**CHAPTER 7**

**TERMS OF REFERENCE: KWAZULU NATAL PROVINCIAL PUBLIC PARTICIPATION FUNCTIONALITY ASSESSMENT AND VERIFICATION PROCESS: REVIEWED MODEL 2019/20**

**7.3 PURPOSE OF THE TERMS OF REFERENCE**

7.3.1 The recent Local Government assessments has provided an opportunity for the department to identify specific challenges impacting on the effectiveness of Public Participation processes in municipalities.

**7.3.2** As a result of feedback obtained through the recent visits to municipalities, it has been resolved to review the model of assessing the effectiveness of Public Participation structures and Processes

 7.3.3 The rationale behind the reviewed model is to encourage an integrated assessment and verification process, covering a broader scope of Public Participation indicators at once.

7.3.4 The reviewed model will further assist to promote uniformity of reporting by municipalities.

7.3.5 These Terms of Reference are designed to define in explicit terms the reviewed process to assess the functionality of public participation structures in the province of KwaZulu Natal based on the state of local government report produced as an outcome of the Local Government Municipal assessments conducted by the Departments in collaboration with Treasury and the Office of the Premier.

**7.4 LEGISLATIVE MANDATE**

Since the inception of a democratic dispensation in South Africa, citizens have been afforded a right to participate in the decision making process across all spheres of government. Section 152 of the Constitution of the Republic of South Africa places an obligation on the local government sphere to develop a culture of local governance that shifts from strict representative government to participatory governance, and must for this purpose, encourage, and create conditions for residents, communities and other stakeholders in the municipality to participate in local government affairs.

1. In terms of Section 154 of the Constitution, national and provincial government, by legislative and other measures, must support and strengthen the capacity of municipalities to manage their own affairs, to exercise their powers and to perform their functions. These terms of reference are therefore developed to support municipalities to evaluate the effectiveness of ward committees as a mechanism to promote community participation in the province
2. Outcome 9 of the delivery agreement (as derived from the National Development Plan) encourages an accountable local government which is responsive to its citizens. This outcome requires the local government sector to conduct quarterly assessments to monitor the work carried out by the existing structures towards achieving the set objective.
3. The Local Government Municipal Structures Act 117 of 1998, provides for the establishment of ward committees in municipalities of ward participatory type as a mechanism to promote local participatory democracy. The Act further provide specific functions and powers which may be delegated to ward committees in line with section 59 of the Local Government Municipal Systems Act 32 of 2000.
4. Cabinet Lekgotla Resolutions, August 2011, recommends the development of an integrated ward development programme, wherein the focus will be on supporting all ward councillors to have an identified office within the ward from where they will operate and where the community can interact with the ward committees and encourage alignment with war rooms in the ward.
5. The regulations of Gathering Act 205 of 1993 aims to regulate the holding of public gatherings and demonstrations at certain places; and to provide for matters connected therewith. Section 4 of the Act provides for the establishment of a local committee to consider applications or notice for public demonstrations or protests.
6. Sector parliaments play an important role in the efforts of the KwaZulu Natal Legislature to extend Public Participation in its workings to all parts of the population, irrespective of age, class, creed, gender, race or religion. The KwaZulu Natal legislature organises sector parliaments where resolutions are taken about Public Participation issues.
7. The legislative framework behind Public Participation is aimed at creating vehicles and processes of participation that would enable communities to substantively participate in municipal affairs, thereby influencing decision making processes. It is incumbent upon the local government sector to ensure, through practical systems and processes that ward committees are supported to fulfil the objectives enshrined in the Municipal Structures Act. The responsibility of the local government sector includes monitoring the performance of these committees against the set targets in terms of the powers and functions as provided for in the Act.
8. The National Framework Criteria for determination of out of pocket expenses to ward committees, 2009, provides a set of national indicators that may be considered by municipalities, to determine a criteria to assess the functionality of ward committees in the province. In accordance with Section 73 (4) of the Municipal Structures Act, the National Framework further provides a guidelines for the payment of out of pocket expenses to ward committees and the conditions thereof.
9. Furthermore, as a result of the State of Local Government Assessment conducted in June 2019, a number of challenges were identified in municipalities, which included, inter alia, a challenge of the non-functional ward committees, municipal rapid response teams and OSS structures resulting to ineffective public participation mechanisms to promote responsible & participative citizenry.

