

30 June 2025

The Minister of Cooperative Governance and Traditional Affairs
87 Hamilton Street
Arcadia
Pretoria
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Email: WPLG26@cogta.gov.za; RichardP@cogta.gov.za; MaphutiL@cogta.gov.za

RE: DISCUSSION DOCUMENT ON THE REVIEW OF THE WHITE PAPER ON LOCAL GOVERNMENT (DISCUSSION DOCUMENT)

1. The South African Institute of Chartered Accountants (SAICA) welcomes the opportunity to make submissions on the Discussion Document.
2. SAICA is South Africa's pre-eminent accountancy body and is widely recognised as one of the world's leading accounting institutes. The Institute provides a wide range of support services to more than 60 000 members who are chartered accountants [CAs(SA)], associate general accountants [AGAs(SA)] and accounting technicians [ATs(SA)] who hold positions as chief executive officers, managing directors, board members, entrepreneurs, chief financial officers, auditors, and leaders in their respective spheres of operation.
3. Our work in the public sector goes beyond member support but also includes a significant focus on advocacy and capacity building to support and encourage an improvement in public finance management.
4. SAICA welcomes the review of the White Paper on Local Government as this provides an opportunity for a reset of local government which has been experiencing a number of structural issues since the 1998 White Paper on Local Government. It is critical that this review results in tangible changes to local government which also translates to effective service delivery and the improvement of the lived experiences of communities.
5. It is imperative that this review, proposals, and actions that will follow factor the full value chain of government. This is especially true as local government operates within an environment that is influenced by functions that are not entirely in its control and as the sphere of government that is closest to the citizens, potentially bears the biggest brunt of government and governance failures. This then further indicates that the review must also consider the gaps that may exist within the national and provincial spheres of government.
6. Members were consulted in responding to the Discussion Document through a Project Group comprising of members, associates and experts in local government. Therefore, the views in this submission reflect those of members and associates of SAICA.
7. Our detailed comments on the Discussion Document are included under **Annexure A: Detailed Comments**, of this comment letter.



8. We would also appreciate the opportunity to engage further, and we would be willing to discuss the comments if required. Please do not hesitate to contact Odwa Benxa (odwab@saica.co.za) in this regard.

Kind regards,



Natasha Soopal
Head: Public Sector and Ethics



Odwa Benxa
Lead: Public Sector Advocacy

ANNEXURE A: DETAILED COMMENTS

Local government legislative framework

Background

9. The Constitution of the Republic of South Africa (the Constitution) establishes municipalities and gives the Municipal Councils the executive and legislative (through municipal by-laws) authority on municipalities. Municipalities govern the local affairs of their communities and national and provincial government is prohibited from impeding on the municipality's right to govern its own affairs. The Constitution further sets out the objects of municipalities as the provision of democratic and accountable governance, ensuring the provision of services to communities in a sustainable manner, promoting social and economic development, promoting a safe and healthy environment and encouraging the involvement of communities and community organisations in the affairs of the municipality. All these activities of municipalities must be structured, managed, budgeted for and planned to give priority to the basic needs of the community.
10. The Constitution further introduces and requires the concept of corporative governance in the management of the affairs of municipalities. In this case, national and provincial governments are required, through legislative and other measures, to support and strengthen the capacity of municipalities to manage their own affairs, exercise their powers and perform their functions.
11. The functions of municipalities are listed in Parts B of schedules 4 and 5 of the Constitution and are further elaborated on in sections 83 and 84 of the Municipal Structures Act, 1998 (MSA).

