

**LEGISLATIVE OVERSIGHT AND ACCOUNTABILITY OF PUBLIC FINANCES: A  
CASE OF LIMPOPO PROVINCIAL LEGISLATURE FOR THE PERIOD BETWEEN  
1994 AND 2010**

**by**

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## DECLARATION

I declare that this mini-dissertation is my own work and that all the sources I have used and quoted have been indicated and acknowledged by means of a complete reference.

.....  
**Maaria Ishmael Kgatjepe**

.....  
**Date**

## **ABSTRACT**

The *Constitution of the Republic of South Africa of 1996* requires the Legislature in Local, Provincial and National Governments to hold the Executive accountable and continue to do oversight on the work of government. The Legislature in executing its work, sometimes make use of the Auditor General's reports, Public Finance Management Act (PFMA) reports and all other reports submitted by constitutional institutions, the Executive and other agents of the State.

The study investigates whether the Legislature understands its mandate as legislated and whether the legislation is efficient and effective in ensuring accountability and conducting oversight of the work of the Executive.

The research methodology used in this study is the qualitative approach. The respondents were clear that the Legislature understand its business as legislated, and further that there is a challenge at implementation of these important functions of the Legislature. There is varying implementation due to resources, capacity constraints and lack of commitment.

The study recommends that the training of Members of the Legislature and staff, allocation of adequate resources and proper planning. The commitment of the Members of the Executive to the process and implementation of consequence management for poor performance and key interventions to ensure efficient and effective oversight of public finances in the province

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## **1.1 INTRODUCTION AND BACKGROUND**

The *Interim Constitution Act 200 of 1993* was adopted to provide a framework for the transition to democracy, including the conducting of the general elections of 1994. This *Interim Constitution of 1993* made provision for the creation of nine provincial administrations of the Republic of South Africa. These nine provinces were then considered to be a sphere of government. Subsequently, local government, which comprises municipalities, became a sphere as well.

Schedule 4 and 5 of the *Constitution of the Republic of South Africa*, adopted in 1996, provide that national government has certain exclusive powers as well as those concurrent with the provinces and local government. It is necessary to bear in mind that Limpopo Province is one of the nine provinces of the Republic of South Africa.

As outlined in Chapters 4, 6 and 7 of the 1996 Constitution, the legislative bodies are essential aspects of the new democratic dispensation in South Africa. These legislatures have been established in all spheres of government and have the responsibility to hold the executive authorities to account.

One of the key areas the executive is required to account for is regarding the use of public finances in the execution of the activities of government. The implementation of this function by the legislative bodies is expected to ensure that government programmes are implemented efficiently, effectively and in a cost effective way.

The failure of any of these legislatures to hold the executive to account may result in poor service delivery and corruption, which may subsequently result in a collapse of government. A phenomenon that occurs is service delivery protests, which arise in community structures to put pressure on government to provide services urgently when there is lack of or insufficient services.

However, in most instances, the implementation of this task of the legislature is hamstrung by challenges such as the skills to conduct proper research, availability of resources, the relationship between the governing parties and the composition (the constituting) of the legislative bodies and the adequacy of preparations to conduct oversight, among others. At the same time the executive members often have better resources and skilled personnel at their disposal to support their functions.

The members of the legislature themselves may sometimes be reluctant to perform their oversight function due to their standing in the party or that of members of the executive, especially with the possibility of the furthering of their careers or punishment for not towing the party line. Ngwakwe (2012:312) indicates that the effective management of public wealth and delivery of social services determine the degree of public accountability. He further links a transparent and accountable public sector with a positive impact on private sector transparency. Indeed good accountability enhances service delivery and creates citizen and private sector confidence in the government.

## **1.2 PROBLEM STATEMENT**

One of the major challenges of provincial government administration in South Africa is that the management of public finances has not been optimised. Obviously, this is despite the fact that legislatures have been conducting their oversight work over the executive authorities. This is also captured in many reports including that of the Auditor General of 2012/13. Essentially, most provincial government departments continue to receive negative audit outcomes from the Auditor General (2013).

Limpopo Province is included and in its case, the decision by the Cabinet in December 2011 to put five provincial government departments under national administration Section 100(1)(b) serves as a clear indication of this challenge. While the Standing Committee on Public Finances (SCOPA) has been recommending action to address poor financial management, there is no noticeable success in this regard.



In many instances there is deterioration in the management of public finances, notwithstanding these accountability mechanisms in place. The problem remains whether the accountability mechanism created in the legislatures is adequate to improve service delivery. In view of the foregoing, this research seeks to investigate the oversight and accountability functions of the Limpopo Legislature in fulfilling its constitutional mandate.

### **1.3 MOTIVATION AND RATIONALE FOR THE STUDY**

It is important to investigate legislative oversight and accountability in the context of the Limpopo Legislature to ensure that there is an understanding of how legislative responsibilities could contribute to improved governance of public financial resources.

This is important because the province has since 1994 been governed by the African National Congress (ANC), which has consistently received an absolute majority from the electorate. If not properly interrogated, the Limpopo Legislature may be weakened and the governance project may not be able to deliver in accordance with the expectations of the electorate. These occurrences are usual in electoral systems that are majoritarian with one strong ruling party and insignificant opposition parties in terms of their numbers in the Legislature.

This study seeks to consider the notion that in cases where poor legislative oversight is experienced, issues pertaining to service delivery within the province are likely to decline and finally collapse. This problem of weak oversight could also be exacerbated by members of the ruling party protecting one another (especially Members of Executive Councils) (MECs) against opposition members in the Legislature during sessions on oversight, accountability and responsibility.

The research undertakes to consider how to strengthen oversight in a majoritarian system and still deepen democracy and ensure public finances are properly accounted for especially within Limpopo Province. The report further argues that conducting proper oversight and holding the legislative to account, could result in improved service delivery, including efficient, effective and cost effective management of public finances.

#### **1.4 SIGNIFICANCE OF THE STUDY**

The study is important to ensure that members of the provincial legislatures understand the nature of their functions within the constitutional framework. This understanding is meant to ensure that legislatures hold executive authorities to account for money spent and that the quality of services is considered in relation to value for money for service providers.

The research further seeks to contribute an understanding to members of provincial legislatures in undertaking their legislative functions that value for public funds should, in rendering public services, supersede a political party mandate, especially in cases where there is a contradiction between these two issues (value for money in services rendered and political party mandate).

Once Members of the Legislature are conscientised of their roles and responsibilities and they execute them with precision, and deliver the best services, the public could benefit through efficient service delivery and value for money. In this way, service providers of government would not take any service delivery project for granted.

If oversight and accountability of public finances is not effective, corruption could escalate and poor services would contribute to the failure and subsequent collapse of government. This research therefore considers contributing to strengthening the accountability of the Limpopo Legislature to ensure the Executive authority activities are done in the interests of the public.

#### **1.5 AIM OF THE STUDY**

The aim of the research is to evaluate the effectiveness of oversight mechanisms to ensure accountability of public finance management within the Limpopo Province.

## **1.6 OBJECTIVES OF THE STUDY**

In order to consider how the research problem of this study would be addressed, the following research objectives are necessary:

- To describe the oversight and accountability mechanisms for public finances in Limpopo Province.
- To evaluate the effectiveness of the oversight mechanisms for public finances within the Limpopo Legislature.
- To make recommendations to improve the oversight and accountability mechanisms in the Limpopo Legislature.

## **1.7 DEFINITION OF CONCEPTS**

### **1.7.1 Accountability**

Accountability at a macro level is exercised through oversight by public representatives in the legislative arm of government. At community level, government consults and involves communities in discussion about programmes and projects that directly affect them. At an individual level, citizens have the right to hold government to account and receive reasons for government that directly affect them.

