthermore, the concept of the new public administration was examined in terms of the separation of powers; particularly the democratic values and client expectations entrenched in the new public administration concept. This chapter also outlined theoretical propositions that provides guidelines to achieve the principles for good governance. Thus, the chapter also accentuated the significance of the public value theory for the common good.

The third chapter considered the legal framework, oversight guidelines and national circulars that can be utilised to separate executive and legislative powers at the local sphere of government in South Africa. The 1996 Constitution stipulates the basic values and principles regulating public administration to all spheres of government. Section 50 of the *Local Government: Municipal Systems Act, 2000* (Act 32 of 2000) resonates this and a code of conduct for councillors is included in section 54. The 1996 Constitution compels public administration to be regulated by the democratic standards and norms embedded in the 1996 Constitution, which comprise of principles such as a high standard of professional ethics that must be upheld. The key elements of accountability requires openness that must be promoted by providing society with appropriate, understandable and precise information. Furthermore, the chapter explained that through the delegation of powers and functions, the municipal council as a legislative

body can institute a separation of powers governance model. However, the separation is a consequence of both the use of terms of reference and delegation of authority that allocates powers and functions derived from legislation.

The fourth chapter explored the application of the EMM's separation of powers governance model in respect of the roles, functions and composition of oversight committees. It also explained the delegation of powers, terms of reference and reporting systems as tools of oversight. This chapter analysed the actual case of the separation of powers at the local sphere of government and the unit of analysis for this case study is the municipal council of EMM that comprises of both the legislative and executive authority. The chapter also examined practices and functionalities of the governance model including the extent to which the latter provided benefits related to the performance of the municipality across all key performance areas, which entail governance and council effectiveness in respect of oversight responsibility, administrative and executive capability as well as accountability. Furthermore, the chapter explained that oversight is essentially adversarial and requires conflict between the executive and the legislature. The study identified the elements of coordination mechanisms and formal adoption of performance reports as an approach that minimises conflict. Coordination mechanisms include: quarterly meetings between office bearers and members of the mayoral committee; regular meetings between the speaker and the executive mayor as well as effective programming and scheduling of meetings; and formal adoption of performance reports by oversight committees as part of the executive planning process to ensure tracking and solving resolutions. The chapter also underscored the significance of the value chain that was developed to describe the process of how the legislative arm and the municipal council receives information and reports to exercise its legislative mandate effectively in respect of matters emanating from the executive.

In the fifth chapter, the research findings were presented and recommendations were made in respect of the separation of powers to enhance oversight and accountability. The research data was analysed against the principles of good governance. As confirmed in chapter one (section 1.5.8), the principles of good governance is legitimacy and voice, direction, performance, accountability and the rule of law. The United Nations (2006:4) defines good governance as the efficient allocation and use of resource to deliver excellent services to society. Governance is perceived sound when resources are utilised efficiently, effectively and economically. The Organisation for Economic Co-operation and Development (OECD 2006:4) defined good governance as referring to the management of government in a manner that is essentially free of abuse and corruption. Thus, accountability and transparency are fundamental components in that which was analysed in relation to the collected data.

Chapter 6 provided a summary of all the chapters as well as recommendations based on the data collected throughout the study. Proposals are made for possible future research, which arose from the study. These chapters included a range of rudiments relevant to oversight and accountability and revealed that the collected data was in relation to the objectives of the study.

6.3 CONCLUSIONS FROM THE CASE STUDY

A number of conclusions can be drawn from the exploratory case study which conform to the objectives of the study.

Objective One: To analyse the theoretical foundations that underpin the principles of good governance to provide an explanation of the rationale of the separation of powers governance model to enhance oversight and accountability.

The study established that the local sphere of government is the closest sphere to society and complex societal needs contribute towards the challenge that confronts municipalities. The study identified through a myriad of definitions from international organisations and scholars that governance signifies a new process of governing or a new system, which governs society. The second chapter of this study explained the various meanings of governance and established that the latter theories refers to a creation of a structure that is a result of interactions between multiple actors which influences each other's actions. The study also confirmed that governance had entered the policy debate, thus its value is located in its capacity to provide a framework to comprehend the changing processes of governing. The World Bank Conference Report (2012: xii) refers to good governance as a policy process that focuses on the functions of the political, administrative and economic criterion of legitimacy and effectiveness in the procedures of the public sector. The study accentuated the public value theory to create a balance between democratic access and accountability rather than market requirements (Turkel 2016:4). The legislator ensures that the integrated development plan is reviewed annually to take into account the needs of the public. Oversight committees also assess the service delivery implementation plan quarterly to establish whether departments had achieved the key performance areas to enhance service delivery. The effect of good governance is specific to processes of government, and its key determination is continual improvement and enhancement of those procedures.

Objective two: To investigate best practices in respect of oversight and accountability at the national and provincial spheres of government.