Challenges and recommendations

Overregulation of municipalities

12. The Constitution provides for the national and provincial government to support and strengthen local government through legislative and other measures. The Discussion Document mentions key policy and legislative reviews currently underway affecting local government from a number of stakeholders including, among others, Operation Vulindlela, Cooperative Governance and Traditional Affairs (CoGTA), National Treasury and Energy and Electricity. These reviews are taking place in a local government environment that is already highly regulated with more than 200 laws and regulations which has the impact of:
 - Duplications and contradictions in laws and regulations because of overlapping legislation.
 - Creating excessive reporting requirements that often lead to operational inefficiencies.
 - Delayed service delivery resulting from time and resources being diverted to compliance which is often a tick box exercise.
 - Increased risk of non-compliance due to the enormity and complexity of regulation resulting in, for example, non-compliance findings from the Auditor-General of South Africa (AGSA).
 - High administrative costs which may take away resources from service delivery.
 - Reduced accountability as compliance simply becomes a tick box exercise and leaves little room for problem-solving and innovation.
 - Discouraging investment in local government as overregulation can prevent private sector partnership which assist in unlocking investment and the development in the municipal area.
13. Furthermore, the fragmented regulation within the whole of government may have the impact of putting pressure on local government through the addition of functions that local governments may not necessarily have the power and financial capacity to fulfil.

14. It may therefore be inappropriate to create new legislation as additional legislation may have a negative impact on municipalities. Instead, municipalities should be effectively supported by national and provincial government to implement the current legislation. This requires the action of coordinating institutions such as CoGTA and National Treasury to ensure that the concept of cooperative governance is achieved.
15. It is also important to consider that more legislations may not mean that there will be an improvement in the current local government environment as local government is currently struggling to implement current legislations and in some instances disregard the implementation of the legislation which has a negative impact on financial and performance management and related matters (including service delivery) which ultimately result in the municipality not achieving its constitutional responsibilities.
16. Non-compliance on current legislations is reflected in the AGSA 2023-24 General Report on Local Government as follows:
 - Compliance with key legislation has not improved since 2020-21 and municipalities show a clear disregard for complying with legislation. In 2023-24, 206 municipalities (83%) received material findings on non-compliance with key legislation, with 201 municipalities (81%) having received material findings in this area for all three years of the current administration.
 - A total of 218 municipalities (88%) did not have basic controls in place to review and monitor compliance, compared to 219 (89%) in 2020-21. Weak controls are often due to the leadership tone set by the council, the mayor and municipal management. In the AGSA's assessment, effective leadership that is based on a culture of honesty, ethical practices and good governance was evident at only 102 municipalities (41%) in 2023-24.
 - As with financial and performance reporting, internal audit units and audit committees had little impact on the high levels of non-compliance. In the AGSA's assessment, only 102 internal audit units (41%) and 108 audit committees (44%) performed their functions effectively in this area. A general lack of responsiveness to their findings and recommendations weakened the effectiveness of these structures.
17. As a result of the above there has been a failure in the required oversight and enforcement of legislation in local government and greater effort is required on implementing, monitoring and accountability of legislation. In addition, if many municipalities are currently struggling to implement existing legislation, the likelihood of adoption and implementation of new legislation will be remote.
18. The white paper should therefore consider how a culture of accountability can be derived in ensuring compliance with legislation.

District vs local municipalities

19. The Constitution creates three types of municipalities which are metropolitan, district and local municipalities.
20. The functions and powers of district municipalities as detailed in section 84(1) of the MSA include, amongst others, potable water supply systems, bulk supply of electricity, domestic waste-water and sewage disposal system, solid waste disposal sites, municipal roads, regulation of passenger transport services, municipal airports, municipal health services, firefighting services, promotion of local tourism, and municipal public works relating to these functions.
21. Furthermore, district municipalities have the power to impose and collect taxes, levies and duties related to these functions which indicates that revenue for these services fall within the district municipalities.
22. Local municipalities' powers and functions on the other hand are limited to those that have not been allocated to the district municipalities in whose areas the local municipalities fall.