Accountability ensures actions and decisions taken by public officials are subject to oversight, so as to guarantee that government initiatives meet their stated objectives and respond to the needs of the community they are meant to be benefiting. Accountability should be considered a cornerstone of good governance.

Accountability can also be defined as a social relationship where an actor (an individual or an agency) feels an obligation to explain and justify his or her conduct to some significant other (the accountability forum, accountee, specific person or agency). (South African Legislative Sector, 2012:3).

Brugge (2008) defines accountability as a social relationship where the ministers and their departments, public entities and other bodies such as commissions feel obliged to explain and justify their conduct to the accountability forum, in this case the Legislature or Parliament.

The onus lies with the different ministers at national level and MECs or Premiers at provincial levels, or departmental officials, public entities and other national or provincial bodies, to explain their actions to the Legislature or Parliament. However, accountability by the departments or government entities is the outcome of oversight and scrutiny by the Legislature.

Theletsane (2014:153-154) further defines accountability in the public sector as a mechanism whereby the public exercises the right to be given an account of the effective, efficient, economic and transparent utilisation of state funds in the process of achieving the mandate given to their public representatives (the Legislature).

The Legislature further delegates the execution of the mandate to the Executive, which consists of the political executive (Cabinet and operational executive, government department). These entities are then held accountable by the Legislature. Accountability has two elements: answerability and consequences. The question of answerability seeks to ensure that officials (either elected or appointed) are able to satisfy their line management with sufficient evidence of their success or failure in intervening in problems or situations.

The aspect of consequences implies that sanctions are put in place in cases where officials are unable to furnish line management with sufficient proof of and are seen to be failing in their primary tasks.

### **1.7.2 Co-operative governance**

The question of co-operative governance is outlined in Chapter 3 of the 1996 Constitution. In the South African context it is when all spheres of government and all organs of the state within each sphere co-operate with one another in mutual trust and good faith by fostering friendly relations, assisting and supporting one another, informing one another of common interests, co-ordinating their actions and legislation with one another, adhering to agreed procedures, and avoiding legal proceedings against one another (South African Legislative Sector, 2012:3).

### **1.7.3 Legislature**

The Legislature is the law-making body of a body politic, usually a national government that has power to enact, amend and repeal public policy. It includes Parliament and all provincial legislatures of South Africa. They are institutions constitutionally charged with the responsibilities of making laws, conducting oversight over the executive authorities, and exercising public participation and co-operative governance (South African Legislative Sector, 2012:3).

### **1.7.4 Oversight**

In a South African context, oversight is a constitutionally mandated function of legislative organs of state to scrutinise and oversee executive action and any organ of state. It therefore follows that oversight entails the informal watchful, strategic and structured scrutiny exercised by Legislatures. It is the proactive interaction initiated by the Legislature with the Executive and administrative organs that encourage compliance with the constitutional obligation by the Executive and administration to ensure delivery on agreed-to objectives for the achievement of government priorities (South African Legislative Sector, 2012:4).

Nyathela and Makhado (2012) indicate that oversight entails supervision, watchful care, management or control, strategic and structured scrutiny exercised by the legislature in respect of implementation of laws, the application of budget, and the strict observance of statutes and the Constitution. Caparine (2002) argues that oversight involves the watchdog function of on-going activities.

### **1.7.5 Responsibility**

Theletsane (2014:159) defines responsibility as an obligation that arises from tasks one assumes. It means that one has to observe and apply policies and procedures to achieve objectives. Further, it implies that one accepts consequences arising from the results of one's decisions, actions or inactions. Responsibility also draws a distinction between right and wrong.

## **1.8 STUDY AREA**

The study focus for this research is Limpopo members of the Provincial Legislature and their support staff. This is necessary because in order to understand how legislative oversight, accountability and responsibility are conducted in Limpopo Province, these respondents are critical as they are involved in these responsibilities on a daily basis.

## **1.9 OUTLINE OF THE STUDY**

The chapters are organised as follows:

**Chapter 1** discusses the background of the study, motivation for conducting the study, the significance of the study, the problem statement, the aim of the study, objectives of the study, research questions and definition of key concepts.

**Chapter 2** provides a review of relevant literature with a view to locating the study within the existing theoretical body of knowledge. The literature review considers the concept of oversight and accountability of the Legislature and identifies whether the available mechanisms contribute to improved service delivery.

**Chapter 3** presents a detailed report of the research methodology followed by the study, reasons for the methodology chosen, a description of the sampling method, data gathering, analysis, and data interpretation.

**Chapter 4** presents the results of data collected through various techniques. Key themes emerging from the collected data are used to present the results of the data analysis.

**Chapter 5** summarises the findings and conclusions of the study. Recommendations for future research by other scholars and researchers are also considered.

## **1.10 SUMMARY**

In Chapter 1, the research gives a brief background to the research problem, rationale or motivation to the study, statement of the problem, aim of the study, the objectives of the study, definition of key concepts and outline of the concepts. Chapter 2 deals with literature review.

## **CHAPTER 2: LITERATURE REVIEW**

### **2.1 INTRODUCTION**

In Chapter 1, a brief background to the study, the problem statement and the objectives of the study were discussed. In this chapter, a literature review regarding oversight and accountability of the Legislature is discussed in order to clearly understand the areas explored by other scholars.

### **2.2 LITERATURE REVIEW ON OVERSIGHT AND ACCOUNTABILITY**

Legislative oversight and accountability evolved through the Westminster system. Shephard (2008:51-52) indicates that in most countries legislatures are constitutionally mandated to hold governments accountable. The accountability mechanisms are usually outlined in the Constitution. In the Westminster system, what is referred to as the power of the purse dates back to medieval times when knights and burgess in England were summoned to inform communities of the raising of local taxes. This power was later used in the 14<sup>th</sup> century as a condition for voting in the English Parliament.

It further developed into a situation where the English Parliament focused on how money was collected and spent. The status of Parliament was usually given, in return for support, as in King Henry VIII's reign, policy making was given in return for their support during battle. It is therefore clear that legislative oversight was used by successive kings in the Westminster system to ensure that parliament was rewarded by support for government in its implementation of policies or governance.

This, therefore, implies that there would always be conflict where government and parliament did not agree on the implementation of policy or budget. However, it remains the responsibility of the legislature to assert itself when it exercises a function within its powers. The legislature cannot wait for inducement from government to exercise its power and once legislatures become assertive, conflict is likely to occur.

However, it is clear that the inherent conflict between the legislature and the executive can only be managed by maturity and perhaps the decency of individuals and their political parties carrying out these responsibilities. The system of elections and the understanding of political parties that each of them has a role to play and cannot exist outside the other forms an essential part of this important arrangement.

Yamamoto (2007:9-10) identifies the key functions of parliamentary oversight:

- To detect and prevent abuse, arbitrary behaviour, or illegal and unconstitutional conduct on the part of the government and public agencies. At the core of this function is the protection of the rights and liberties of citizens.
- To hold the government accountable with respect to how the money of the taxpayers is used. Parliamentary oversight detects waste within the machinery of the government and public agencies, thus it can improve the efficiency, economy and effectiveness of government operations.
- To ensure that policies announced by government and authorised by parliament are actually implemented. These functions include monitoring the achievements as set by legislation, the programmes of the government and the tools of parliamentary oversight.
- To improve transparency of government operations and enhance the trust of the public in government, which is itself a condition of effective policy delivery.

Manona (2015:72) reminds us that oversight committees have often selectively held senior executives and ministers accountable for inactive misuse of government expenditure and maladministration.