Chapter two (section 2.8) explained the accountability and oversight instruments adopted by the South African Parliament which are classified into several categories. The Oversight Model of the South African Legislative Sector (2009) stipulates the following categories: the functions of portfolio committees to oversee the executive to enhance accountability of the various organs of the state. Furthermore, the application of practices as well as the execution of activities and reports from government institutions to support constitutional democracy and enhance oversight roles of the

national assembly. Thus, the applicable mechanism for legislatures to perform departmental oversight is achieved through portfolio committees. In executing oversight, a portfolio committee schedules a meeting with the national department or conducts a site inspection to gather information to establish the facts of the matter in the inquiry. On 26 March 1999, former president Nelson Mandela stated: *that it is in the legislatures that the mechanisms have been formed to improve the life of society. It is here that scrutiny and oversight of government work has been applied. Within legislatures, the public in all its formations has an opportunity to guide policy and its application.* The study also investigated programme evaluation and the Gauteng Provincial Legislature budget analysis, which was developed to create well-defined, predictable and programmed approaches to oversight and accountability as well as comply with the requirements of the PFMA. In Ekurhuleni Metropolitan Municipality, oversight committees were established to perform oversight and scrutiny over the executive authority actions or omissions. The municipal council established oversight committees in terms of section 79 of the *Local Government: Municipal Structures Act, 1998* (Act 117 of 1998) that provides that municipalities may or in certain instances are compelled to appoint committees. Essentially municipalities have various council committees that specialise in particular areas. The study acknowledged that oversight practices in the municipality must adopt best practices from the national and provincial legislatures.

Objective three: To determine the manner in which legislation, oversight mechanisms and strategies can be utilised to separate executive and legislative powers to enhance good governance in the municipality.

Chapter three examined applicable legislation that the municipality utilised to implement the separation of powers governance model. Fundamentally, the *Local Government: Municipal Structures Act, 1998* (Act 117 of 1998) stipulates guidelines to control the municipalities internal systems and procedures. Furthermore, the *Local Government: Municipal Systems Act, 2000* (Act 32 of 2000) states that a municipal council must

design a system of delegation that will support administrative and operational efficiencies. EMM applied these stipulations and allocated roles and responsibilities to political structures and office bearers through delegated authority. The mechanisms included the terms of reference of oversight committees as explained in Chapter four (section 4.4.) and the system of delegation expounded upon in Chapter three (section 3.5.1) including annual reports and mid-year budget performance reports. The study, therefore, acknowledged that these reporting mechanisms enable oversight over the executive authority of the municipal council. The annual report as well as the mid-year budget performance reporting is mandatory in terms of the stipulations of the *Local Government: Municipal Finance Management Act, 2003* (Act 56 of 2003).

The study also noted that through this process of designating roles and responsibilities, the municipality segregated executive powers, functions and structures from those of the legislative. By developing the system of delegation and the terms of reference for oversight committees, appropriate lines of accountability were established that would ultimately enhance good governance. There is neither a referee nor player situation as with the previous section 80 portfolio committees. The system of delegation in the public sector has an enormous influence on the capability of government institutions to improve municipal council decision-making. The separation of powers finds expression not only in the way or manner that the political structures of the municipal council are designated, but also in the delegation of powers, functions and responsibilities of the political office-bearers including the speaker, executive mayor, the MMCs and the chief whip. Section 59 of the *Local Government: Municipal Systems Act, 2000* (Act 32 of 2000) prescribes that a municipality must develop a system of delegations that will maximise administrative and operational efficiency and provide for adequate checks and balances. These provisions enabled the municipal council to separate the functions of the executive and the legislature.

Objective four: To describe the institutional arrangements of the separation of powers governance model in relation to meaningful oversight and accountability.

An evaluation of practices, roles and mandates of the oversight committees within the context of the broader case of the separation of powers governance model was conducted in Chapter four. The roles and responsibilities of the legislative arm of the municipal council as well as the institutional arrangements in respect of the separation of powers governance model were explored. The study established that oversight committees have a critical role to play in overseeing the effective, economic and efficient use of public funds. The municipality developed a value chain as explained in Chapter 4 (section 4.5.1) to illustrate how the legislative arm and the municipal council receives information and reports. The first step in the value chain emanates from the municipal administration to MMCs and ultimately to the municipal council. The section 79 oversight committees are the last step in the value chain before submission to the municipal council. This accentuates the significance of the mandate of oversight committees because their recommendations are crucial for deliberation at the municipal council level. The oversight tools as explained in Chapter four ranged from questions to the executive, oversight visits, research reports, public hearings as well as focus on intervention studies. The roles of all functionaries such as the speaker, chairperson of committees, chief whip and leader of government business was explained in Chapter four (section 4.3).

Objective five: To analyse the roles, functions and composition of the oversight committees since the adoption of the separation of powers governance model in 2011.

The analyses of the roles of oversight committees as discussed in Chapter four of the study revealed that oversight committees are associated with specific executive departments. They are entrusted with generic functions, including overseeing the departments work within their area of responsibility as well as the consideration of policy and by-laws as it relates to the specific department and the tabling of recommendations within the municipal council. These oversight committees also have the authority to

programme and schedule debates on issues of public significance. They are responsible to scrutinise and oversee budgets, expenditure and service delivery for their relevant departments. These committees are designed as structures of oversight over the executive authority. The study acknowledges in Chapter five (section 5.2.1.4) the difficulty that oversight committees experience in terms of capacity and capabilities.

Objective six: To explore the application of the separation of powers governance model in EMM to identify the strengths and weaknesses of the model and analyse the data collected during the study against the principles of good governance.