**7.5 OBJECTIVES OF THE PUBLIC PARTICIPATION ASSESSMENT AND VERIFICATION PROCESS**

* To Assess the efficacy of the ward participatory system in terms of the pre-determined indicators
* To verify evidence of reports of the work carried out by the Public Participation structures during the assessment period
* To assess progress with the implementation of the municipal support plan activities.
* To propose remedial actions and recommendations to address challenges impacting on the effectiveness of Public participation structures in fulfilling the objects as set out in the legislative and policy frameworks.

**7.6 CRITERIA FOR THE ASSESSMENT PROCESS**

1. The assessment and verification process will measure the effectiveness of Public Participation structures and processes such as, Ward Committees, Municipal Rapid response teams, War rooms, integrated complaints management system as well as the implementation of Public Participation sectoral parliament resolutions. A comprehensive assessment will be conducted by the department in municipalities covering the areas listed above using the below listed indicators:
2. As a prerequisite, all public participation structures will be required to present a portfolio of evidence during the assessment, in accordance with the above indicators.
3. The assessment process will be based on the following indicators, derived from the Municipal Structures and Systems Acts respectively, and aligned to the National Framework Criteria for Determination of out of Pocket Expenses, The National Development Plan and Pillar one of the Back to Basics programme

**7.7 Ward committee functionality indicators**

1. Number of ward committee meetings convened in a quarter, with reference to section 73(4) (c) of the Municipal Structures Act.
2. Number of meetings chaired by the ward councillor in terms of section 73(2) (a) of the Municipal Structures Act
3. Percentage attendance by ward committee members at meetings with specific reference to section 72 (2) (b) of Municipal Structures Act
4. Number of community feedback meetings convened by the committee and issues discussed, with specific reference to Schedule 5 of the Municipal Systems Act.
5. Number of ward committee sectoral reports submitted to the ward councillor in terms of Outcome 9 of the delivery agreement (NDP)
6. Number of ward reports on planned activities submitted to the municipality in terms of outcome 9 of the delivery agreement (NDP)

**7.8 Municipal rapid response functionality indicators**

* Number of municipal rapid response team meetings held in accordance with the municipal policy
* Updated database of community protests
* Feedback to communities on petitions received by municipalities
* Participating of stakeholders in the municipal rapid response teams

**7.9 War room functionality indicators**

* Number of war room meetings convened per quarter
* Participation of stakeholders in the war room meetings
* Number of community issues received and resolved

**7.10 Integrated complaints management system functionality indicators**

* Updated integrated register of service delivery complaints
* Number of ICMs committee meetings convened in line with the municipal policy

**7.11 Sectoral parliament indicators**

* Percentage of sectoral parliament (youth, women, disability, workers and senior citizens) resolutions implemented.
* Number of functional youth desks established.
* Number of youth programmes implemented
* The following documents are required to be included as portfolio of evidence for the assessment to be conducted:
* Valid sets of minutes/reports and attendance registers of all meetings: bearing the official stamp and signature of the designated authority.
* Updated Policies & Plans approved by the municipality for implementation by ward structures in the current financial year (Ward Operational Plans, ICMS policy, Ward based database of community issues for war room operations)
* Valid quarterly & monthly reports signed by designated authority, bearing the official stamp of the ward councillor (sectoral reports & war room monthly reports).
* In a case where a ward report is signed by someone else other than the ward councillor, a letter from the Speaker of the Municipality, must accompany the report, giving reasons why the councillor has not signed the report.
* In addition to the portfolio of evidence submitted, all Public Participation Structures will be subjected to a short interview process, which will be conducted by the provincial team to determine progress with the implementation of the support plan, to establish service delivery challenges in the ward and to propose remedial actions to improve the effectiveness of ward committees.