Meanwhile Griffith (2005:3) highlights that accountability is tied to good governance and entails the fact that government should be able to observe some of the following:

- Openness and transparency;
- Appropriate mechanisms of accountability, whether political, legal, public or auditing;
- That there are appropriate provisions in place to maximise the effectiveness of government;
- That public participation is encouraged.



Accountability in public administration is therefore about securing and maintaining integrity of government as part of good governance. Therefore, parliamentary accountability addresses the concern that governments and their agencies should fulfil their responsibilities and if problems occur or complaints arise, there should be means to hold them to account for their actions or omissions.

It is mainly through the availability of information on all aspects that Legislatures can adequately fulfil their critical function of ensuring that the executive is held accountable and takes responsibility for its action. As such, accountability entails the provision of the relevant information to the Legislature or Parliament. Without provision of adequate information to the Legislature by the Executive or other agents of the state, proper oversight, accountability and responsibility cannot easily occur.

Madue (2014:61) indicates that public administration is applied in terms of the principal-agent theory which is about contractual relations between the government and the public. This implies that the principal, the citizens, engages the agents, the public servants, to do work on their behalf in terms of delegation, but the principal cannot always keep the agent in check although the contract between the principal and the agent specifies what the agent should do.

Delegation also creates problems because sometimes the principal delegates but doesn't know whether the activity is appropriately delegated or whether it is performed properly.

Sometimes the principal also does not know if the relevant agent was appointed. That is what generally affects the process of oversight and accountability. It borders mainly on whether the agent is exercising what has been delegated, whether the agent is executing the delegation correctly and also whether the delegated is the correct agent to implement what has been delegated. As such a conflict sometimes occurs in implementation.

However, because the agents act according to delegation, they should be trusted. The process of oversight ensures that the agents earn their trust from the principals in the execution of the delegated responsibilities. Of course, it is important that trust in the conduct of the agents can only be earned when they exercise their functions and account accordingly, especially in a situation of oversight, accountability and responsibility where conflict is inherent and sometimes unavoidable.

In further elaborating the principal-agent theory of public administration, Masehela, Mamogale and Makhado (2012:346-347) indicate that the theory pre-supposes that the political principal is perceived to be a very powerful person with authority to influence the administration policy-making process and direction, oversee and monitor the activities, and sanction the behaviour of self-interested agency officials. It is sometimes found that the principal is not as powerful and competent as it is assumed to be for the task of ensuring that the agent does the job delegated and has to be sanctioned for deviant behaviour.

The dialectical relationship between the principal and the agent strengthens the function and ensures that in the delivery of public administration, the citizens who are served by the public administration system are benefitted. The issue of competence therefore is not only applicable to the agents but also to the principal.

The electorate therefore elects the legislators who should be competent to exercise oversight, and at the same time when government is constituted, those who govern should be competent and assisted by their administration to execute the delegated functions. If this situation were to prevail, the oversight function of the Legislature would be smooth because everybody would understand the function to be performed.

In the African context, the Kenyan system of oversight, accountability and responsibility evolved through the Westminster system. It is a constitution-based system as structured through a bicameral parliament. The Kenyan parliament has grown in stature to have strong structures that hold the executive to account.

However, parliament's responsibility for holding the executives to account is bedevilled by serious challenges. These challenges often depend on where the strength lies. Usually, the stronger body is able to withstand challenges and prevail even in difficult conditions.

The Kenyan parliament often faces challenges in effectively performing its oversight function on the executive arm of government. These are, among others, lack of political will, enforceability of parliamentary oversight reports, resource constraints, inadequate technical and support staff, inadequate infrastructure and outdated technology, lack of transparency, oversight capacity and individual members' competence, time/commitment and discipline, a weak extra parliamentary support system, and risk of overstepping mandates and parliamentary accountability. In most instances, a combination of these challenges exists.

What is necessary to bear in mind is that these challenges are not unique to Kenyan parliament but depend on the Legislature, the Executive and the parties in the Legislature including the ruling party's commitment to account to the citizens and preserve and protect constitutional democracy. However, the Kenyan system could be considered as encouraging in that it is one of the maturing democracies emerging out of a post-one-party liberation government period.

Ultimately it is active citizenship that shapes the position of Parliament and the Executive to ensure that oversight and accountability are effective and that where there has been action or inaction, the responsible parties take responsibility for this action or inaction (The Institute for Social Accountability, 2012:5-7)

The South African approach to legislative oversight, accountability and responsibility is a constitutionally entrenched system. It also evolved from the Westminster system as South Africa was a colony of Britain at one time. Section 104 of the *Constitution of the Republic of South Africa of 1996* indicates that the legislative authority of a province is vested in a provincial legislature. Further to that, section 114 directs the Legislature to ensure that the organs of state are accountable.

This means that the responsibility to hold the Executive and other organs of State to account is one that the Legislature is obligated to execute without fear or favour. A constitutionally entrenched system is a strong guarantee for democracy and a condition fertile for supporting the best delivery of services.

Manona (2015:72-74) avers that oversight in South Africa does not seem to be properly understood due to the majoritarian authority of the ruling party in committees. These committees are often seen to be colluding and protective of the executive. However, this protective conduct and subsequent failure to conduct oversight especially against cases of omission have negative bearings on the efficiency and effectiveness of the oversight role of Parliament.

Notwithstanding the challenges identified, Manona (2015:80-81) indicates that the following tools are available for the South African Parliament to exercise oversight in terms of the Constitution and the rules governing parliamentary procedures. The Parliament of the Republic of South Africa exercises oversight focused on:

- implementation of laws
- application of budgets
- strict observation of the laws of parliament and the Constitution
- effective management of government departments.

Oversight is seen as a central facet of the South African democracy because it ensures that the Legislature ensures that the executive carries out its mandates, implements policy and draws from experiences for future law-making. This contributes to making government effective.

Mbunge (2015:16) indicates that the *Powers, Privileges, Immunities of Parliaments and Provincial Legislatures Act of 2004*, expands on the powers the Republic of South Africa Constitution gives the Legislatures. Chapter 5 of the Act provides for the summoning of witnesses, and the examination of witnesses and offenses relating to the witnesses.

The Act further indicates that an individual who is summoned to any municipal committee, legislative committee or parliamentary committee does not do what is expected or does not appear and reasonably answer questions put to him/her or fails to produce documents or records in his/her custody, which she/he was required to produce, has committed an offence. The person guilty of the offence is liable to a fine or imprisonment for a period not exceeding twelve months, or to both.

This provision also applies to persons who threaten or obstruct another person in respect of evidence to be given before a House or committee. However, in such a case, a penalty for a period of up to two years imprisonment is also possible, depending on the seriousness of the transgression or offense or representation made.

Section 3 of the Act further provides that evidence given under oath or affirmation by a person before a House or committee may not be used against that person in any court or place outside parliament except in criminal proceedings.

These provisions are important as they give powers to the legislature to carry out informed oversight and also protect witnesses who may be afraid of giving incriminating evidence that may lead to them being sued, disciplined or charged.

It also makes sure that those giving evidence are protected, and that the Legislature or Parliament is empowered to do work with the support of the administrators or members of the public without fear that those who committed an offence threaten or intimidate the people who present evidence to the oversight body. The Legislature is also protected to conduct its oversight function without fear of litigation that may result in valuable time that the Legislature needs to run its business being spent.

Visser and Erasmus (2002:32) indicate that the Legislature has among its main functions the authorising of the use of public money. This function is critical in making the executive ensure that the Legislature at the time of authorising consent to the programmes the agents are going to implement using the budget is correct. Brugge (2008:13) highlights that the attainment of government strategic objectives for the benefit of the nation and not the political party is imperative.

This means that oversight should go beyond political party differences and be conducted for the public good. This implies that oversight is a public confidence building exercise and major tenet of any democratic dispensation.