The study established that resources must be allocated to the oversight committees to ensure that the governance model operates optimally, especially in terms of finances and human resources. Training is a critical component to resource the separation of powers governance model. Financial and human resource constraints remain the biggest challenge in the implementation of the separation of governance model. The study acknowledges serious shortcomings in terms of research and advisory skills for oversight committees. Since legislature support staff serve on two committees, there is no specialisation of the subject matter.

In the fifth chapter, research data was analysed and the respondents identified the shortcomings as well as the strengths of the separation of powers governance model. The most notable strengths of the governance model refers to the scrutiny of departmental reports, which could not be conducted under the section 80 portfolio committee system. This improved accountability of the executive arm of the municipal council. The legislature has now been allocated powers through section 79 oversight committees. The oversight committees advise the municipal council of the best possible solutions to address community development. The separation of powers governance model minimised opposition party disagreements, because every councillor is involved to ensure accountability as well as create public value for the common good. Delays in decision-making, including the inclination of the legislature to review, occasionally even reverse decisions made by the executive on matters that should be for the purview

of the executive authority were identified as the most common challenges. This issue did not only raise questions about the system of delegations but also highlighted a critical aspect of oversight committees that lack the powers to either summons departments or members of the executive to appear before the committee or take disciplinary action in instances of a lack of cooperation from the executive. Furthermore, the fact that the *Local Government: Municipal Finance Management Act, 2003* (56 of 2003) makes provision for the executive mayor and the municipal manager to account directly to the municipal council has a potential to render the oversight committees redundant or ineffectual in the municipal council decision-making processes.

6.4 RECOMMENDATIONS

The recommendations provided are based on the outcomes of the study conducted at the EMM. It is recommended that the National Department of Cooperative Governance (CoGTA) reviews the current legislation to empower oversight committees to summon and amend executive decisions to ensure effective oversight. National government is competent to undertake this measure through its authority to regulate the municipal functions under section 151 and 155 of the 1996 Constitution. It is also essential to investigate the probability of affording the councillors who serve on oversight committee's fulltime status. This is a distinguishing factor between those who perform oversight at the national and provincial sphere of government and those who are required to perform a similar function at the local sphere of government.

In terms of the value chain of the municipality, it is recommended that a review of council processes should take place to alleviate the challenge of overdue submission of reports by the executive. In its current form, the council reporting value chain does not allow the oversight committees adequate time to acquire, deliberate and process executive reports before submitting recommendations to the municipal council. The *Local Government: Municipal Structures Act, 1998* (Act 117 of 1998) stipulates quarterly council meetings. Consequently, the suggestion is to follow the stipulations of the act in

order to generate profound debates as well as formulate meaningful resolutions for municipal council approval. Oversight committee researchers require adequate time to analyse and advise the committees accordingly taking into account that one researcher serves on two committees.

Capacity building measures for councillors in respect of scrutiny and oversight are recommended in an effort to manage the lack of meaningful debates when reports are presented in the municipal council or oversight committees. The municipality should invest additional resources in the research unit to provide quality research and capacity building services to councillors similar to the parliamentary institutes. Parliamentary institutes conduct research, provide information as well as training to parliamentarians and support staff. Furthermore, it is recommended that the municipality investigates and implements a competent resolution tracking system. The reported non-responsiveness by members of the executive could be as a result of a poor resolution tracking system that the municipality relies on. This is essential to ensure improved implementation of public policy decisions taken by the municipal council.

It is recommended that the municipal council take a resolution to assign necessary powers to the office of the speaker to execute its work appropriately to ensure the implementation of council resolutions as well as sanctions for transgressions or non-compliance. There is also a need to improve public participation processes to ensure meaningful stakeholder engagement in the oversight process. Thus, the need to capacitate and resource ward committees to enable communities to conduct effective oversight and accountability of their public representatives is crucial in the implementation of the governance model. This will facilitate the realisation and effectiveness of vertical accountability. The clarification of the role and capacitation of office-bearers, for example, the leader of government business, the study revealed that it might be useful if repositioned and capacitated through personnel and resources. Appropriate role clarification and positioning of office-bearers will ensure that confusion

and role overlap is avoided. It might also ensure the independence of these offices and executive matters are dealt with according to the process of the separation of powers. It is suggested that section 79 committees should not be assigned the responsibility to initiate policy or by-laws. Such responsibility should be the purview of the executive office-bearers and the administration. The responsibility to initiate public policy or by-laws is an executive function and the allocation of the same to section 79 oversight committees may compromise the capability of the oversight committees to provide the requisite scrutiny and checks on the executive authority. It is also recommended that the governance model in its current form be referred to as the separation of functions instead of the separation of powers until the legislation is reviewed and the legislature is afforded the appropriate authority similar to parliamentary portfolio committees. The supposition is that the implementation of the above recommendations will assist national public policy-makers and the municipality to inculcate municipal systems of governance separating the executive from the legislative functions to promote good governance. It is envisioned that good governance that ensures check and balances will lead to improved municipal service delivery.

