



cogta

Department:
Cooperative Governance and Traditional Affairs
PROVINCE OF KWAZULU-NATAL

2018/2019

IMPLEMENTATION EVALUATION ON SECTION 81 EVALUATION REPORT

THE EVALUATION TEAM
DEPARTMENT OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS
EVALUATION DIRECTORATE

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1. INTRODUCTION

This Evaluation report presents the findings of the Value Chain analysis of the implementation of section 81 of the Municipal Structures Act No.32 of 2000. This section prescribes that traditional leaders can participate in Municipal Councils.

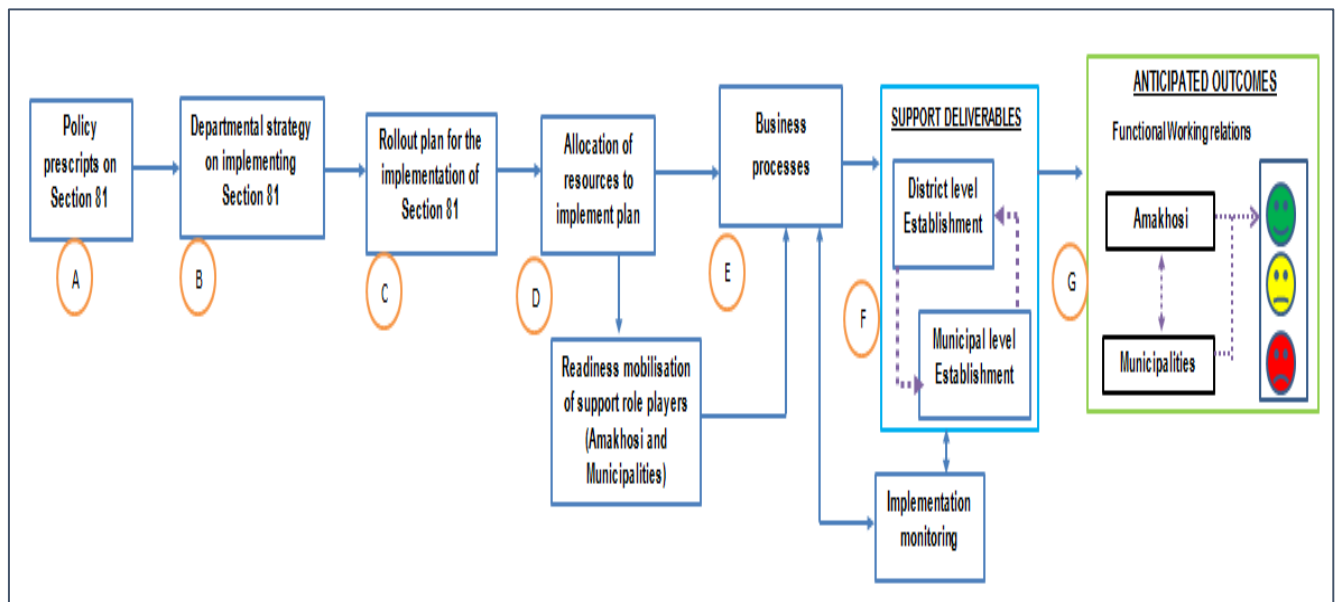
2. BACKGROUND

Section 81 of the Municipal Structures Act No.32 of 2000 prescribes that the traditional leaders can participate in Municipal Councils. In December 2011, the Department convened a Summit between local government leaders and traditional leaders. The Summit resolved that section 81 needed to be implemented in the 2012/2013 financial year. With the Department implementing interventions over the last six financial years, an evaluation was commissioned to establish the effects of the implementation of section 81 and what could be improved in the next coming years.

3. SUMMARY OF THE EVALUATION TERMS OF REFERENCE

The Evaluation developed a Value Chain which aimed to understand the status of the value chain elements, The Value Chain is summarised as follows:

3.1 THE VALUE CHAIN



A. Policy prescripts on the implementation of Section 81

The Department is mandated to implement Section 81 of the Municipal Structures Act No 32 of 2000, where traditional leaders in the form of Amakhosi can participate in municipal councils. The aforementioned section of the Act is accompanied by the 2015 KwaZulu-Natal Regulations on the participation and role of Traditional leaders in municipal councils and municipalities. The regulations placed in detail how section 81 needs to be implemented and placed forward a formula on determining the number of traditional leaders that can participate in municipal councils.

B. Departmental strategy on implementing section 81

To implement the Policy prescripts, the Department developed a strategy. The Strategy provides a long term strategic approach as to how section 81 and its associate regulations can be implemented within the Province of KwaZulu-Natal.

C. Rollout plan for the implementation of section 81

Informed by the strategy, the Department developed a detailed rollout plan (Annual Performance Plan) on how the strategy can be implemented within specific time-frames.