It also implies that the work of oversight and accountability should go beyond towing the political party line, and should be about how much the citizens stand to benefit from the programmes that government implements. The Legislature should therefore be rigorous in determining the efficiency, effectiveness, economy and relevance of the implementation of betterment programmes for the benefit of citizens as a whole.

However, Corder, Jagwanth and Soltau (1999:5-6) indicate that because the Executive is chosen from the Legislature, in a strong political party-based system, the members of the ruling party may be unwilling to subject government to rigorous scrutiny for fear of being perceived as disloyal or of even suffering expulsion from the party and consequently losing their parliamentary position. Nevertheless, oversight as a whole encourages open government and strengthens the public confidence in the government as it keeps the government closer to the people it governs.

Tshishonga (2014:110-112) asserts that the South African electoral system for National and Provincial legislators based on the proportional representative system is one of the means for people to hold politicians and their respective parties accountable. This is because this system allows politicians to disregard fulfilling the mandate of their people once the people are deprived of their right and responsibility to hold the politicians to account, and the politicians see themselves as accounting to party structures and leadership rather than to citizens.

This may result in the establishment of informal structures to demand that social justice and democracy are defended. The informal oversight structures appear in service delivery protests mainly championed by organisations with names such as youth groups, concerned citizens groups and shack dwellers associations, to mention but a few.

These groups are usually spontaneous and are formed due to actual or perceived poor service delivery or pitiable local government. The protest actions are seen as a quick means of gaining attention from the media, politicians and bureaucrats.

However, more often than not, the protest actions turn violent and function as informal acts of oversight because they spur both politicians and officials into action and induce them to act with caution in future.

However, once the politicians and bureaucrats react positively to this kind of activity, citizens could then become used to act in this way. Often it is also because as they say, most communities have found it is easier and quicker to obtain government concessions and receive services when they participate in violent protests. In most cases where peaceful protests are held, it has been very difficult for communities to receive attention from government. Thus informal oversight becomes the norm and service delivery protests escalate.

This therefore emphasises the duty of the legislature to conduct its oversight and avoid leaving the function to communities, which may result in violence, damage to public property and undermining of our hard-earned democracy.

According to Malapane (2016:144-145), structures and systems may be available for Legislatures to conduct oversight but the effectiveness of the Legislature mainly depends on the willingness of Parliament itself to maintain effective oversight and also the possible influence, available incentive or lack thereof.

This is because sometimes the Members of Parliament may be constrained to conduct oversight by the availability of incentives, especially where the cost of oversight far outweighs the benefit. It is possible that the incentive to perform oversight may have dire consequences, especially in a majoritarian system where a strong ruling party dominates the entire national political landscape.

Therefore, while oversight is a mandate of parliament, it depends on the willingness of the Members of Parliament, as they are faced with various challenges that may affect their wellbeing and membership of either their political party or Parliament itself.

That is because, a strong political party system like the proportional representative system, also referred to as majoritarian system, makes it easier to recall a Member of Parliament and replace him or her. The threat is real because there is always a tug of war between the Executive and Parliament in holding the Executive to account and also the Executive fighting to influence and implement policy.

In order to mitigate the strong majoritarian system, Monstad (1999:16-18) believes that to ensure accountability, there is a need for a balance between political parties. One political party must not dominate the party balance, or be in government for a long time. This means in political terms, there must be a balance that ensures that the opposition is a credible contender for power, which will ensure that the ruling party can easily be replaced with another party come the next election.

This could therefore force the ruling party itself to be sensitive and responsible in their action if there is a reasonable balance between the political parties in the state. A balance of political parties ensures that the people's vote counts and are therefore aware that there is strong competition and the possibility of being replaced come the next election. The parties are cautious and as such democracy is enforced and deepened.

But this assertion is a purely liberal democratic view that does not trust governments but believes that oversight can only be conducted by the opposition. A committed and accountable ruling party can still ensure that its Members of Parliament hold the members of the Executive accountable in the interest of democracy and transparency for the good of the public. This has been demonstrated by the Standing Committee on Public Accounts (SCOPA), which has always held the Executive Council of Limpopo Province to account even though it is chaired and dominated by members of the ruling party, being the African National Congress. In SCOPA, oversight is conducted without fear or favour.

A vibrant civil society is also another aspect that could be used to enforce accountability for the activities of the Executive. A vigorous civil society and an independent press to inform the public and other structures about actions and non-action of their rulers are also important in enhancing accountability and deepening democracy. Proper accountability ensures that the Executive does not override the Legislative. As such, accountability ensures that secure information and explanation are obtained from the Executive for any action or inaction.

These processes ensure that the decision makers being held accountable will be responsive to those holding them to account. Sanctions such as dismissal or enforced resignation are perceived as the likelihood for transgressions.



Pelizzo and Stapenhurst (2008:9-13) indicate that there are different tools the Legislature can use to oversee the Executive: committee hearings, hearings in plenary sittings, commissions of inquiry, questions, question time, interpellations, the Ombudsman, Auditor General, and public accounts committees.

They further outline that oversight activities can be either during the policy formulation – *ex ante* –, or after the policy has been enacted by government to check if it has been implemented – *ex post*. Elaborating further on oversight means in a Westminster system of Parliament, Shephard (2008:184) indicates that oversight is conducted through debates, questions and committees. It is therefore clear that there are many oversight platforms that are available to strengthen democracy and ensure accountability.

As already outlined, the South African system of governance is also embedded in the Westminster system because of our historical links, as an ex- British colony. The rules of the National Assembly and the National Council of Provinces make provision for committees to conduct the business of the House on behalf of the House and report back on matters referred for consideration and approval by the House.

Parliament RSA (undated:18) indicates that this is done in terms of National Assembly Rule 137(2) and the National Council of Provinces Rule 102(2). The system of conducting oversight in South Africa is therefore entrenched in the Westminster system and if properly used it strengthens our democracy. The key function of oversight involves what is referred to as the power of the purse, generally referred to as the legislative oversight of the budget system.

Shephard (2008:52) indicates that the budget system is a continuity and integrated budget cycle process, within the Legislature that plays a key role at different stages of the cycle. The cycle includes the Executive, the public service, civil society and the Legislature. It is further indicated that the cycle should include significant interaction with civil society groups, businesses and the public at large. It is in the area outside the cycle that the Legislature has a key role to play. However, based on its discretion, which can be elaborated in legislation, the Legislature can regulate its interaction with the budget.

The South African Legislative Sector (2012:6-8) argues that it favours the Sector Oversight Model (SOM), which emphasises that the Legislature is central to public service delivery. The model consists of the Public Sector Oversight Model (PSOM) and the Budget Cycle Model (BCM).

The Public Sector Oversight Model (PSOM) focuses on oversight work by the Legislature or its committees on the work done by the Executive or other organs of state in the implementation of policies or programmes.

The Budget Cycle Model (BCM) focuses on oversight work in the processes of formulating the budget and ultimately the approval of such a budget. The Legislative Sector Oversight Model further indicates that oversight includes political, administrative, ethical, legal and strategic elements. All these should include the work that assesses if the Legislature is adequately undertaking its roles and functions, and if the Legislature is adequately resourced to execute its mandate.

Barbeton (2011:3) reminds us that oversight is conducted in order to deepen democracy, promote good governance, reinforce transparency, and monitor alignment between policy, planning and implementation, so that we can ensure effective, efficient, economical and equitable service delivery. To give effect to the oversight work of the Legislature, section 133 of the *Constitution of the Republic of South Africa of 1996*, directs that Members of the Executive Councils (MECs) are required to account collectively or individually for the exercise of their powers and performance of their function.