6.5 SUGGESTIONS FOR FUTURE RESEARCH

The suggestions for further research relates to the interface between politicians and officials. South African municipalities experience challenges related to the interface between politicians and officials. Improper political meddling in administrative matters as well as tense relations between public representatives and public officials among municipalities seem to be the order of the day. The municipal political and administrative leadership including structures ought to be mindful of the effects of inappropriate leadership on its performance and service delivery. There is also a need to investigate effective public participation of municipal oversight processes. This study established that oversight is at the core of good governance including accountability and transparency. Therefore, it is difficult to separate oversight from meaningful participation because oversight mechanisms are often the most essential vehicles that enable public participation.

6.6 CONCLUSION

In conclusion, it must be underscored that good governance is an essential concept within the South African public sector and specifically in the local sphere of government. The purpose of the study was to analyse oversight mechanisms to promote good governance in local government. This study established that the separation of powers governance model has the potential to improve good governance. However, the governance model must evolve in such a manner that it functions similar to the portfolio committees in the South African Parliament. The separation of powers governance model has its own benefits in respect of scrutiny and oversight upon the implementation of decisions by the municipal council. Furthermore, it has ushered in a new process of accountability. These will be difficult to maintain and expand in the absence of an appropriate legislative framework guiding the governance model. A thorough analysis of the current legislative regime is necessary to enhance the separation of powers model at the local sphere of government. An effective roll out of the aforementioned governance model will ensure efficiency that will positively influence public perception of local government, that is, value the accountability, transparency and responsiveness of the municipality. Finally, the separation of powers through its oversight mechanisms promotes good governance in the municipality.

7. LIST OF REFERENCES

Ahmed, A. 2011. *Parliamentary Oversight and its role in ensuring Constitutionalism and Accountability under the FDRE Constitution: A case study* Master's thesis. Ethiopia: Addis Ababa University.

Auditor-General South Africa. 2010. Consolidated Report. Available at: www.agsa.co.za (Accessed on 16 April 2017).

Auriacombe, C.J. 2014. Methodology and research methods to complete a research essay/dissertation/thesis. Johannesburg: University of Johannesburg.

Babbie, E. 2013. The basics of social research. 6th ed. Nelson Education Ltd: Canada.

Bloomberg, L.N. 2007. Analysing and interpreting findings. Available at: <https://us.sagepub.com>. (Accessed on 10 December 2017).

Botes, C. 2011. *Adopting the Public Accounts Committee Model for Financial Oversight in South African Municipalities - A Case Study of the Public Accounts Committee in the City of Cape Town* Master's thesis. Cape Town: University of Stellenbosch.

Bourgon, J. 2007. Responsive, responsible and respected government: Towards a new public administration theory. *International Review of Administrative Sciences*, 73 (1):7-26.

Bozeman, B. 2007. *Public values and public interest: counterbalancing economic individualism*. Washington DC: Georgetown University Press.

Brugge, K.U. 2008. Programme evaluation and budget analysis pocket guide. Available at: www.gov.za/gauteng-provincial-legislature-committees (Accessed on 9 May 2017).

Burgess, T. 2001. Guide to the design of questionnaires. Available at: www.iss.leed.ac.uk (Accessed on 10 May 2017).

Christensen, T. and Laegreid, P. 2007. The whole of government approach to public sector reform. 67(6): 1059-1066.

Councillor Learner Handbook. 2011. Available at: www.salga.org.za (Accessed on 20 August 2017).

Crow, G. 2013. What is qualitative interviewing? Available at: www.bloomsbury.com. (Accessed on 11 June 2017).

Dahl, A. 2014. Neoliberalism for the common good: Public value governance and the downsizing of democracy. *Administratio Publica*, 74:496-504.

Dassah, M.O. 2013. Longitudinal analysis of South Africa's Performance on the MO Ibrahim index of African governance. *Journal of Public Administration*, 48(4.1):730750.

De Villiers, B. 2008. Summary of observations made during workshops on the review of provincial and local governments. Briefing Paper. Available at: www.kas.de (Accessed on 12 July 2017).

De Visser, J. and Akintan, O. 2008. Institutional Tensions between Municipal Chairpersons and Executives. Available at: www.dullahomarinstitute.org.za/de_Visser. (Access on 16 July 2017).

De Vos A.S., Strydom, H., Fouché C.B. & Delport C.S.L. 2011. Research at the grass roots for the social sciences and human service professions. 4th ed. Pretoria: Van Schaik Publishers.

Drucker, P. 1974. *Management: Tasks, Responsibilities and Practices*. New York: Harper and Row.

Ekurhuleni Metropolitan Municipality. 2010. Annual Report. Germiston. Ekurhuleni.

Ekurhuleni Metropolitan Municipality. 2011. Budget Implementation Policy. Germiston. Ekurhuleni.

Ekurhuleni Metropolitan Municipality A. 2011. Council Agenda. Germiston. Ekurhuleni.

Ekurhuleni Metropolitan Municipality C. 2011. Oversight Committee Terms of Reference. Germiston. Ekurhuleni.

Ekurhuleni Metropolitan Municipality B. 2016. Council Agenda. Germiston. Ekurhuleni.

Ewaldt, J.A.G. 2001. *Theories of Governance and New Public Management: Links to Understanding Welfare Policy Implementation*. Paper presented at the annual conference of the American Society for Public Administration, March 2001. New Jersey, United States of America.

