



## Local Government Brief: 10/2012

*Local Government Briefs are monthly electronic updates for municipalities on critical areas of law, policy, facts and data affecting the sector.*

### Terms of reference for office bearers

#### 1. PURPOSE

This briefing discusses the importance of the Terms of Reference (TOR) and System of Delegation in ensuring effective administration, accountability and oversight by the Municipality

#### 2. BACKGROUND

The main purpose of the separation of functions at local level is to ensure proper oversight over the executive and administration of the municipality. The fact that a municipality may not have been able to implement a separation of powers model does not detract from the obligation to have a fully functional system of municipal oversight. The separation of powers is not a prerequisite for a fully functioning system of political oversight in the municipality.

#### 3. DISCUSSION

Section 53 of the Systems Act instructs a municipality to define the “specific role and area of responsibility for each political structure and political office bearer of the municipality.” Section 1 of the Systems Act defines “political office bearers” to include the Mayor, the Executive Mayor, the Deputy Executive Mayor / Deputy Mayor, Executive Committee members and the Speaker. The roles and responsibilities must be defined in precise terms by way of separate terms of reference for each structure, office bearer and the municipal manager. The terms of reference must be reduced to writing, and must define the following:

- relationships among the structures, office bearers and the municipal manager, and the manner in which they must interact;
- appropriate lines of accountability and reporting;

- mechanisms, processes and procedures for minimising cross-referrals and unnecessary overlapping of responsibilities;
- mechanisms, processes and procedures for resolving disputes between structures, office bearers and the municipal manager;
- mechanisms, processes and procedures for interaction between
- the political structures, political office bearers and the municipal manager and
- other staff members; and
- councillors and the municipal manager and other staff members.

#### **4. IMPLICATIONS FOR MUNICIPALITIES**

The terms of reference for each structure, office bearer and the municipal manager needs to be appropriate for the category and type of municipality to which it applies. The municipality is obliged to acknowledge and give effect to these terms of reference in its rules and procedures, instructions, policy statements and other written instruments. The terms of reference are distinct from the system of delegations of the municipality. The terms of reference do not in themselves confer any public power on a political structure, office bearer or official. They function as an internal management instrument in that they clarify the location of the person or structure within the municipal organisation and outline the linkages with other office-bearers, structures and officials. They should also include organisational protocols such as the frequency and method of reporting and protocols for the resolution of disputes.