In this regard, in terms of section 65 of the *Public Finance Management Act 1 of 1999*, the MEC for Finance must submit the consolidated financial statement and Auditor General's report to the Provincial Legislature for tabling. The Act further directs that if the report is not submitted, the MEC must submit reasons for non-submission. Section 132 of the *Municipal Financial Management Act, 53 of 2003*, also directs the MEC for Local Government to ensure that each municipality or municipal entity submits their annual and oversight reports to the provincial legislature on a quarterly basis.

This provision ensures that not only the municipal councils but the provincial legislatures must also exercise oversight of the finances of local government. Also as a way of fostering accountability, the legislative authority has powers bestowed on it by section 115 of the *Constitution of the Republic of South Africa of 1996*, to summon any person to appear before it and give evidence under oath or affirmation or to produce documents.

Failure to honour the directive could lead to charges of contempt. All these are to strengthen the role of oversight and enforce the executive authority's accountability to the Legislature.

Hedger and Blick (2008) further argue that an accountability relationship is horizontal and that it is made possible by a clear separation of powers between the legislative and executive authority of government. They indicate that this forms the bedrock of any democratic system of government.

Brazier, Flinders and McHugh (2005) reinforce this by indicating that the scrutiny of the executive arm of the government and holding it accountable is an important function of the legislative arm of government. Holding the executive arm of the state accountable is a requirement for democracy.

Visser and Erasmus (2002:33) further note that SCOPA is required to scrutinise the Auditor General's report, take decisions on the action to be taken and report to Parliament. The South African Legislative Sector (2012:16) further mentions the functions of accountability as to enhance the integrity of public governance, and to safeguard government against corruption, nepotism, abuse of power and other forms of inappropriate behaviour, among others. It means that oversight is about maintaining public confidence in government and promoting open and transparent governance.

Oweyo (2007:6-7) indicates that the National Assembly must not allow itself to be manipulated and used as a mere rubber stamp for the government's executive agenda. This is because Legislature oversight is considered an important duty in the promotion and protection of public interest. Bryan and Hofmann (2007:26) further indicate that when the legislative branch does not act as a counterbalance to the executive power, the Executive has disproportionate power and authority.

This will most likely happen during budget oversight where Legislatures are under pressure to meet time frames and have no time available to do diligent review of the budget.

However, sometimes there is overemphasis of the oversight function as if it is an entirely hostile process between the Executive and the Legislature where the Legislature is a junior partner consisting of junior members of the party who have aspirations to become part of the Executive, and needs to always be pressurised to comply with executive orders.

On the contrary, Senay and Besdziek (1999:4-9) indicate that oversight is not just the preserve of opposition parties, especially in majoritarian systems where the ruling party holds the majority in Legislatures. It is indicated that oversight in these cases must be grounded institutionally and based on cross-party co-operation, and inter-party consensus positions.

They reckon that this approach will enforce clean, efficient and open administration, and effective policy and legislation in the context of co-operative governance. Properly executed, this exercise will result in better government. It is important that there should be a close relationship between the Legislature and the Executive, as it is an essential basis for effective oversight in the context of a co-operation constitutionally prescribed in South Africa.

The critical other issue that also has to be addressed is whether there are any consequences to non-compliance to oversight and accountability. This is important in the context of an inherently conflictual relationship between the Executive and the Legislature, especially in the execution of the oversight and the accountability duty.

Corder, Jagwanth and Soltau (1999:6) indicate that in a constitutional supreme dispensation, non-compliance with oversight requirements may result in legal sanction. However, mindful that legal recourse may take time to create a redress, it is important that the parties involved in oversight and accountability invest a great deal in managing the differences and ensuring that the oversight function is conducted in a consensual environment without coercion.

This is sometimes referred to as constructive oversight because although it still fulfils the oversight function, there is an investment in the building of consensus on what oversight work is being done not only between the Executive and the Legislature but also interparty within the Legislature.

In emphasising the importance of oversight, Olson (2008:324) indicates that oversight should be distinguished from the selection and dismissal of political executives. He further indicates that a vote of no confidence in parliamentary systems and impeachment, and in the presidential system has adverse consequences in review of the Executive by the Legislature.

It therefore means that this process should not be taken as part and parcel of the oversight function but more as consequences when all efforts to conduct proper oversight and ensure accountability have already been exhausted.

The Department of Co-operative Governance (2013:2-10) outlines that effective oversight is as difficult to accomplish as it is to measure accurately. The Legislature in the parliamentary system is generally weak on oversight as the majority members seek to support the Executive that they have put in power, leaving much of the calling to account in the hands of opposition parties.

However, where there is effective public participation, the citizens' constitutional rights are safeguarded and strengthened. Such public participation should provide opportunities to speak, and to be heard and taken seriously, even when solutions are difficult or seem impossible. Such meaningful participation, if it is entrenched and used adequately, will reduce the need for communities to take their grievances to the streets.

Manona (2015:72-75) asserts that failure to take action against cases of omission affects the efficiency and effectiveness of the oversight function of Parliament, and further indicates that the Executive and Parliament should engage transparently because even though the two institutions are separated and guided by their mandates, they are united by a shared interest in serving the people of the Republic of South Africa.

Laxness in oversight and accountability in Legislatures can result in adverse results to the process of governance. In reiterating the challenges in the case of poor oversight of the Executive, Santiso (2004:53) indicates that unconstrained executives and autocratic presidents, if left unchecked by an amenable parliament, tend to abuse constitutional authority and delegated powers.

It is further indicated that the misuse and abuse of executive discretion in public budgeting have led to serious economic mismanagement, pervasive corruption and state capture.

Calland (1999) indicates that the executive arm of the State is able to dominate the Legislature because it has expertise, resources and experienced technocrats, which creates an imbalance between the Executive and the Legislative. This makes the institution of check and balances viable only if lobby for resources is successful and sufficient resources are allocated for capacity building of legislators.

This is important because the rise in prominence of accountability is always part of a historically powerful Executive linked with the need for the promotion of good governance. Good governance augurs well for democracy and contributes to the stability of any country, which will contribute to economic development.

Very few Legislatures have adequate resources to do an in-depth scrutiny of the budget. This resource deficit results in less skilled personnel being used. Skilled personnel support is critical because the Executive has to have adequate skills and resources to prepare the budget and present it to the Legislature for hearings, debates and approval. However, civil society also has a role to play in this process. This includes advocacy strategy to engage parties and caucuses. Civil society's work of specialised engagement may also be hampered by lack of resources.

Smith (2003:45) indicates that oversight may seek to determine the efficiency of agents or their capacity to fulfil their mandate. This means examining whether the services have made sufficient use of public resources and whether they provide good value for money.

It may also identify or determine the propriety of actions, and whether an agency acted correctly or complied with the legal or ethical norms in its activities or objectives should be taken into consideration.

The Guidelines for Legislative Oversight through Annual Reports (2005) mention that portfolio committees need a clear understanding of what they want to achieve through oversight of the state strategic reports. Therefore, before any oversight action or activity is undertaken, the purpose should be defined so that the result of the oversight activity is measurable.

However, it must be noted that the oversight function of Parliament or the Legislature is a constitutional obligation to ensure that the executive organ of the state is accountable. Elaborating further on the oversight function that should be performed by the Legislature and Parliament, Nyathela and Makhado (2012:4) are of the view that essentially the oversight function of the Legislature is aimed at giving confidence to the Legislature that the department, constitutional institution or public entity is delivering:

- high quality services economically, efficiently and effectively
- in line with its constitutional and legislative mandate, strategic plans and budgets
- meaningful contribution to the realisation of government's overall objectives.

In the overall analysis, the purpose of accountability is to ensure the integrity of public governance in order to safeguard government against corruption, nepotism, abuse of power and other forms of inappropriate behaviour.