23. The application of MSA section 84(1) is however inconsistent between municipalities as the Constitution and section 84(2) allow for the Minister, after consultation with the MEC for local government and the functional area, to authorise a local municipality to perform the functions of district municipalities. This may result in certain district municipalities being unable to generate revenue as the collection of the taxes, levies and duties related to these functions would transfer to the local municipality. This may further cause a substantial financial burden on a local municipality where the functions being transferred are not supported by funding to ensure that local municipalities are effectively capacitated to implement the functions. This is especially true in municipalities where the collection of revenue is a challenge.
24. This also brings into question the current structure of local government. There may be a need to consider whether all three categories of municipalities are required since the functions and powers of district municipalities may be reallocated to local municipalities (and vice versa) after authorisation by the Minister or the MEC for local government in a province and after considering the capacity of that municipality to exercise the powers and functions. Reevaluating the need for both district and local municipalities can ensure that powers and functions are appropriately streamlined without the need to have to reallocate when one category of municipality is unable to perform the function. This may also have the benefit of saving costs of Councillors and administration for local government and release financial resources for service delivery. In addition, removing one category may avoid the misalignment in planning between district and local municipalities which often leads to impaired service delivery.
25. Cabinet approved the District Development Model (DDM) in 2019 with the aim of addressing siloed planning, budgeting, and implementation and to pursue socio-economic and spatial transformation through a more tangible common vision collectively generated by all three spheres of government in relation to the differentiated challenges and opportunities of the 52 district and metropolitan spaces as strategic spaces for convergence of the 'whole of government' to invest and deliver coherently. However, the model has faced stumbling blocks that include resistance from municipalities due to the lack of clarity on functions between district and local municipalities. The removal of one category of municipality may also assist in ensuring that the objective of the DDM is achieved.

Governance

Councillors

Code of conduct

26. In terms of the Code of Conduct for Councillors in schedule 7 of the MSA, Councillors are elected to represent local communities on municipal councils, to ensure that municipalities have structured mechanisms of accountability to local communities, and to meet the priority needs of communities by providing services equitably, effectively and sustainably within the means of the municipality. In fulfilling this role, Councillors must be accountable to local communities and report back at least quarterly to constituencies on council matters, including the performance of the municipality in terms of established indicators.
27. The Code of Conduct requires the following, amongst other things, from Councillors:
- Councillors must perform their functions in good faith, honestly and transparently and must act in the best interests of the municipality.
 - Councillors may not use their positions or confidential information obtained as a councillor for private gain or improperly benefit another person. Furthermore, Councillors may not be a party or beneficiary under a contract for the provision of goods or services to the municipality.
 - Councillors may not, except as provided by law, interfere with the management or administration of any department of a municipal council, give or purport to give any instruction to any employee of the council,

obstruct or attempt to obstruct the implementation of any decision of the council or committee by an employee or encourage or participate in any conduct which would cause maladministration in the council.

28. Where a Councillor breaches a provision of the Code of Conduct, the council may issue a formal warning, reprimand the Councillor, request the MEC for local government to suspend the Councillor for a certain period, fine the Councillor or request the MEC to remove the Councillor.
29. In the 2023-24 General Report on Local Government, the AGSA reported that awards of R320 308 were made to municipal Councillors in two municipalities in KwaZulu-Natal and one in the North West. Furthermore, the AGSA reported that Councillors participated in procurement committees at four municipalities (two in the Free State and two in North West). These actions serve as examples of instances where Councillors act in breach of the Code of Conduct for Councillors as well as laws and regulations governing procurement at municipalities. This phenomenon has been continuing for several years with little to no consequences for Councillors that breach the Code of Conduct for Councillors. The issue further indicates the endemic decline in ethical conduct in local government and the general moral decline in society that finds its way into the conduct of municipalities.
30. It is imperative that consequence management is implemented where misconduct by the Councillors has been identified. Furthermore, political parties should pay careful attention to the calibre of Councillors that are put forward for voting to ensure that they are individuals of high ethical standards that put the needs of their communities and municipalities at the forefront of their work as Councillors. There also need to be targeted training of Councillor on expected and appropriate ethical conduct in the discharge of their duties as Councillors.