D. Allocation of resources to implement the plan and readiness mobilisation to support role players (Amakhosi and Municipalities)

Resources such as human and financial resources, which commensurate the demands of the rollout plan, were allocated. Mobilisation activities were also rolled out to relevant stakeholders in ensuring that they are ready for the receipt of the support initiatives to implement section 81.

E. Business processes

Activities found in the rollout plan are implemented according to set targets. Internally business activities were implemented as planned. The business processes were also monitored to ensure project controls are implemented where necessary.

F. Support deliverables

It is expected that the Department establishes District level and municipal level structures that would enable both role players to meet. It is also anticipated that the establishment and functionality of these structures be monitored to ensure project controls are implemented where necessary.

G. Anticipate outcomes

It is anticipated that both role players have a functional working relationship that is satisfactory in accordance to the aims of the strategy.

4. FINDINGS

Findings are presented as per the elements of the value chain. Document review was undertaken in order to collate data required.

4.1 Policy prescripts

The support initiative on the participation of Senior Traditional Leaders in municipal councils is informed by Section 81(2) of the Municipal Structures Act of 2000, which relates to the identification of Amakhosi according to schedule 6. Also informed by section 2(3)(b) of the IGR Framework Act No.13 of 2015. Legislature also adopted regulations titled the Municipal Structures Regulations No.19 of 2013, which set in detail the participation imperatives which were as follows:

- Traditional Leaders to participate in the proceedings of Council meetings through making proposal and asking questions

4.2 Departmental strategy on implementing section 81

To implement section 81, the Department developed a series of business plans which put into motion the implementation of section 81. **The strategy involved:**

- The maintenance of the participation agreement of Amakhosi in municipal council meetings – whereby appointed Amakhosi are expected to participate in municipal councils.
- The establishment and maintenance of the **District engagement forums** (are they functional) where Amakhosi would be able to participate in the District Coordinating Forums.

- Providing a report on the status of implementation of section 81 across the Province – support is also provided through the available departmental platforms such as, Inter-Governmental Relations (IGR).

In order to ensure implementation of the strategy, the Department developed support plans. The support plans were informed by the status reports on the progress of implementation and other reports, such as detail provided on recognising Amakhosi and support provided to municipalities.

Allocation of resources to implement the plan

The Unit tasked with the implementation of section 81 is the Synergistic Partnerships Directorate. Six officials were allocated to implement the support approach of having traditional leaders participating in municipal councils across the Province.

4.3 Business processes

The following activities are conducted by the Unit to:

- Establish the status of participation of Amakhosi in municipal councils
- Analyse the attendance registers in order to establish the attendance of Amakhosi
- Encourage the participation of Amakhosi in District Intergovernmental Forums (DIGR).
- Prepare a report on the decisions made from the participation of Amakhosi in municipal councils.

4.4 Support Deliverables

In terms of Local Municipalities:

- Sixteen (16) or 31% are fully ready to cater for Amakhosi in implementing section 81 (Inclusion in committees, payment of out of pocket expenses and provision of tools of trade)
- Thirty-six (36) or 69% partially or not ready to cater for Amakhosi in implementing section 81:
 - 16 municipalities have not provided tools of trade
 - 2 where incorporation into committees is pending
 - 1 municipality where committee incorporation is delayed by disbandment of LHTL
 - 1 is awaiting outcome of on issue relating to the payment of out of pocket expenses
 - 5 municipalities are still being persuaded to involve Amakhosi to in their committees

In terms of District IGR Forums:

- 8 Districts have had the issue of involvement of Local Houses of Traditional Leaders tabled at the DIGR Forums.
- 2 Districts have not had the issue of involvement of Local Houses of Traditional Leaders tabled at the DIGR Forums.

4.5 Outcomes of the participation of Amakhosi in municipal councils

4.5.1 Amakhosi attending municipal councils meetings

Only 3 councils have Amakhosi fully attending in municipal councils. Forty nine municipalities were noted to be in the categories of average to poor attendance, whilst the majority forming the group being of poor attendance. The findings are as follows:

- 2% or 1 municipality with diligent attendance is broken down as follows:
 - or 2% have 100% attendance
- 4% or 2 municipalities with acceptable attendance are broken down as follows:
 - 1 or 2% have 70% attendance
 - 1 or 2% have 75% attendance
- 4% or 2 municipalities with average attendance, are broken down as follows:
 - 1 or 2% have 60% attendance
 - 1 or 2% have 67% attendance
- 90% or 47 municipalities with poor attendance, are broken down as follows:
 - 22 or 42% have 0% attendance
 - 27 or 52% have 5%-50% attendance

Poor attendance 47municipalities (90%)	Average attendance 2 municipalities (4%)	Acceptable attendance 2 municipalities (4%)	Diligent attendance 12 municipalities (2%)
22 or 42% = 0% attendance	1 or 2% = 60% attendance	1 or 2% = 70% attendance	1 or 2% = 100% attendance
27 or 52% = 5%-50% attendance	1 or 2% = 67% attendance	1 or 2% = 75% attendance	

4.5.2 Amakhosi being remunerated for their participation in municipal councils

It was found that all municipalities provided remuneration packages for the participation of Amakhosi in their municipal councils. Municipalities provided two various remuneration terms, one being monthly payments and the other being payment per meeting. The terms of the remunerations were offered as follows:

- 85% of municipalities opted for payments per meeting.
- 15% of municipalities opted for payments on a monthly basis.