Fox, W. 2010. *A Guide to Public Ethics*. 1st ed. Claremont: Juta & Company Ltd.
Gauteng Provincial Legislature. 2009. PEBA Efficacy Study. Gauteng Legislature Strategy Documents. Johannesburg.

Fredriksson, P.G and Wollscheid, J.R., 2014. Political Institutions: Political Careers and Environment Policy: *Kyklos*. 67 (1): 54-73

Gildenhuis, J.S.H. (Ed). 1988. *South African Public Administration: Past, Present and Future*. Pinetown: Owen Burgess.

Graham, J., Amos, B. and Plumptre, T. 2003. Principles for Good Governance in the 21st Century. Policy Brief No.15. Available at: www.unpan1.un.org (Accessed on 12 April 2017).

Griffin, J.D. and Newman, B. 2005. *Journal of Politics*, 67(4): 1206-1227.

Gumede, N. 2014. Governance, restructuring and the new public management reform: South African perspectives. *Educational and Social Research*, 4(6):43-50.

Hedger, E. and Blick, A. 2008. Enhancing accountability for the use of the use of public sector resources: How to improve the effectiveness of public accounts committees. Available at: www.org/sites/odi.org.uk/files/ (Accessed on 31 March 2017).

Hofstee, E. 2015. *Constructing a good dissertation: a practical guide to finishing a Masters, MBA or PhD on schedule*. Johannesburg: EPE.

Horner, L. and Hazel, L. 2005. *Adding Public Value*. London: The Work Foundation.

Huberts, L. 2012. *Integrity of Governance: What It Is (Not) and What Is Next*. In G. Minderman, A. Venkat Raman, F. Cloete & G. Woods. (Eds.). *Good, Bad and Next in Public Governance*. The Winelands Papers. The Hague: Eleven International.

International Association for Public Participation. 2007. *IAP2 Core Values of Public Participation*. USA: IAP2.

Johnson, K. 2005. *The role of parliament in government*: Washington: World Bank Institute

Katsamunskaja, P. 2012. Classical and modern approaches to public administration. Available at: www.economicalternatives/edu/platform/org (Accessed on 15 May 2017).

Kjaer, A. 2004. *Governance*. Polity Press. Massachusetts.

Kelly, G., Mulgan, G. and Mues, S. 2002. *Creating public value: an analytical framework for public service reform*. A discussion paper prepared by cabinet office strategy unit, United Kingdom.

King, M.E. 2002. Report on corporate governance for South Africa. Available at: www.iodsa.co.za/king II. (Assessed on 26 July 2017).

King, M.E. 2016. Report on corporate governance for South Africa. Available at: www.iodsa.co.za/king IV. (Assessed on 25 July 2017).

Kumar, R. 2014. *Research Methodology: A step-by-step guide for beginners*. 5th ed. London: SAGE Publications.

Kuye, J.O. 2007. The role of public administration in leadership and governance: A review of civics, citizenship and political education. *Journal of Public Administration*, 42(7):560.

Landsberg, C. and Graham, S. (Eds). 2017. *Government and Politics in South Africa – coming of age*. 5th ed. Pretoria: Van Schaik Publishers.

Lastra, R. and Shams, H. 2000. *Accountability: Ex Ante or Scrutiny, Ex Post or Control and Transparency, Rules, Incentives and Sanctions Enforcement in Financial Regulation*, 26 May 2000 [Working Paper].

Lawrence, J.R. 2014. The contested politics of public value. *Administratio Publica*, 74:480-494.

Legislative Oversight Support 2012. Oversight model of the South African Legislative Sector. RSA. Parliament.

Lloyd, S. 2007. Delivering Good Governance in Local Government Framework. Available: at www.cipfa.org.uk (Accessed on 14 April 2017).

Madue, S.M. 2012. Complexities of the oversight role of legislatures. *Journal of Public Administration*, 47(2):431-442.

Mahmood, Z. and Basharat, M. 2012. Review of classical management theories. *International Journal of Public Administration*, 2(1):512-522.

Maphalla, M. 2013. *The Implementation of the research output policy with reference to the University Of Pretoria and the University Of Venda*. Pretoria: University of Pretoria.

Marshall, C. and Rossman, G.B. 2011. *Designing qualitative research*. London: Sage Publications.

Mason, J. 2002. *Qualitative Researching*. 2nd ed. London: Sage Publisher.

Matheson. D. 2004. *The complete guide to good governance in organisations*. Auckland New Zealand: Profile Books.

Meynhardt, T. 2009. Public value inside: What is public value creation? *International Journal of Public Administration*, 32(3):192-219.

MFMA Circular 32. 2006. Available at: <http://www.treasury.gov.za/legislation/circulars>. (Assessed on 20 July 2017).

MFMA Circular 37. 201. Available at: <http://www.treasury.gov.za/legislation/circulars>. (Assessed on 20 July 2017).

Merriam-Webster Dictionary. 2011. Available at: www.merriam-webster.com (Accessed on 12 November 2017).

Mickler, T.A. 2013. Standing Committee Assignments in the German Bundestag – Who Gets What in Within-Party Negotiations? *German Politics*. 22 (4): 421-440

Mogoeng, 2014. Good governance. Available at: www.caprisa.org/news/read_judgement (Accessed on 23 February 2018).

