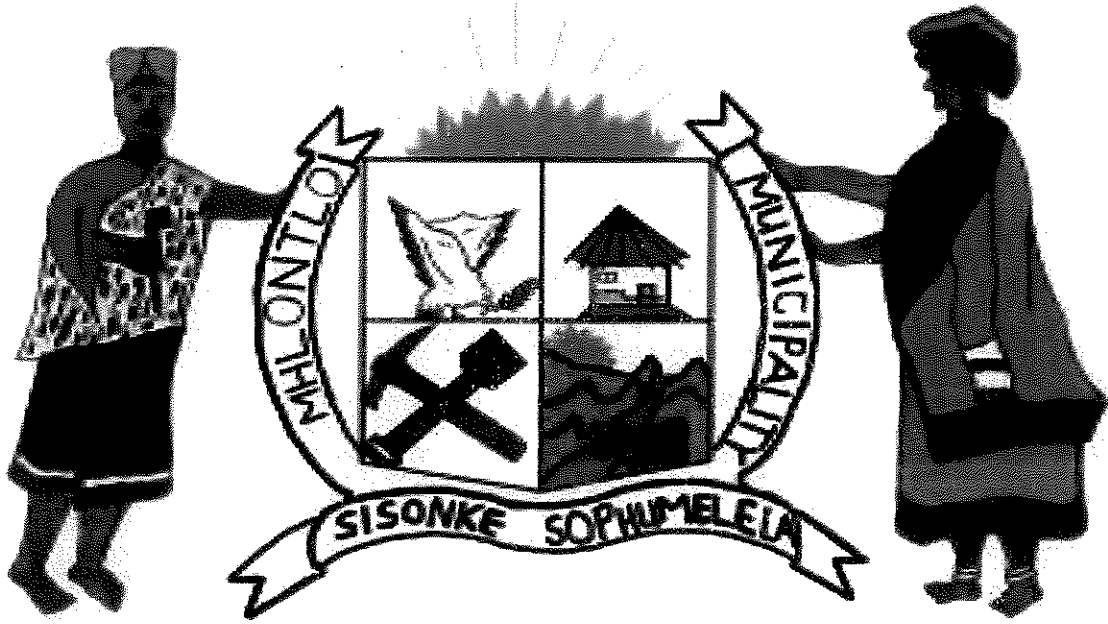


# MHLONTLO LOCAL MUNICIPALITY



INTERGOVERNMENTAL RELATIONS POLICY FRAMEWORK

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## **CHAPTER 1. CONTEXUAL BACKGROUND**

### **1.1. Definitions**

In this protocol, unless the context otherwise indicates:-

“Mayor” means the Mayor of the Mhlontlo Local Municipality

Intergovernmental Relations means a set of multiple formal and informal processes, channels, structures and institutional arrangements for bilateral and multilateral interaction within and between spheres of government (White Paper on Local Government, 1998: 38)

“Local Municipality” means a local municipality falling in the area of the O.R. Tambo District Municipality

“DIMAFO” means the O R Tambo District Municipality Mayors’ Forum

“Premier’s Coordinating Forum” means the forum established and chaired by Premier of the Eastern Cape

### **1.2. Contextual Background and Rationale**

The Constitution of the Republic of South Africa of 1996 and the Intergovernmental Relations Framework Act no 13 of 2005 have created a conducive environment for co-operative governance to do extremely well. The Mhlontlo Local Municipality like other municipalities in the country, however, has experienced challenges around the implementation of the Act. The challenges can be summed as follows:

- (i) A large number of intergovernmental structures to serve within the Municipality
- (ii) The need to adopt the draft IGR Policy Framework
- (iii) The lack of effective co-ordination of the structures
- (iv) The absence of interdepartmental consultation within the Municipality
- (v) Intergovernmental relations forums tend to be limited to the Mayors and Municipal Manager at the expense of other IGR practitioners
- (vi) The roles of SALGA, Province and National government in relation to the Municipalities are not clearly pronounced
- (vii) Lack of functional structures and consistent interaction between the spheres of government
- (viii) There is inconsistency between planning and the delivery of services
- (ix) The Municipality is characterized by conflicts relating to powers and functions
- (x) Poor attendance of IGR meetings within the Municipality
- (xi) National and Provincial Departments ignore the IDPs
- (xii) The provincial departments conduct projects and programmes which are not consistent with the municipalities’ priorities
- (xiii) There is no effective tracking system of the Intergovernmental Relations decisions.