When comparing the payment options used to remunerate attendees, it was noted that poor attendance formed the majority of the recipients from both remunerations options. The following was found:

- 44 or 85% are remunerated per meeting
 - 40 of poor attendance category (91%)
 - 3 of satisfactory attendance category (5%)
 - 1 of good attendance category (4%)
- 8 or 15% are remunerated on a monthly basis
 - 7 are in poor attendance category (88%)
 - 1 is in average attendance category (12%)

Remuneration per meeting (85%) of municipalities	Remuneration per month (15%) of municipalities
40 (91%) municipalities with poor attendance	7/ 88% of municipalities with poor attendance
3 (5%) municipalities with acceptable attendance	1/ 12% of municipalities with average attendance
1 (4 %) municipalities with diligent attendance	

Findings above conclude that either payment option does not have an effect on how Amakhosi participate in meetings.

4.5.3 Provision of tools of trade

Tools of trade are provided by some municipalities to their respective Traditional Leaders. It was noted that only 18 of the 52 or 35% of municipalities were provided with tools of trade. Municipalities provided the following tools of trade:

- 3 Municipalities provide Amakhosi with laptops with 3G
- 2 Municipalities provide Amakhosi with laptops and tablets

- 6 Municipalities provide Amakhosi with tablets
- 1 Municipality provides R300 data card
- 1 Municipality provides Amakhosi with R300 datacard and R200 cellphone allowance
- 1 Municipality provides Amakhosi with R300 cell phone allowance

4.5.4 Participation of Amakhosi in Municipal Council Committees

It was noted that 42 municipalities have involved Amakhosi in their Municipal Council Committees. It is also noted that a significant number being 9 municipalities have pending processes on the matter. The status involvement of Amakhosi in Municipal Council Committees is as follows:

- 42 municipalities have involved Amakhosi in committees
- 2 municipalities processes are pending
- 1 Waiting for outcome on the payment of out of pocket expenses
- 1 is delayed due to disbandment of the LH
- 5 municipalities are being persuaded to incorporate Amakhosi in committees
- 1 Municipality has not implemented the resolution to include Amakhosi in municipal councils committees

4.5.5 Participation of Amakhosi in District Intergovernmental Forums

Only 3 of the 10 districts had finalised the issue of participation of Amakhosi in District Intergovernmental Forums. The remaining 7 districts have pending statuses. The findings on the participation of Local Houses of Traditional Leaders are as follows:

- 3 Districts where issues finalised
- 2 Districts where items are still to be tabled
- 3 Districts issues is not finalised
- 1 District no progress-LHTL precluded
- 1 Item under consideration

4.5.6 Overall findings on the outcomes

	Participation in municipal Councils	Amakhosi remunerated on participation	Provision of tools of trade	Participation of Amakhosi in Municipal Council Committees	Participation of Amakhosi in District Intergovernmental Forums
Ideal	100%	100%	100%	100%	100%
Actual	6%	100%	35%	0%	0%

5. DEPARTMENTAL PERSPECTIVE

Perspective of the Department was sought in order to understand how implementation is done and challenges thereof.

Implementation of Section 81

The implementation of Section 81 of the Municipal Structures Act No 32 of 2000 was implemented by the Department in order to encourage Amakhosi to participate in relevant municipal structures for the benefit to improve services in the communities they serve.

Participation of Amakhosi

The desktop analysis discussed in this report, reveals challenges around participation of Amakhosi in relevant platforms legislated for them to participate in. Key challenge identified is the non-participation of Amakhosi in council meetings. The department is aware of challenges around participation of Amakhosi and has been trying to work with involved stakeholders in order to address the challenge.

In order to mitigate the challenge of non-participation, the Department has worked with municipalities in order to ensure that in varying degrees all are provided with tools to allow them to work effectively and encourage participation as follows:

- Meetings attendance is remunerated
- Tools of trade such as laptops, cell phones, data connectivity gadgets, etc are provided.