Municipal staff

Code of conduct

31. Similar to Councillors, the Municipal Systems Act, 2000 provides for a Code of Conduct for Municipal Staff which requires the municipal staff to –
- perform their functions in good faith, diligently honestly and in a transparent manner.
 - act in the best interests of the municipality.
 - not use their position for private gain or improperly benefit another person.
 - take decisions on behalf of the municipality in a matter in which they, their close family members or business associates have a business interest.
 - not be a party to or beneficiary under a contract for the provision of goods and services to any municipality or municipal entity established by a municipality.
32. The Code further states that a breach of the Code is grounds for dismissal or other disciplinary steps against a staff member who was found guilty of such a breach.
33. In the 2023-24 General Report on Local Government, the AGSA reported that awards of R1,68 million were made to suppliers owned by municipal staff with three municipalities accounting for 87% of the value of the awards. These municipalities were in the Eastern Cape (one) and KwaZulu-Natal (two). Similar to Councillors, this phenomenon has been in existence for several years with little to no action being taken to prevent further occurrence and implement consequence management where transgressions are identified. This further indicates the endemic unethical behaviour from municipal staff which is not being dealt with. It is therefore imperative that consequence management is implemented where municipal staff act unethically as this may deter the behaviour amongst other staff where it is shown that consequence management is implemented for transgressions.

Financial management

Background

34. In the South African local government system, municipalities are required to generate their own revenue through trading services such as electricity, sewer, refuse removal and water. In addition, conditional and unconditional grants are transferred from national and provincial government to local municipalities. There is also an equitable share allocation that is used to fund the basic services that municipalities are required to provide to their communities.

Revenue management challenges

35. Municipalities continue to experience revenue management challenges which arise from the underbilling of residents, technical and non-technical losses being incurred due to, for example, crumbling infrastructure and theft, and non-collection of billed revenue.
36. Municipalities get allocated infrastructure-related grants but continue to struggle to spend these grants which can appropriately resolve the technical and non-technical losses. AGSA reported that in 2023-24, municipalities received R39,61 billion relating to Municipal Infrastructure Grant, Public Transport Network Infrastructure Grant, Regional Bulk Infrastructure Grant, Urban Settlements Development Grant and Water Services Infrastructure Grant and spent 94% of the amount that they received (R37,23 billion). The underspending was due to a lack of institutional capability to carry out infrastructure projects. This therefore requires municipalities to effectively professionalise the local government and ensure that they attract the appropriate skills into this sphere of government which will assist in ensuring that there is effective service delivery.
37. Over the years, municipalities have struggled to collect the revenue that has been billed. This is partly due to the economic downturn which has resulted in high unemployment that has caused residents to not afford to pay for municipal services. An additional cause has been ineffective debt collection controls by municipalities and rated boycotts by residents where service delivery is lacking in specific municipalities. As depicted below, various municipalities have undergone debt write off processes to assist struggling customers to improve their payments. It is, however, unclear whether these processes have resulted in improvements in debt servicing by residents.



Source: News24 – 23 June 2025

Tshwane writes off over R4.3bn of customers' debt through incentive and debt relief scheme

The programme, which was approved by council in February, was part of the city's commitment to provide financial relief to hard-pressed residents, businesses, deceased's estates, and indigent and child-headed households.

Source: Eyewitness News – 17 June 2025

City of Ekurhuleni implements 70% debt write-off incentive for struggling households