In acknowledging the above mentioned shortfalls in the implementation of an effective intergovernmental relations system, the Mhlontlo Local Municipality resorted to find a solution through the following:

- a) Establish institutional linkages between different intergovernmental structures
- b) Be informed by the Mhlontlo Local Municipality programmes and priorities
- c) Effectively manage intergovernmental relations
- d) Increase the Municipal capabilities to implement government policies
- e) For the Municipality not to encroach on the geographical, functional or institutional integrity of the other sphere of government while exercising its powers
- f) Adhere to agreed procedures
- g) Co-operate with other spheres of government on matters of common interest
- h) Formalize most of the conduct and practice
- i) Review the District's intergovernmental relations and systems
- j) Encourage, strengthen and promote good intergovernmental relations between the national and provincial governments.

### **1.3. Co-ordination for Service Delivery**

The Constitution of the Republic of South Africa of 1996 acknowledges the fact that the public sector role is only attainable through the co-operation of all spheres of government. The following are some of the policy directions critical for the effective co-ordination of the intergovernmental relations system.

- i. Each sphere of government must conduct its functions adequately and constitutionally
- ii. To find the balance between autonomy and interdependency; competition and consensus
- iii. Synergize the political and administrative processes
- iv. Construct more complex social, economic and political relationships which are necessary for development
- v. Institutionalizing the planning processes across the spheres of government with the integrated development plans (IDP) and the provincial growth and development plan (PGDP)
- vi. Promote intergovernmental relations system which is result driven and outcome oriented
- vii. Encourage political as well as administrative commitment to collect revenue

### **1.4. Approaches to Intergovernmental Relations**

There are various approaches to intergovernmental relations but the Mhlontlo Local Municipality's policy framework limits itself to the following:

- i. The Democratic Approach – emphasizes provincial and local government's right to self-determination to the extent of regarding such governmental bodies as autonomous institutions.
- ii. The Constitutional Approach/ Legal Approach – the constitution and other legislative frameworks can be used as point of departure in intergovernmental relations.

- iii. The Financial Approach – Act of Parliament must provide for equitable division of revenue raised nationally among the national, provincial and local spheres of government
- iv. Normative-Operational Approach – Group norms or value objectives are important since the normative-operational approach entails an investigation of what is or should be desirable

#### 1.5. This protocol framework applies to:

- I. The Mhlontlo Local Municipality,
- II. Provincial and national departments and parastatals operating in the Mhlontlo Local Municipality.

#### 1.6. Policy Intent:

The policy intends to ensure sound intergovernmental relations between all spheres of government and Mhlontlo Local Municipalities. Also this policy seeks to ensure more integration and proper coordination of service delivery in the jurisdiction of the Mhlontlo.

#### 1.7. Legislative context:

The Constitution stipulates that all spheres of government and all organs of state within each sphere must cooperate with one another in mutual and good will by:-

- I. Fostering friendly relations;
- II. Assisting and supporting one another;
- III. Informing one another of, and consulting one another on, matters of common interest;
- IV. Coordinating their actions and legislation with one another
- V. Adhering to agreed procedures; and
- VI. Avoiding legal proceedings against one another.

- (a) **The Constitution of the Republic of South Africa Act 108 of 1996** further introduced the system of local government that recognizes all categories of municipalities as independent organs of state.
- (b) **The Reconstruction and Development Programme (RDP) of 1994**, states that local government should be assisted to deal with existing backlog of municipal services through intergovernmental transfers from central and provincial government.
- (c) **The 1998 White paper on Local Government** – encourages the working together with communities as core for the success of local government. Co-operative governance is about involving communities and other spheres of government in decision making as well as in the execution of activities.
- (d) **Intergovernmental Fiscal Relations, Act No 97 of 1997** promotes co-operation between the national, provincial and local spheres of government on fiscal, budgetary and financial matters. It also provides for the establishment of the two important

formal structures for intergovernmental fiscal relations – which are the Budget Council and the Budget Forum

(e) The *Municipal Systems Act No. 32 of 2000* (Section 3 (1)) provides that municipalities must exercise their executive and legislative authority within the constitutional system of cooperative government envisaged in 541 of the Constitution.