Moore, M. 1995. *Creating public value: Strategic management in government*. Boston, MA: Harvard University Press.

Moore, M. 2013. *Recognising public value*. Cambridge: Harvard University Press.

Mojapelo, P.M. 2013. The doctrine of separation of powers, a South African perspective. Available at: www.sabar.co.za/law-journals. (Accessed on 18 July 2017).

Naidoo, I.A. 2011. *The role of Monitoring and Evaluation in Promoting Good Governance in South Africa: A case study of the Department of Social Development*. Dissertation submitted for Doctoral Degree. Johannesburg: University of Witwatersrand.

National Government. 2012. *Oversight Model of South African Legislative Sector Report*. Pretoria.

National Research Council. 2003. Research Ethics. Available at: www.hsrc.ac.za (Accessed on 17 April 2017).

Nnoli, O. 2003. *Introduction to Politics*, revised 2nd ed. Enugu: Pan African Centre for Research and Conflict Resolution (PACREP).

Ntshakala, T. & Nzimakwe, T.I. 2013. Analysing local governance with specific reference to the West Rand District Municipality. *Administratio Publica*, 21(3):111127.

O'Flynn. J. 2007. From new public management to public value: Paradigmatic change and managerial implications. *Australian Journal of Public Administration*, 66(3): 353-366.

Organisation for Economic Co-operation and Development. 2006. Annual Report. Available at: www.oecd.org/governance (Accessed on 18 May 2017).

O'Toole, L., Meir, K. and Nicholson-Crotty, S. 2005. Managing Upward, Downward, and Outward: Networks, Hierarchical Relationships and Performance, *Public Management Review*, 7(1):45-68.

Oversight Model of the South African Legislative Sector 2009. Available at: www.parliament.gov.za (Accessed on 12 May 2017).

Oyedele, L. 2015. Theories of public administration: An anthology of essays. *International Journal of Politics*, 6(6):1-35.

Parliament of the Republic of South Africa. 2009. *Oversight and Accountability Model*. Cape Town. Parliament.

Patton, M.Q. 2002. *Qualitative research and evaluation methods*. 3rd ed. Thousand Oaks, CA: SAGE Publications.

Payne, C. 2009. Could question time be more than just a bunfight? *IPA Review*.

Pelizzo, R. and Stapenhurst, R. 2004. Tools for legislative oversight: an empirical investigation. Available at: www.siteresources.worldbank.org (Accessed on 20 February 2018).

Picard, L. and Mogale, T. 2015. *The limits of democratic governance in South Africa*. Cape Town: CT Press.

Ridley, D. 2012. *The literature review: step-by-step guide for students*. UK. Sage: Publishers.

Riggs, F.W. 1980. The ecology of public administration: A comparative perspective. *Public Administration Review*, 40(2):107-115.

Ritzer, G. 1996. *Classical sociology theory*. New York, NY: McGraw-Hill.

Robinson, O.C. 2013. *Qualitative research in psychology*. London: Routledge.

Rudestam, K.E. and Newton, R.R. 2015. *Surviving your dissertation: A comprehensive guide to content and process*. Available at: www.us.sagepub.com/surviving-your-dissertation (Accessed on 20 February 2018).

Salih, M. 2005. *African parliaments: Between governance and government*. New York: Palgrave Macmillan.

Shafritz, J.M. and Hyde, A. C. 1997. *Classics of Public Administration*. 3rd ed. Forth Worth: Harcourt Brace.

Sindane, A.M. 2011. Values and ethics enter the real world: a framework for public leadership and governance. *Koers*, 76(4):751-769.

Smith, K. 2003. *The growth of congressional oversight*. Paper presented at the annual meeting of American Political Science Association, Philadelphia.

Smit, P., Cronjé, G., Brevis, T. and Vrba, M. 2013. *Management Principles. A contemporary edition for Africa*.

South Africa, Department of Co-operative Governance and Traditional affairs. 2009. *State of local government in South Africa*. Pretoria: Government Printer.

South Africa, Department of Cooperative Governance and Traditional Affairs. 2009. *Local Government Turnaround Strategy: Municipal Guidelines*. Pretoria: Government Printers.

South African Legislative Sector. 2012. Oversight Model. Available at: www.sals.gov.za. (Accessed on 10 November 2017).

South African Local Government Association. 2015. *Discussion Document*. Johannesburg.

South Africa. National Development Plan 2011. Pretoria: Government Printers.

South Africa, Republic. *Interim Constitution of the Republic of South Africa.*, 1993. Pretoria: Government Printer.

South Africa, Republic. *The Constitution of the Republic of South Africa*, 1996. Pretoria: Government Printer.

South Africa, Republic. *Local Government: Municipal Finance Management Act, 2003* (Act 56 of 2003). Pretoria: Government Printer.

South Africa, Republic. *Local Government: Municipal Structures Act, 1998* (Act 117 of 1998). Pretoria: Government Printer.

South Africa, Republic. *Local Government: Municipal Systems Act, 2000* (Act 32 of 2000). Pretoria: Government Printer.

South Africa, Republic. *Powers, Privileges and Immunities of Parliament and Provincial Legislatures, 2004* (Act 40 of 2004). Pretoria: Government Printer.