That is why when in the process of exercising oversight and ensuring accountability for action or inaction in the management and leadership of the state, it is important that those in leadership and management, assume responsibility for the action or inaction that affects the effective management of the state.

Madue (2014:870) indicates that the media should normally reinforce analysis of facts to ensure the oversight work of Legislatures is enhanced; however, he bemoans the fact that currently the media is focused on opinions rather than analysis and further indicates that the media more and more consider themselves as a player in politics rather than as independent observers. These shortcomings limit the ability of the media and civil society to reinforce and serve as a pool of resource to enable the Legislature to execute its functions adequately.

The weaknesses in the process of oversight and accountability were demonstrated in the case of Limpopo Province. The National Executive took a decision on 5 December 2011 to intervene and assumed responsibility of the relevant functions of the Limpopo Provincial Executive in terms of section 100(1)(b) of the Constitution with effect from 12 December 2011.

The Department of Provincial Treasury, Health and Social Development, Transport, Education and Public Works were put under administration. In terms of the statement on the conditional handover of the Limpopo Administration to the Provincial Executive, the intervention was necessitated by Treasury, which had an overdraft of R757 million and requested an additional R500 million from commercial banks, which was refused.

The province would not have been able to pay public servants. The province had accumulated unauthorised expenditure that grew from R1,5 billion in 2009 to R2,7 billion in 2011. Accrual in unpaid expenditure grew to R500 million. Treasury intervened because the Provincial Executive was not able to do proper oversight, which then necessitated the National Executive's intervention.

In outlining the reasons for intervention in the Limpopo Province, Munzhedzi (2014: 702-710) indicates that the reasons were, among others, supply chain management violations, dysfunctional budget sections, poor assets management, and unauthorised and irregular expenditure. However, the situation later improved with proper oversight of the National Executive and National Treasury including accountability to the National Council of Provinces.

In terms of the Auditor General's report for the year 2012/13, there was no improvement in the total unauthorised expenditure from 2010/11 and also no improvement in the total irregular, fruitless and wasteful expenditure incurred. In fact there was a substantial increase in wasteful and fruitless expenditure.

This situation, however, improved later, because in terms of the handing over report of 2014, a substantial improvement in financial management was noticed, hence fiscal withdrawal of section 100(1)(b) to section 100(1)(a) by the National Executive with the concurrence of the National Council of Provinces.



The reasons for this intervention are testimony enough that there is a need for rigorous oversight of the Executives by the Legislatures. It is important that such an exercise is done and if it is done well, both the Legislature and Government will benefit and the ultimate beneficiary will be citizens who will experience better and transparent governance.

### **2.3 CONCLUSION**

The existing literature was reviewed in order to identify inconsistencies and gaps that justify further research. Areas of study that were pursued by different scholars were further explored. The reviewed literature further indicated that there is still a need to pursue the study on oversight and accountability of Public Finances and determine the Legislature's efficiency and effectiveness in conducting its business. Chapter 3 deals with research design and methodology.

## **CHAPTER 3: RESEARCH DESIGN AND METHODOLOGY**

### **3.1 INTRODUCTION**

The chapter will focus on the research methodology used in the study, the target population, selection of the sample, data collection and analysis.

### **3.2 CHOICE AND RATIONAL OF RESEARCH DESIGN**

In a research design, one of the key activities is the selection of participants and collection of information. The information collected by the researcher helps to reach conclusions to the problems identified. Welman, Kruger and Mitchel (2005:52) indicate that a research design should be able to specify the following aspects:

- The number of groups that should be used
- Whether or not these groups are drawn randomly
- What exactly should be done with the number of groups in case of experimental research.

In this study the researcher will follow the qualitative research methodology. (Bradbury-Huang, 2010:94). Welman *et al.* (2005:9) indicate that a qualitative researcher uses semi-structured interviewing and a detailed observation process to gain better information about the subject.

Brynard and Hanekom (2007:37) argue that a qualitative research methodology refers to research that produces descriptive data that is generally the participant's own written or spoken words pertaining to their experience or perception. It is further mentioned that the indispensable condition for this methodology is a commitment to perceive the world from the point of view of the actor or the participant.

Nieuwenhuis (2007:51) indicates that qualitative research methodology is concerned with understanding processes, the social and cultural contexts that underlie various behavioural patterns, and is mostly concerned with exploring the "why" questions of research.

It studies people or systems by interacting with and observing the participants in their natural environment and focusing on their meanings and interpretations with an emphasis on quality and depth of information.

According to Leedy and Ormrod (2014:97), qualitative research often starts with general research questions rather than specific hypotheses, collects an extensive amount of verbal data and/or nonverbal artefacts, organises the data and artefacts into some form that gives them coherence, and uses verbal descriptions to portray the situation they have studied.

The research design considers a plan used by the researcher to obtain participants and collect information from them. In this study, the researcher has used a review of existing literature and semi-structured interviews with Members of the Provincial Legislature (MPLs) and support staff to assess the oversight function mechanisms and accountability with a view to improving service delivery in Limpopo Province.

### **3.3 POPULATION OF STUDY**

Brynard and Hanekom (2007:55) indicate that population refers to objects, subjects, phenomena, causes, events and activities that the researcher wishes to research in order to establish new knowledge. Welman *et al.* (2005:52-53) define population as a full set of cases that consists of individuals, groups, human products and events.

The researcher has chosen the Limpopo Legislature as an area of study. It consists of the overall target population of 49 members who are allocated to different standing and portfolios committees to undertake oversight responsibilities. The support staff includes researchers and committee co-ordinators and is made up of thirty professional employees.

### **3.4 SAMPLE**

According to Welman *et al.* (2005:83), it is impractical and uneconomic to involve all members of a population in a research project, hence the need to use a sample of the population. One main premise for sampling is to generalise the research findings to the entire population.

To be able to generalise, such a sample must be representative of the population. Gauvreau and Pagano (2000:514) remind us that individual elements in the population of interest are called study units or sampling units, and may be a person, a family, a city, an object or anything else that is the unit of analysis in a population.

Brynard and Hanekom (2008:55) and Welman *et al.* (2005:56) concur that a sample should be representative of a large group and should include all elements of the population. Sampling theory distinguishes between probability and non-probability sampling. In probability sampling, the researcher can determine the probability that any element or member of the population will be included in the sample. On the contrary, in non-probability sampling, the researcher cannot specify such a probability.

For the purpose of this research, purposive sampling of a non-probability sampling technique is used. This means a selective judgement of the Members of the Limpopo Provincial Legislature (MPL) and of support staff of the Legislature will be made in accordance with the researcher's determination and other respondents' referrals. A sample used in this research in terms of the MPLs and support staff is determined (see Table 1 below).

### **3.5 SAMPLE SIZE**

As highlighted in the population discussion above, this study has adopted purposive sampling as a part of the non-probability sampling technique. Table 1 below provides a breakdown regarding possible respondents in relation to this choice of sampling method.

**Table 1: Purposive sampling**

<b>Category</b>	<b>Population</b>	<b>Sample</b>
Speakers	2	2
Committee chairpersons	15	8
Ordinary members	32	20
Support staff	23	18
Committee co-ordinators	15	10
Researchers	8	8
<b>Total</b>	<b>97</b>	<b>66</b>

### **3.6 DATA COLLECTION**

In qualitative research there are specific techniques used for collecting data. These techniques include, among others, a literature review, interviews, questionnaires and direct observations (Brynard & Hanekom, 2008:35).