(f) The *Municipal Structures Act No 137 of 1998 (S88)* states as follows:-

- 1) A District municipality and the local municipalities within the area of the District municipality must cooperate with one another by assisting and supporting each other;
- 2) A District municipality on request by the local municipality within its area may provide financial, technical and administrative support services to that local municipality to the extent that the District municipality has the capacity to provide those support services
- 3) A local municipality on request of the District municipality in whose area that local municipality falls may provide financial, technical and administrative support services to that District municipality to the extent that the local municipality has the capacity to provide those support services
- 4) A local municipality may provide financial, technical and administrative support services to another local municipality within the area of the same District municipality to the extent that it has the capacity to provide those support services, if the District municipality or that local municipality so requests.
- 5) The MEC for local government in the province must assist the District municipality to provide support services to the local municipality

(g) **Municipal Demarcation Act, 1998, as amended by the Local Government Laws Amendment Act, 2002 (Act No 51 of 2002)** – reinforces co-operative governance and intergovernmental relations among the municipalities. A request for determination or re-determination should have concurrence of the municipality affected by the determination or re-determination

(h) **The Municipal Finance Management Act No 56 of 2003** provides that municipalities must in their financial and fiscal relations with other municipalities promote cooperative government and cooperate and communicate with one another in all financial undertakings.

(i) **The Intergovernmental Relations Framework Act, no 13 of 2005** gives effect to the spirit and principles of cooperative government. The Act establishes the provisions to guide the three spheres of government in terms of :

- 1) Implementing policy and legislation,
- 2) Establishing intergovernmental structures,
- 3) Managing the conduct of IGR,
- 4) Settling disputes,
- 5) Establishing implementation protocols that facilitate integrated service delivery,

- 6) Monitoring the implementation of and realization of the development goals of government, and
- 7) Reporting to parliament.

According to the Act, the three spheres of government need to work in partnership and constantly communicate with each other so that each sphere is aware of its own roles and responsibilities as well as those of other sphere in driving national development priorities and ensuring that local needs are considered in national and provincial decision-making process.

## **CHAPTER 2. INSTITUTIONAL ARRANGEMENTS – IGR FORA**

### **2.1 Sector Fora**

The following sector fora are recommended to facilitate and ensure proper functioning of IGR in the Municipality:-

- (i) Infrastructure Development sector forum
- (ii) Rural, Local Economic and Development Planning and Environmental Management sector forum
- (iii) Corporate affairs sector forum
- (iv) Financial viability sector forum
- (v) Good Governance sector forum
- (vi) Social Sector forum
- (vii) Safety and security sector forum
- (viii) IDP Representative Forum
- (ix) Mhlontlo Local Municipality Intergovernmental Relations Forum

Each sector forum can establish sub-sector fora to allow stakeholders to deal with their sector specific issues in details. But such sub-sector fora will not assume a status of sector forum.

#### **2.1.1 Frequency of meeting**

- a) The forum will sit at least once a quarter or when necessary before the IGR meeting to ensure that issues deliberated upon in the sector forum find space in the IGR agenda for further engagement and deliberation.
- b) Technical forum meetings must be held before their relevant sector forums.
- c) The schedule of dates for the sector fora meetings must be included in the annual council calendar.

### **2.2 Infrastructure Development Sector Forum**

#### **2.2.1 Terms of reference**

- a) The forum will monitor the coordination and integration in the delivery of basic services and infrastructure and in particular the following (amongst others):-
  - (i) Long term and comprehensive Infrastructure Development plan,
  - (ii) Human settlement Development Plan,
  - (iii) Water Service Delivery Plan,
  - (iv) Sanitation Development Plan,
  - (v) Roads and Transport Development Plan,
  - (vi) Energy/ Electricity development
- b) Ensure prioritization, alignment and integration of the infrastructure development needs of municipalities and departments into the short, medium and long term development plans for the district.