South Africa, Republic. *Public Audit Act, 2004* (Act 25 of 2004). Pretoria: Government Printer.

South Africa, Republic. *Public Finance Management Act 1999 (Act 1 of 1999)*. Pretoria: Government Printer.

South Africa, Republic. *White Paper on Local Government, 1998*. Pretoria: Government Printer.

Stoker, G. 2006. Public value management: A new resolution of the democracy/efficiency trade off. Narrative for networked governance. *American Review of Public Administration*, 36(1):41-57.

Swanson, R.A. 2013. *Theory building in applied disciplines*. San Francisco, CA: Berrett-Koehlers.

Tamayao, M. 2014. Law, Politics and Philosophy. Available at: [www.tamayaosbc.wordpress.com / what-is-governance](http://www.tamayaosbc.wordpress.com/what-is-governance) (Accessed on 22 February 2018).

Thornhill, C. 2012. *South African Public Administration and Management*. Pretoria: Van Schaik Publishers.

Thornhill, C. and Cloete, J.J.N. 2014. *South African Municipal Government and Administration*. Pretoria: Van Schaik Publishers.

Thornhill, C., Ile, I. and van Dijk, G. 2015. *Public Administration and Management in South Africa: a developmental perspective*. Cape Town: Oxford University Press.

Turkel, E. 2016. Public value theory: Reconciling public interest, administrative autonomy and efficiency. *Institute of public administration*, 4(2):2-7.

United Nations Development Programme. 2006. *Governance for the future: Democracy and Development in the least developed countries*. New York: UNDP.

Yin, R. 2011. *Qualitative research from start to finish*. United States of America: Guilford Press.

Yin, R. 2014. *Case Study Research: design and methods*. United States of America: Sage Publications.

Van Manen, M. 2014. *Phenomenology of practice: Meaning-giving methods in phenomenological research and writing*. Walnut Creek, CA: Left Coast Press.

Venter, A. and Landsberg, C. 2013. *Government and Politics in South Africa*. Pretoria: Van Schaik Publishers.

Vyas-Doorgapersad, S. 2011. Paradigm shift from new public administration to new public management: Theory and practice in Africa. *Transdisciplinary research in Southern Africa*, 7(2):235-250.

Welman, C., Kruger, F. and Mitchell, B. 2005. *Research Methodology*. Cape Town: Oxford University Press.

Williams, C. 2009. *Theoretical and Comparative approaches to governance*. *Public Administration and Public Management*. Cape Town: University of Western Cape.

Williams, I. and Shearer, H. 2011. Appraising public value: past, present and futures. *Administratio Publica*, 89:1367-1384.

World Bank. 2012. *Annual World Bank conference on development economics and governance*. Washington, DC: World Bank.

8. APPENDIX A QUESTIONNAIRE FOR COUNCILLORS



UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA

Faculty of Economic and Management Sciences

An analysis of oversight mechanisms to promote good governance: A case of Ekurhuleni Metropolitan Municipality

QUESTIONNAIRE FOR COUNCILLORS

Thank you for agreeing to participate in this research. Your contribution will assist in compiling findings and recommendations to improve oversight and scrutiny at the level of local government. Kindly note that this questionnaire is anonymous and your responses will be treated confidentially.

INSTRUCTIONS TO COMPLETE THIS QUESTIONNAIRE

- Do not write your name, surname or any other personal details or numbers on this questionnaire.
- The questionnaire will not take longer than 20 minutes to complete.

Please note the following example:

My answers are completely confidential AND anonymous

No

Yes

Please tick the following box if you consent to participate:

I hereby consent and understand that my participation is voluntary and anonymous and that the information will be kept strictly confidential.

BIOGRAPHIC DETAILS

Please answer all the questions by selecting your choice with a cross (x) or add your response in the space provided.

1. On which oversight committee do you serve?

Name of Oversight Committee

2. Highest qualification

1	Matric	
2	Post matric technical qualification	
3	Degree / Diploma	
4	Post-graduate qualification	
5	Other	

3. How long have you served in the respective oversight committee?

1	Less than 1 year	
2	1-2 years	
3	3-4 years	
4	5-6 years	
5	7-8 years	
6	9-10 years	
7	More than 10 years	

4. How many years' experience do you have in local government?

1	Less than 1 year	
2	1-2 years	
3	3-4 years	
4	5-6 years	
5	7-8 years	
6	9-10 years	
7	More than 10 years	

5. Which capacity building programmes have you attended since being elected as a councillor in Ekurhuleni Metropolitan Municipality?

Training Courses	Yes/No	Which year attended?
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1	SALGA Induction training		
2	Leadership Programmes		
3	MS Windows		
4	MS Outlook		
5	Power Point		
6	Other		

QUESTIONNAIRE FOR COUNCILLORS

1. Please describe the benefits of the separation of powers governance model in Ekurhuleni Metropolitan Municipality.

2. What are the shortcomings of the separation of powers governance model in Ekurhuleni Metropolitan Municipality?

3. What is your overall impression of the functioning of the separation of powers governance model since inception?

4. How would you describe the contribution made by the oversight committees with reference to the advancement of greater accountability through the scrutiny of reports?

5. How does the current delegation of authority assist decision-making in the municipal council?

6. Which training courses should councillors attend to enhance their understanding of the separation of powers at the local sphere of government?