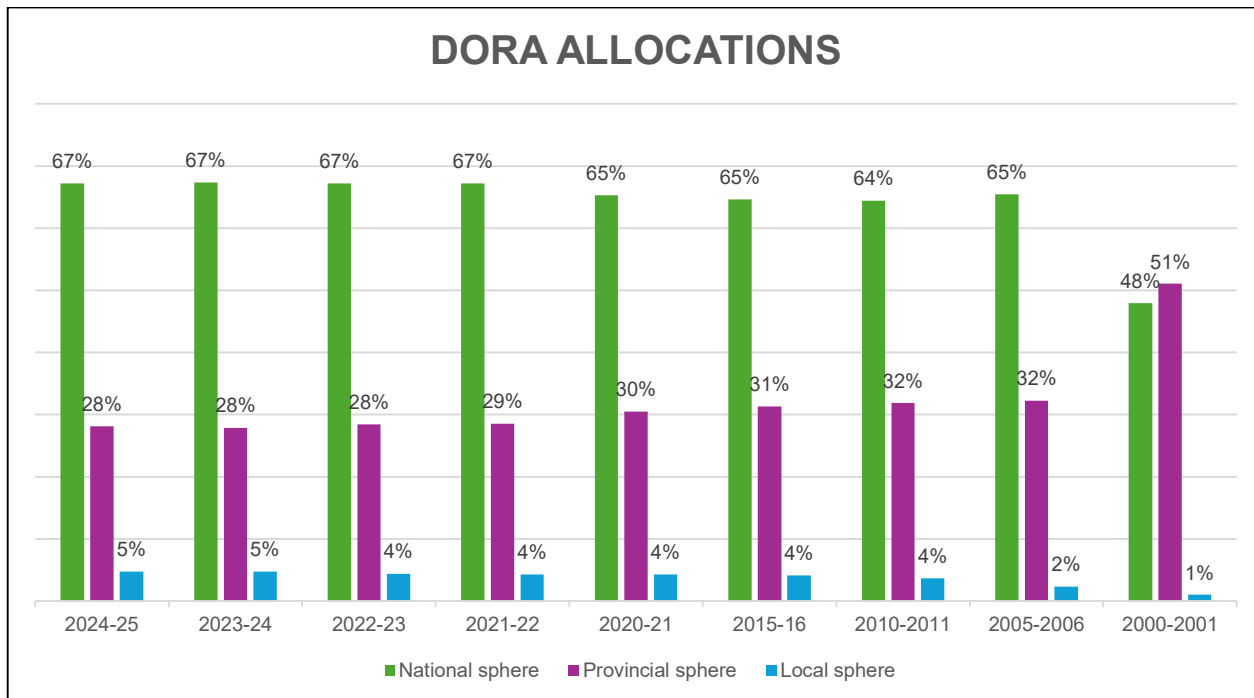
This incentive is only available to those whose municipal accounts have been overdue for more than 12 months.

Source: Eyewitness News – 04 September 2024

Joburg extends debt write-offs to ratepayers – here's how much you qualify for

Source: BusinessTech – 13 March 2022

38. The Division of Revenue Act (DORA) provides for the equitable division of revenue raised nationally among the national, provincial and local spheres of government, the determination of each province's equitable share, allocations to provinces, local government and municipalities from national government's equitable share, and the responsibilities of all three spheres pursuant to such division and allocations. The graph below depicts the DORA allocations from the year 2000-01 to 2024-25 and indicates little increase (from 1% in 2000-01 to 5% 2024-25) in allocations to municipalities even though the municipalities are required to provide basic services to the communities.



Depiction of DORA allocations. National share includes conditional allocations to provincial and local spheres, general fuel levy sharing with metropolitan municipalities, debt-service costs, the contingency reserve and provisional allocations with direct charges for provincial equitable share netted off.

39. When considering the conditional grants, the total allocations to municipalities stand at 9.5% as at the 2024-25 financial year which is an increase from 8.4% in the 2021-22 financial year as per the [National Treasury 2025 Budget Review](#). However, questions remain whether the allocations are adequate to ensure effective service delivery by municipalities.
40. While the allocations may be insufficient for municipalities to effectively operate, the concerning trend is that municipalities struggle to spend the allocated conditional grants which end up being returned to National Treasury. In the 2023-24 financial year, municipalities were allocated R44 billion in direct conditional grants but only spent R12,8 billion of those grants. In addition, municipalities continue to lose money through incurring fruitless and wasteful expenditure (meaning that money was spent in vain and would have been avoided had reasonable care been exercised) which stood at R17,65 billion since the 2021-22 financial year as reported by the AGSA in the 2023-24 General Report on Local Government. These issues speak to poor financial management practices by municipalities which need to be addressed.
41. An additional issue that arises from poor revenue management is that municipalities incur unauthorised expenditure. Municipalities often prepare and approve unfunded budgets despite alarms being raised by National Treasury. This occurs because municipalities overestimate their internally generated revenue while at the same failing to align their expenditure to available revenue sources. This phenomenon, compounded by declining revenue collection, limited allocations of the equitable share and underspending of grants, leads to unauthorised expenditure being incurred by municipalities. In the 2023-24 General Report on Local Government, the AGSA reported that since 2021-22, municipalities had disclosed a total of R81,59 billion in unauthorised expenditure with 174 (68%) municipalities disclosing R31,79 billion for the 2023-24 financial year.