- c) Monitor the development , enforcement and compliance with sector municipal by-laws, policies and operational guidelines
- d) Monitoring and evaluation of sector specific issues of accountability, including service delivery performance, audit as well budget planning and implementation (spending).
- e) Facilitate forum engagement (at least Once per annum), with the relevant Provincial and or National Department's political champion (MEC or Minister) responsible for the functional areas of interest to the forum.

#### 1.2.2 Composition/ membership

- a) The Portfolio Head for Infrastructure and Planning Services in the Municipality, who will also be the Chairperson of the Forum,
- b) The Portfolio Head for Human Settlement,
- c) Senior managers of Provincial and National Sector Departments and State owner enterprises (SOEs) responsible for the functional areas of concern to sector in their institutions. (including, Roads and Transport, DWA, Human Settlement, Public Works, SANRAL, Eskom, Telkom, etc),
- d) Chairperson of the forum can invite any person including from SALGA if there is a need.

## **2.3 Rural, Local Economic, and Development Planning and Environmental Management Sector Forum**

### **2.3.1 Terms of reference**

- a) The forum will monitor the coordination and integration in the Economic Development, Spatial planning and Environmental management with particular focus but not limited to the following areas :-
  - (i) Local economic development medium to long term plans
  - (ii) Spatial development framework
  - (iii) Environmental management planning
- b) Ensure prioritization, alignment and integration of the environmental management issues, economic and spatial development needs of municipalities and sector departments priorities into the short, medium and long term development plans for the district.
- c) Monitor the development , enforcement and compliance with sector municipal by-laws, policies and operational guidelines
- d) Monitoring and evaluation of sector specific issues of accountability, including service delivery performance, audit as well budget planning and implementation (spending).
- e) Facilitate forum engagement (at least Once per annum), with the relevant Provincial and or National Department's political champion (MEC or Minister) responsible for the functional areas of interest to the forum.

### **2.3.2 Composition/ membership**

- a) The Portfolio Head for Rural, Local Economic, Development Planning in the District Municipality, who will also be the Chairperson of the Forum.
- b) The relevant Portfolio Heads responsible for LED, Spatial Planning, waste management, environmental management etc)
- c) Senior managers of Provincial and National Sector Departments and State owner enterprises (SOEs) responsible for the functional areas of concern to sector in their institutions.
- d) Any person invited by the Chairperson including a representative from SALGA

## **2.4 Corporate Affairs Sector Forum**

### **2.4.1 Terms of reference**

- a) The forum will monitor the coordination and integration in the Corporate services as a support function to service delivery in the municipality with particular focus but not limited to the following areas :-
  - (i) Human Resource management issues
  - (ii) Labour relations issues

- (iii) Information and Communication Technology Management (ICTM) and related systems
  - (iv) Skills development and capacity building
- b) Ensure prioritization, alignment and integration of the corporate affairs related needs of municipalities and sector department's priorities into the short, medium and long term development plans for the district.
  - c) Monitor the development , enforcement and compliance with sector municipal policies, systems and operational guidelines
  - d) Monitoring and evaluation of sector specific issues of accountability, including sector performance, audit as well budget planning and implementation (spending).
  - e) Facilitate forum engagement (at least Once per annum), with the relevant Provincial and or National Department's political champion (MEC or Minister) responsible for the functional areas of interest to the forum.

#### **2.4.2 Composition**

- a) The Portfolio Head for Corporate Affairs in the District Municipality, who will also be the Chairperson of the Forum,
- b) Senior managers of Provincial and National Sector Departments and State owner enterprises (SOEs) responsible for the functional areas of concern to sector in their institutions.
- c) Any person invited by the Chairperson including a representative from SALGA,

### **2.5 Financial Viability Sector Forum**

#### **2.5.1 Terms of reference**

- a) The forum will monitor the coordination and integration in Financial Viability and management in the municipality with particular focus but not limited to the following areas :-
  - (i) Revenue and Expenditure Management
  - (ii) Budget implementation
  - (iii) Financial reporting and compliance
  - (iv) Auditing
  - (v) Supply Chain management
  - (vi) Assets management etc.
- b) Ensure prioritization, alignment and integration of the financial viability and management support needs of municipalities and sector department's priorities into the medium and long term development plans for the district.
- c) Monitor the development , enforcement and compliance with sector municipal policies, systems and operational guidelines
- d) Monitoring of sector specific issues of accountability, including sector performance, audit as well budget planning and implementation (spending).