7. How would you describe the relationship between the legislative and the executive authority?

8. Do you think the new governance model has improved the delivery of services in Ekurhuleni Metropolitan Municipality?

9. What do you think are the most significant components of the separation of powers?

10. Are there any additional comments that you would like to add?

Thank you for your participation and invaluable contribution

9. APPENDIX B QUESTIONNAIRE FOR SUPPORT STAFF



Faculty of Economic and Management Sciences

An analysis of oversight mechanisms to promote good governance: A case of Ekurhuleni Metropolitan Municipality

QUESTIONNAIRE FOR SUPPORT STAFF

Thank you for agreeing to participate in this research. Your contribution will assist in compiling findings and recommendations to improve oversight and scrutiny at the level of local government. Kindly note that this questionnaire is anonymous and your responses will be treated confidentially.

INSTRUCTIONS TO COMPLETE THIS QUESTIONNAIRE

- Do not write your name, surname or any other personal details or numbers on this questionnaire.
- The questionnaire will not take longer than 20 minutes to complete.

Please note the following example:

My answers are completely confidential AND anonymous

No

Yes

Please tick the following box if you consent to participate:

I hereby consent and understand that my participation is voluntary and anonymous and the information will be kept strictly confidential.

BIOGRAPHIC DETAILS

Please answer all the questions by selecting your choice with a cross (x) or add your response in the space provided.

11. On which oversight committee you are currently employed?

Name of Oversight Committee

12. Highest qualification

1	Matric	
2	Post matric technical qualification	
3	Degree / Diploma	
4	Post-graduate qualification	
5	Other	

13. How long have you been employed at Ekurhuleni Metropolitan Municipality to serve on the respective oversight committee?

1	Less than 1 year	
2	1-2 years	
3	3-4 years	
4	5-6 years	
5	7-8 years	
6	9-10 years	
7	More than 10 years	

14. How many years' experience do you have in local government?

1	Less than 1 year	
2	1-2 years	
3	3-4 years	
4	5-6 years	
5	7-8 years	
6	9-10 years	
7	More than 10 years	

15. Which training building programmes have you attended since being employed at Ekurhuleni Metropolitan Municipality?

	Training Courses	Yes/No	Which year attended?
1	Local Government Programmes		
2	Report writing		

3	MS Windows		
4	MS Outlook		
5	Power Point		
6	Other		

QUESTIONNAIRE FOR SUPPORT STAFF

5. Please explain the most important responsibilities and task of committee support staff.

6. Describe the achievements and failures since the implementation of the separation of powers governance model.

7. What challenges are you experiencing to execute committee responsibilities with reference to the analysis of the executive reports?

8. What is your opinion of the functioning of oversight committees with reference to increased accountability and good governance?

5. How do the terms of reference of oversight committees empower them to hold the executive authority accountable for the implementation or omission of predetermined municipal council objectives?

16. Which training courses should the support staff attend to enhance the work of the oversight committees relating to the analysis of executive reports as well as report writing skills?

17. Please describe how the delegation of powers enhances the functioning of oversight committees.

18. How did the new governance model add value to the delivery of services in Ekurhuleni Metropolitan Municipality?

19. What do you think can be done to enhance the implementation of the separation of powers governance model in Ekurhuleni Metropolitan Municipality?

20. Are there any additional comments, which you would like to add?

Thank you for your participation and invaluable contribution.

10. APPENDIX C ETHICAL CLEARANCE FOR RESEARCH



Faculty of Economic and Management Sciences

RESEARCH ETHICS COMMITTEE

Tel: +27 12 420 3395

E-mail: ronel.rensburg@up.ac.za

29 September 2017

Prof N Holtzhausen School of Public Management and Administration

Dear Professor Holtzhausen

The application for ethical clearance for the research project described below served before this committee on 27 September 2017.

Protocol No:	EMS036/17
Research title:	An analysis of oversight mechanisms to promote good governance: A case of Ekurhuleni Metropolitan Municipality
Principal researcher:	SD Kraai
Student/Staff No:	10674137
Degree:	MAdmin (Public Administration)
Supervisor/Promoter:	Prof N Holtzhausen
Department:	SPMA

The decision by the committee is reflected below:

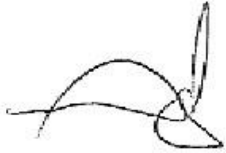
Decision:	Approved
Conditions (if applicable):	None
Period of approval:	27 September 2017 – 30 March 2019

The approval is subject to the researcher abiding by the principles and parameters set out in the application and research proposal in the actual execution of the research. The approval does not imply that the researcher, student or lecturer is relieved of any accountability in terms of the Codes of Research Ethics of the University of Pretoria if action is taken beyond the approved

proposal. If during the course of the research, it becomes apparent that the nature and/or extent of the research deviates significantly from the original proposal, a new application for ethics clearance must be submitted for review.

Please convey this information to the researcher. We wish you success with the project.

Sincerely

A handwritten signature in black ink, consisting of several fluid, overlapping loops and a long horizontal stroke extending to the left.

pp PROF RS RENSBURG CHAIR: COMMITTEE FOR RESEARCH ETHICS

cc: Prof MR Chitiga-Mabugu
Student Administration