42. These revenue management challenges require appropriate action from the whole of government to ensure that they are addressed and prevented from recurring. Such action may include:
- Effective support from the safety and security cluster to assist municipalities with protecting infrastructure that gets damaged and misused through criminality and thus limiting the ability of municipalities to maintain infrastructure that works and can generate revenue for the municipalities.
 - Effective revenue collection strategies by municipalities to ensure that revenue billed is collected. This may include amendments to laws and regulations to allow municipality the option to abstain from providing services to debtors that do not pay.
 - Implementing consequence management where unauthorised and fruitless and wasteful expenditure is incurred as provided for in the Municipal Finance Management Act, 2003 (MFMA). This may include the effective protection of whistleblowers where transgressions are being reported and investigated.
 - Effective investment of revenue into infrastructure projects that derive value for the municipality and considers spatial planning to ensure that infrastructure build is linked directly to revenue generation by the municipality. This may in turn lead to increased economic activity within the municipality which will in turn promote employment, entrepreneurship and revenue growth for the municipality. This will also ensure that rate payers are encouraged to pay their debts as there will be visible value for the monies paid.
 - The professionalisation of local government which will ensure that municipalities have the necessary skills and capacity to manage infrastructure projects and the finances of the municipality in an ethical manner. In this way, local government can leverage off the member disciplinary mechanisms of professional bodies such as SAICA (for finance officials) where members behave unethically. This may also save local government the costs of investigating misconduct by municipal staff who belong to professional bodies
 - Reviewing the funding model of municipalities by considering –
 - Allowing for municipalities to explore new revenue sources to supplement their current revenue sources. This may include business taxes similar to the models being applied in countries such as Germany, Denmark, Scotland and England as indicated in the [Systems of local governance and how citizens participate: an international review Report Summary](#) issued by the Scottish government.
 - National and provincial government allocating funds to municipalities based on functions of each municipality and ensuring that funds are directly linked to the functions of the specific municipality as opposed to applying a blanket approach for all municipalities. This approach is followed in the German municipal funding system as indicated in the [Systems of local governance and how citizens participate: an international review Report Summary](#) issued by the Scottish government.
 - Rewarding municipality that have effective governance and financial management controls and demonstrate service delivery to their communities by giving higher allocations to them while limiting allocations to dysfunctional municipalities.
 - Centralising (through National Treasury) the payment system for grant-funded infrastructure projects and only releasing payments to municipalities after a demonstration of actual work performed. This may assist in ensuring that the return of funds to National Treasury due to unspent conditional grants is avoided.
 - Consequences for Mayors and Municipal Councils that table and approve unfunded budgets.
 - Relooking at the equitable share allocation formula to ensure that the allocation is directly linked to the functions of each municipality. This is especially true for rural (or small town) municipalities that often do not have a base on which to charge for services and therefore require added support from national and provincial governments through grants as well as the equitable share allocation.
 - The reduction of the number of municipalities through processes such as amalgamation and reviewing the need for the currently allowed categories of municipalities. Specifically on amalgamations, this process should only be undertaken after reviewing the best practices from the amalgamations that were successful to avoid instances where appropriately functioning municipalities are dragged backwards by dysfunctional and financially distressed municipalities. This will further require that transitions are effectively managed to ensure that legal and policy matters, human resource matters, financial matters, communication, institutional arrangements, change management and integrated development are planned and appropriately considered.