- e) Facilitate forum engagement (at least Once per annum), with the relevant Provincial and or National Department's political champion (MEC or Minister) responsible for the functional areas of interest to the forum.

#### **2.5.2 Composition**

- a) The Portfolio Head for Audit, Finance and Budgeting in the Municipality, who will also be the Chairperson of the Forum,
- b) All CFOs and Internal Audit Managers from Municipalities.
- c) Senior managers of Provincial and National Sector Departments and State owner enterprises (SOEs) responsible for the functional areas of concern to sector in their institutions, (including Provincial and National Treasury, etc).
- d) Any person invited by Chairperson including a representative from SALGA,

### **2.6 Good Governance Sector Forum**

#### **2.6.1 Terms of reference**

- a) The forum will monitor the coordination and integration in the Good Governance focus areas in the municipality with particular focus but not limited to the following areas :-
  - (i) Intergovernmental Relations and Support to municipalities,
  - (ii) Integrated Development planning and related processes,
  - (iii) Corporate Performance Management,
  - (iv) Internal Audit and Risk management monitoring,
  - (v) Legal services support.
- a) Ensure prioritization, alignment and integration of the good governance and support related needs of municipalities and sector department's priorities into the short, medium and long term development plans for the district.
- b) Monitor the development , enforcement and compliance with sector municipal policies, systems and operational guidelines,
- c) Monitoring of sector specific issues of accountability, including sector performance, audit as well budget planning and implementation (spending).
- f) Facilitate forum engagement (at least Once per annum), with the relevant Provincial and or National Department's political champion (MEC or Minister) responsible for the functional areas of interest to the forum.

#### **2.6.2 Composition**

- a) The Mayor and Speaker of the Municipality, and the Mayor will also be the Chairperson of the Forum,
- b) The relevant Portfolio Heads,

- c) Senior managers of Provincial and National Sector Departments and State owner enterprises (SOEs) responsible for the functional areas of concern to sector in their institutions.
- d) Any person invited by the Chairperson including the Representative from SALGA

## 2.7 Social Sector Forum

### 2.7.1 Terms of reference

- a) The forum will monitor the coordination and integration in the Social sector in the municipality with particular focus but not limited to the following areas :-
  - (i) Sports, Art, Culture and Heritage
  - (ii) Special Programmes (Youth, women, elderly, disabled people, etc)
  - (iii) Disaster Management and related plans
  - (iv) Fire and emergency services
  - (v) Health (including HIV/AIDS and Municipal [environmental] Health)
  - (vi) Poverty relief and indigent support.
- b) Ensure prioritization, alignment and integration of the social sector related support needs of municipalities and sector department's priorities into the short, medium and long term development plans for the district.
- c) Monitor the development, enforcement and compliance with sector municipal by-laws, policies, systems and operational guidelines.
- d) Monitoring and evaluation of sector specific issues of accountability, including sector performance, audit as well budget planning and implementation (spending).
- g) Facilitate forum engagement (at least Once per annum), with the relevant Provincial and or National Department's political champion (MEC or Minister) responsible for the functional areas of interest to the forum.

### 2.7.2 Composition

- a) The Portfolio Head for Community and Social Services will Cho-Chair the Forum,
- b) The Portfolio Head SPU,
- c) The relevant Portfolio Heads/ counterparts from Local Municipalities
- d) Senior managers of Provincial and National Sector Departments and State owner enterprises (SOEs) responsible for the functional areas of concern to sector in their institutions.
- e) Any person invited by the Chairperson including the Representative from SALGA

## 2.8 Safety and Security Sector Forum

### 2.8.1 Terms of reference

- a) The forum will monitor the coordination and integration in the Safety and Security issues district with particular focus but not limited to the following areas :-
  - (i) Crime prevention,
  - (ii) Prevention of violence against women and children,
  - (iii) Development of security sector plans
- b) Ensure prioritization, alignment and integration of the safety and security related support needs of municipalities and sector department's priorities into the medium and long term development plans for the district.
- c) Monitor the development , enforcement and compliance with sector municipal policies, systems and operational guidelines
- d) Monitoring and evaluation of sector specific issues of accountability, including sector performance, audit as well budget planning and implementation (spending).
- e) Facilitate forum engagement (at least Once per annum), with the relevant Provincial and or National Department's political champion (MEC or Minister) responsible for the functional areas of interest to the forum.