This is because qualitative researchers are often driven by the need to extract meaning from problems they are investigating as rooted in social sciences where questions often begin with words such as what, why and how. In this study, the researcher mainly used document analysis and semi-structured interviews as the primary techniques of data collection

### **3.7 DATA ANALYSIS**

Vithal and Jansen (1997:27-28) define data analysis as a process that is done to make sense of the accumulated information. They further indicate that data analysis includes at least three steps: scanning and cleaning data, organising data and representing data through particular thematic order as emerging and interpreted from collected data.

The researcher used inductive analysis of qualitative data, which allows the research findings or significant themes inherent in raw data, without the restraints of more structured theoretical orientation (Nieuwenhuis, 2007:990). The researcher also integrated the viewpoints of all authors reviewed in the process.

### **3.8 ETHICAL CONSIDERATIONS**

Scientists have a right and moral obligation to search for the truth. The pursuit of truth, however, should not be done at the expense of the rights of individuals or groups within society. Research ethics therefore focuses on what is right or wrong when conducting research. In this study, human beings are the source of information and as such the researcher will have various ethical issues to observe, as discussed below.

#### **3.8.1 Informed consent**

Brynard and Hanekom (2008:86) indicate that all human subjects who are subjected to a research investigation must be informed of any likely occurrences and their signed consent should be obtained, in addition to the permission of the ethics committee.

In this research the following information was made available to respondents to ensure that they understood the reason for their involvement:

- What is being researched
- The objective of the research
- Their rights and access to the research report
- Their right to withdraw during research.

#### **3.8.2 Treatment of data**

The researcher will ensure that data is treated in a way that ensures that collection and analysis are reflective of the views of respondents. This is essential to maintain the integrity of the study (Brynard & Hanekom, 2008:85).

### **3.8.3 Granting of permission**

The researcher will request permission to conduct the research from the Secretary of the Limpopo Legislature.

## **3.9 CONCLUSION**

In this chapter, the researcher discussed the methodology to be used in the study as well as the research design. The target population of the study and the unit of analysis were identified. In addition, the purpose of the data analysis is also explained.

The study focuses on the Limpopo Legislature but the research methodology used may be beneficial to other Provincial Legislatures, including the National Parliament and the National Council of Provinces, as well as Municipal Councils. Chapter 4 deals with data presentation and analysis.

## **CHAPTER 4: DATA PRESENTATION AND ANALYSIS**

### **4.1 INTRODUCTION**

In the study, the respondents were asked questions on oversight and accountability of the Legislature based on their understanding of the concepts and their implementation in the Limpopo Legislature.

### **4.2 OVERSIGHT AND ACCOUNTABILITY**

The majority of the officials described the function of the Legislature, as among others, committee work, evaluation of departmental targets, issues around public finances, budgets and alignment of approved activities, policy making and the role of politicians. These officials showed a comprehensive understanding of the oversight and accountability function of the Legislature.

However, contrary to the outline by officials, the majority of the politicians did not give a precise and correct answer to the questions concerning the description of the oversight and accountability function. Only 33% of the top politicians were able to give a precise and correct answer, 20% did not describe the function of oversight and accountability of the Legislature, and 45% only made partial descriptions without reference to the Constitution of the Republic of South Africa.

However, consideration for the partial and full outline of oversight and accountability is 78%, which shows us that there is an understanding of the concepts. But it is worrying that the dominant number only partially understands the concepts of oversight and accountability. This may reflect a non-effective implementation of oversight and accountability, a key function of the Legislature.

It also reflects a suspected capacity challenge among members to understand the function of a Legislature, which they have been executing for years. Such poor or non-implementation usually results in poor implementation of programmes and poor service delivery to citizens.



This is because oversight and accountability are meant to enhance service delivery and engender efficient and effective delivery of service to citizens.

### **4.3 CAPACITY OF THE LEGISLATURE**

In terms of the requisite capacity of the Legislature to render its functions, the majority of the officers believe, of course, with some qualification that the requisite capacity exists. There is confirmation that the required infrastructure is also in place although it is functioning with some shortcomings.

However, 25% argue that although the infrastructure and processes are in place, they could not qualify the situation as one that had the required capacity. A minority of the officials pointed out both positive and negative factors that limited the capacity to deal flawlessly with its mandate.

The political office bearers believe overwhelmingly (75%) that the required capacity exists. But 25% believe that the capacity of the Legislature is undermined by politics, the political party influencing employees who do not have capacity, the lack of human and related financial resources, poor time management and lack of understanding of the separation of powers.

There is, therefore, consensus among both officials and political office bearers that the Legislature is not hamstrung in dealing with its functions by capacity challenges. This ensures that the Legislature is able to do its work even though there are still minor challenges, which, if properly corrected, will result in a seamless functional Legislature that will execute its programme precisely.

### **4.4 UNDERSTANDING THE OVERSIGHT FUNCTION**

Most of the officials have an understanding of the oversight function of the Legislature. Only a minority, about 15%, did not fully understand the function. The reasons for the lack of understanding have to do with how the Legislature performs its function.

The officers also acknowledge that their supervisors understand the oversight and accountability function of the Legislature. Only a minor percentage, 13.5%, feel that their supervisors are not sure or do not understand the notion of oversight and accountability of the Legislature. The main reason given for lack of understanding is that the majority party is favoured at the expense of oversight and accountability.

This may not be a lack of understanding of oversight and accountability but an expression of bias and favouritism of the majority party due to its ability to dispense patronage.

In the instance of politicians, the overwhelming majority confirm that their supervisors understand oversight and accountability. The lower levels of administrative staff and politicians do not seem to understand both oversight and accountability due to their proximity to the work of the Legislature.

#### **4.5 INTERVENTIONS TO IMPROVE OVERSIGHT**

The politicians and administration are in consensus that a major intervention to improve the work of the Legislature is centred on capacity building. Such training should centre on problem recognition, regular accounting and increased research capacity. It is further recommended that the capacity building should also centre on implementation of the sector oversight model. The reskilling of legislative staff and members should therefore sit at the apex of the intervention programmes to allow the Legislature to function well.

#### **4.6 OVERSIGHT MECHANISMS**

The respondents identified a host of oversight mechanisms used by the Legislature, the most dominant being site visits, committee meetings, annual performance plans, assessments of quarterly reports, assessments of annual reports, committee hearings, public hearings and the Auditor General's reports.

There are five key frequently used mechanisms: the Auditor General's reports, SCOPA hearings and question time, departmental reports: quarterly and annual, annual performance plans, strategic plans and oversight visits.

These mechanisms are identified by both politicians and administrators as the most frequently used by the Legislature. It is therefore expected that implementation of these mechanisms will ensure the efficiency and effectiveness of the Legislature in its function.

#### **4.7 PROPER UTILISATION OF OVERSIGHT AND ACCOUNTABILITY**

The officials and politicians identify the following key areas as influencing utilisation of oversight and accountability: skilled employees, adherence to separation of powers, resource allocation, proper planning and political will, adherence to plans and programmes, sufficient budget, implementation of resolutions and peer reviews.

There is consensus that the utilisation of this mechanism will improve governance in the Province. However, a third of the participants do not believe that the mechanisms properly implemented will improve governance in the Province.

#### **4.8 FACTORS INFLUENCING UTILISATION OF MANDATE**

The respondents identify the following factors influencing the mechanisms to improve the management of public finances: capacity building, better time management, co-operation with departments, and other entities' willingness, and commitment of the executives and civil servants, response and implementation of committee resolutions and action taken against those who break the rules.

This would necessarily ensure that institutions improve on their management due to the impact that oversight and accountability have on them.

#### **4.9 THE REASONS FOR POOR PUBLIC FINANCE MANAGEMENT**

The officials of the Legislature responded that the following are the reasons for poor public finance management: lack of commitment of the Executive Authority, lack of commitment of the Executive to account, conflict of interest, lack of skills and knowledge and no punishment for errant officials.