**7.12 SCOPE OF WORK**

* A multi -disciplinary team of officials from the COGTA Local Government Branch will be assembled to conduct the assessment process in all municipalities in the province on quarterly basis. The department will allow municipalities 15 days after the end of each quarter to collect and consolidate evidence before the process is conducted.
* Public Participation Business Unit will coordinate the assessment process and lead the teams to all municipalities.
* The teams will conduct the assessment, collect evidence and present findings of the assessment to the Chief Director: Public Participation
* The Chief Director: Public Participation will consolidate the reports and present the outcome of the process to the Deputy Director General on the status of Public Participation in the Province, making reference to the support plan and the B2B programme deliverables.
* A report per municipality with recommendations on the outcome of the assessment will be compiled and shared with the municipality for presentation at a council meeting.
* Non-compliance with the relevant prescripts by councillors and ward committees will be highlighted for intervention by Municipal Governance Unit and Local Government Specialists.

**7.13 ROLES AND RESPONSIBILITIES**

* The Department will communicate in writing scheduled dates for the assessment and verification process with all municipalities at least 10 days prior to the assessment.
* The district municipality will secure venues for the assessment with all local municipalities, and communicate all relevant information with the Department at least 7 days before the assessment.
* The Local Municipality will be responsible for inviting stakeholders and providing transport where necessary.
* Each municipality will be responsible for providing evidence and reports on the functionality of Public Participation structures for verification by the department (No evidence will be accepted after the verification date).
* Non-attendance at assessment sessions by the relevant stakeholders will be regarded as misconduct and relevant authorities will be advised to take corrective steps against such behaviour.

**7.14 STAKEHOLDERS TO PARTICIPATE IN THE ASSESSMENT &VERIFICATION PROCESS**

7.14.1 The following stakeholders are required to participate in the assessment & verification process

* Municipal Speaker
* Ward councillors
* Community Development Workers
* Members of ward committees (not less than 2 members per committee)
* Public Participation & Youth officials ( District and Local municipalities)
* Rapid Response Coordinators
* Special Programmes Officials

7.14.2 The following stakeholders may attend the assessment sessions to give support to the process and to present relevant plans and programmes.

* Sector Departments (Provincial & National)
* Operation Sukuma Sakhe representatives ( LTT, DTT & PTT)
* Representatives from traditional leadership structures
* Municipal Managers/Managers responsible for service delivery programmes in the municipality.

**7.15 CHAIRING OF MEETINGS AND SECRETARIAT FUNCTIONS**

7.15.1 The COGTA Public Participation Business Unit will assume the role of the convener of the assessment sessions including communication and secretariat functions. This will include, amongst others:

* Preparing and sending meeting notices and agendas where necessary;
* Keeping records of discussions and decisions;
* Communicating with role players and stakeholders;
* Confirmation venues with relevant officials in municipalities;
* Facilitation at the assessment sessions
* Compiling reports/minutes.

**7.16 FINANCIAL IMPLICATIONS:**

7.16.1 Travelling and accommodation costs where necessary will be covered by the organisations that members will be representing in the assessment process.

**7.18 PROCESS PLAN**

The table below reflects key project areas and timeframes:

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| **No.** | **Tasks/Activities** | **Estimated timelines** |
| 1. | Develop quarterly schedule of assessment and verification sessions. | 15 October 2019  |
| 2. | Adoption of TORs by Branch Manco | 05 November 2019 |
| 3. | Present TORs at DPPF and /Speakers Forum meetings | 01 - 30 November 2019 |
| 4. | Adoption of TORs by all municipal EXCOs/ Councils  | 28 October -31 Jan 2020 |
| 5. | Confirmation of venues and attendance by municipalities  | 01-06 November 2019, and then 10 days before scheduled dates.  |
| 6. | Conduct assessment and verification exercise  | 11 November to 06 December 2019, and thereafter 10 days after the end of each quarter |
| 7. | Prepare reports to Chief Director  | 13 December 2019, and thereafter 5 days after the assessment and verification process  |
| 8. | Submission of reports to DDG & M&E  | 17 December 2019, and thereafter every 15 days after the assessment and verification process |