### 2.8.2 Composition

- a) The Member of Mayoral Committee (MMC) responsible for Community and Social Services in the District Municipality, who will also be the Chairperson of the Forum,
- b) The relevant Portfolio Heads responsible for public safety/ security service/ community services from Local Municipalities
- c) All relevant Directors/Managers from the Local Municipalities responsible for the functional areas of concern to the forum.
- d) Senior managers of Provincial and National Sector Departments and State owner enterprises (SOEs) responsible for the functional areas of concern to sector in their institutions.
- e) Any person invited by the Chairperson including the Representative from SALGA

## **2.9. The Integrated Development Planning Representative (IDP Rep) Forum**

### **2.9.1. Terms of Reference**

- a) To take community input into planning processes for integration into plans including municipal budget
- b) To monitor and evaluate progress in the implementation of the IDP
- c) To make suggestions on ways of improving delivery and IDP review
- d) Represents the interests of the constituents in the IDP review process
- e) Provides an organizational mechanism for discussion, negotiation and decision-making between the stakeholders including the municipal manager.
- f) Ensure communication between all stakeholder representatives including the municipality and government departments.
- g) Monitor the performance of the planning and implementation process.

### **2.9.2. Composition**

- a) The Mayor of the municipality who is also the chairperson of the forum,
- b) All councilors and Traditional leaders,
- c) Municipal Manager and Departmental Managers,
- d) District Managers from provincial and National government sector departments,
- e) Representatives from State owned enterprises (e.g. Telkom, Eskom, ECDC, etc.) and Development Agencies
- f) Stakeholder representatives of organized groups (2 representatives preferable Chairpersons and Deputy Chairperson),
- g) Two representatives from SAMWU


### CHAPTER 3 Service Delivery projects implementation and funding

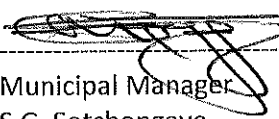
- I. Section 35 of the IGRFA states that where the implementation of a policy, the exercise of a statutory power, the performance of a statutory function or the provision of a service depends on the participation of organs of state in different governments, those organs of state must coordinate their actions in such a manner as may be appropriate or required in the circumstances, and may do so by entering into an implementation protocol/Service Level Agreement (SLA).
- II. The Municipal Finance Management Act No 56 of 2003 (S37(2)) provides that the District municipality shall advise the local municipalities of the funds available for transfer to the local municipalities at least 120 days before the start of the financial year;
- III. Projects should be identified by Mhlontlo local municipality through the Ward Councillor, Ward Committee Traditional Leaders and CDWs system;
- IV. The handing over of the completed project within the functionality of the Mhlontlo Local Municipality will be done by the Mayor who shall invite his/her counterpart and the respective ward councillor to accompany him/her.

#### **3.1 FORMAT FOR SUBMISSION OF REPORTS TO SECTOR FORUM**

- a) All presentations are submitted to the Municipal Manager into two separate forms, which are as follows:
  - (i) The narrative report in word format.
  - (ii) Power point presentations which talks to the narrative format.
- b) Reports/Presentations must include introduction, purpose and background, decision required and its implications (inter-sphere and otherwise) and a recommendation.
- c) Reports are submitted at 3 days before the meeting for purposes of quality assurance.
- d) The undersigned having been duly authorized thereto, sign this document on behalf of their respective municipalities on the date appearing opposite their signatures

Signed on behalf Council By

  
\_\_\_\_\_  
N. Dywili  
Mayor  
Mhlontlo Local Municipality

  
\_\_\_\_\_  
Municipal Manager  
S.G. Sotshongaye