They indicate that the results of these mistakes are that the situation in the Legislature with respect to improving the conditions in terms of better public finance management is not conducive.

The political office bearers identify the following areas as reasons for poor finance management: employment of wrong people in the supply chain management, a culture of competition, lack of consequence management, and no action being taken against transgressors.

Therefore, the overwhelming reasons for poor financial management in the Province appear to be the Executive that turns a blind eye to corruption, ending up with unskilled people in positions of importance. There is therefore a dire need to protect the financial system because people are paying lip service to it and there is no improvement. All the identified issues are human-induced and can be done away with, with the right leadership in place.

#### **4.10 COMMITMENT OF PUBLIC OFFICIALS AND OFFICE BEARERS**

The majority of respondents, especially the public officials, do not believe that there is a commitment to improve the management of public finances by public officials. However, the majority of political office bearers believe that such a commitment to improve financial management exists in both the Executive office bearers and public officials. The political office bearers and Legislature officials identify, among others, conflict of interest, lack of skills and unpunished acts of corruption, as the issues that delay the effective improvement of finance management in the Province.

#### **4.11 RESOURCING MEMBERS**

The majority of Legislature officials believe that members are well resourced by the Legislature of the Executive to provide political oversight. It is obvious that the structures set up to support members might not be able to do correct self-reflection on the matters. However, the political office bearers are split, with the majority of them indicating that they are not sufficiently resourced for what they have to do.

The respondents indicate that there is a need to provide members with the relevant skills courses, to employ relevant ICT equipment and applications, to interact with senior researchers and advisors, and to continue to allocate more budget for the oversight process. This, according to the respondents, will improve the capacity of the members to better carry out the oversight function.

#### **4.12 COMMITMENT OF THE MEMBERS OF THE EXECUTIVE**

There is a tie between the respondents on the level of commitment of the MEC to the oversight and accountability process, especially among the Legislature public officials. However, the political office bearers indicate that only a minority of the MEC are committed to oversight and accountability of the Legislature.

It therefore appears that the commitment to oversight and accountability by the Members of the Executive is wavering. Such a commitment can be strengthened by attending meetings, site visits to projects and submission of reports on time. There is a strong view that failing members should not use the political party or the Premier as a shield and that both the political parties and the Premier should take stern action against those whose work is not improving.

#### **4.13 RELATIONSHIP BETWEEN THE EXECUTIVE AND LEGISLATURE**

The majority of the respondents acknowledge that there is a positive relationship between the Legislature and the Executive. However, when it comes to the accountability of public finances, the officials give negative responses.

The majority of political office bearers indicate that the relationship with the Members of the Executive Council is not healthy. This is, among others, due to the fact that the majority of Members of the Executive Council are senior in the party to the Members of the Legislature.

There is, however, a strong view that properly understood through interaction and capacity building, the stakeholders can understand each other's roles and functions and function properly to enhance the capacity of the state to deliver its services to citizens.

#### **4.14 CONCLUSION**

The respondents recommend that Executive and Legislative resources should be used efficiently to minimise negative impacts. This will find expression in the call for in-depth scrutiny of work undertaken, capacity building, the engagement of sound skilled partners, and processes to improve the skills of the Executive and the Legislature personnel.

The Executive and Legislature should function in terms of good administrative principles such as conducting their business timeously, transparency in all dealings, their empowerment, decision making aligned to statutory requirements, flexible and relevant procedures, time frames adhered to and blind justice applied at all times. Chapter 5 deals with conclusion and recommendation.

## **CHAPTER 5: CONCLUSIONS AND RECOMMENDATIONS**

### **5.1 INTRODUCTION**

The previous chapter discussed the findings and the analysis of data obtained through various methods including a semi-structured questionnaire, official Legislature documents and personal observation. The purpose of this chapter is to provide a summary whose focus is on the main objective of the study as identified in Chapter 1. The chapter also outlines the recommendations based on the research findings. The study will conclude with an emphasis on the key findings discussed in Chapter 4.

### **5.2 SUMMARY OF FINDINGS**

The *Constitution of the Republic of South Africa, 1996*, directs the Legislature to ensure that the organs of state are accountable. This means that the Legislature should conduct their oversight of the Executive without fear or favour. The Constitution guarantees and protects the Legislature in the execution of its functions.

The respondents in the research indicate that while the Legislature has been performing that function, there are divergent views as to whether it has been effective and as to whether the Members of the Executive Council are committed to ensuring that the Legislature functions and is able to exercise its functions effectively and efficiently.

The research findings reveal that most respondents understand the Legislature, that it is duty bound to conduct oversight and hold the Executive to account on the work they do every day, of running the business of government. Most of the respondents indicate that such oversight sessions are conducted by the Legislature in the form of, among others: public hearings, annual performance plans, annual reports and project site visits. There are, however, elements of doubt regarding the commitment of the Executive to account for their actions, implement recommendations and punish deviant behaviour.

There are also issues raised by the respondents relating to the capacity of the Legislature to conduct effective oversight and hold the Executive accountable. Key among them are the resources available to the Legislature, the capacity of research within the Legislature, planning and execution of oversight programmes and the commitment of the party to support the oversight function conducted by the Legislature.

The objectives of this study were identified as firstly to describe oversight and accountability mechanisms for public finances in the Limpopo Province, secondly, to evaluate the effectiveness of the oversight mechanisms for public finance within the Limpopo Legislature, and finally, to recommend the improvement of oversight and accountability mechanisms of the Limpopo Legislature. The objectives of the research were achieved because the research data identified the oversight mechanisms of the Limpopo Legislature.

The majority of the respondents stated that the mechanisms are not effective because there is not much commitment from the Executive Council Members and enforcement of consequences management. Further, that sometimes Members of the Legislature are junior in the party to members of the Executive and as such lack adequate capacity for oversight or are afraid to exercise their oversight function.

Members of the Legislature and researchers sometimes lack the requisite skills and knowledge to conduct effective oversight and hold the Executive accountable. Finally, the respondents made recommendations on the measures to be taken to improve the oversight and accountability of the Legislature.

The topic was selection because the researcher was motivated by professional and practical experience in the field of the Legislature, having been a Member of the Legislature, a committee chairperson and a Member of the Executive Council. The lack of sufficient literature and research in the area motivated the conducting of this research to enable the researcher to add to the existing body of knowledge and literature in the field.



### **5.3 CONCLUSIONS FROM THE STUDY**

The following are conclusions drawn from the study:

- The majority of respondents understand the Legislature's function of oversight and holding of the Executive Council accountable.
- The majority of respondents agree that the Legislature has the requisite capacity to hold the Executive accountable.
- The majority of respondents acknowledge that at supervisory levels, there is a clear understanding of oversight and accountability functions.
- The majority of respondents identified the mechanisms available for oversight and accountability of the Legislature.
- The majority of respondents agree that proper utilisation of the mechanisms will improve the quality of services in the province.
- The majority of respondents identify lack of commitment and implementation of resolutions as a reason for lack of effectiveness and efficiency in the implementation of the oversight and accountability in the Legislature.

### **5.4 RECOMMENDATIONS**

The following recommendations are made in the light of the above mentioned conclusions:

- The Limpopo Legislature should set aside resources for capacity building of its Legislators and administrators.
- The oversight and accountability sessions should be properly planned and scheduled so that members can benefit from those activities.
- The Legislature should alternate various mechanisms of oversight and accountability so as to maximise members' participation.
- The Members of the Executive Council should commit to the activities of the Legislature and implement the resolutions taken by the Legislature.
- The political parties should support and enhance the capacity of their members to conduct oversight and accountability as Members of the Legislature without fear or favour.

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