Despite these attempts made by the municipalities towards effective implementation of Section 81, there are challenges with participation of Amakhosi in council meetings. The challenges as viewed by the Department are due to the followings reasons:

Legislation – The Department referred to the current legislation as being vague, as it does not enforce Amakhosi to participate. Furthermore, the legislation does not provide Amakhosi the right to participate in decision making as they do not have the powers to vote. As a result, some Amakhosi have found their attendance to be irrelevant as it adds no value.

An end-term review of the strategic plan conducted by the department had previously confirmed the non-participation of Amakhosi in decision making to be a challenge. Further, suggesting for an intervention at a programme and policy level to be devised in order to ensure effective involvement of Amakhosi in meetings.

Protocol Observation for Amakhosi – During council sitting, there is a rule observed for all members to rise when the Speaker enters the council chambers. Some Amakhosi were mentioned to be not comfortable with this practice as it is not aligned with their customs and beliefs.

The lack of tools of trade - The Department mentioned that the provision of tools of trade is another challenge leading to non-attendance by Amakhosi to meetings. Currently only a marginal number have provided Amakhosi with tools of trade. The department through consultation with Amakhosi has over time observed this to be having a negative effect towards encouraging participation.

The department acknowledged the fact that not all municipalities can afford or have the budget to provide Amakhosi with the necessary tools of trade. However, the department also mentioned that besides the lack of money, to some extent there is resistance from the council to implement support to the Traditional Leaders. Some Amakhosi have reported to the Department that they are not always aware of the meetings since they sometimes receive invites and agendas to the meetings very late, therefore making it difficult for them to attend. Also, Amakhosi have raised a concern and shared that it does not look professional to be in a meeting where all other members are using laptops and tablets and be the only one using papers.

Working Relations

Several attempts have been made to encourage participation of Amakhosi but there has not been much effect. The department highlighted that there are others factors discouraging the Amakhosi to participate. These factors can be classified as the intangibles, whereby, some council members are not recognising them as respected leaders in their communities. It was mentioned that there were some instances whereby the Councillor would invite communities using loud hailers without consulting or informing Amakhosi prior.

Despite these challenges, the department has witnessed good initiatives whereby Amakhosi have good working relations with municipalities. It was mentioned that there are engagements outside the formal platforms for other municipalities. Councillors still engage with Amakhosi and collaborate in public participation. Projects and services are delivered to the communities on consultation.

The Department further mentioned that there is a general concern from Amakhosi for they are not prioritised and given equal attention as the municipalities when it comes to resolving their issues. This suggests a need for the Department to be more attentive to the needs of Amakhosi. The Department also mentioned that there needs to be improved working relations between the Synergistic Partnerships and Traditional Institutional Support Units in order to make effect to Section 81.

6. CONCLUSION

In view of the value chain elements or internal business processes it is noted that the means of the strategy are being implemented efficiently, however the effects show that the means used need to be reviewed. The overall findings show a picture for Amakhosi participation in different municipal meetings, including other attributes such as remunerated to participate in municipal meetings and provision of tools of trade. Participation in the main remains a challenge since Amakhosi are not attending municipal council meetings regardless of the fact that they are being remunerated for their attendance. This suggests that there are other attributes to the non-attendance. The study revealed other attributes to be the lack of tools of trade, vague legislation, no voting powers for Amakhosi, protocol not observed, and the department not cooperating.

7. RECOMMENDATIONS

1. The Department felt that there is a need for internal stakeholders to play a pro-active role in supporting Amakhosi through the District offices as well as at the Provincial level. Support to include, assisting Amakhosi to be better organised prior meetings through caucuses and guidance provided for Amakhosi.
2. There needs to be improved communication between Traditional Institutional Support and Synergistic Partnership in order to support Amakhosi effectively.
3. Policy level negotiations on the attendance terms with the Provincial House of Traditional Leaders
In view that Amakhosi have protocol issues and issues that they are not allowed to vote, round table engagements are needed between the Department, SALGA and the Provincial House of Traditional Leaders to agree on the minimum terms attendance. Terms need to include the following areas:
 - Ward Committees
 - Municipal Councils
 - Municipal Council Committees
 - District Intergovernmental Forums

8. SIGNATURES

SUBMITTED BY

MS HN NGCOBO
DEPUTY DIRECTOR: EVALUATION

DATE _____

SUPPORTED / NOT SUPPORTED

MS A SEKHESA
CHIEF DIRECTOR: STRATEGIC PLANNING, MONITORING, EVALUATION, POLICY & RESEARCH

DATE _____

SUPPORTED / NOT SUPPORTED

MS N. ZAMISA
DIRECTOR: SYNERGISTICS PARTNERSHIPS

DATE _____

SUPPORTED / NOT SUPPORTED

MR L PIENAAR
ACTING DEPUTY –DIRECTOR GENERAL: LOCAL GOVERNMENT

DATE _____

APPROVED / NOT APPROVED

MR T TUBANE
HEAD OF DEPARTMENT

DATE _____