

STREAMLINING THE ADMINISTRATIVE BURDEN IN WESTERN CAPE MUNICIPALITIES

This fact sheet is based on a research study on the impact of the Covid-19 pandemic on municipal fiscal sustainability in the Western Cape (WC) province. The study was commissioned by the Department of Local Government in the Western Cape, and was conducted by the School for Public Leadership at Stellenbosch University in partnership with the Hanns Seidel Foundation.

A key finding of the research was the perception that the administrative burden facing municipalities was excessive, and increasing. While there might be cogent rationales for each individual administrative requirement, cumulatively they had a prohibitive impact on municipalities, diverting scarce resources from core service delivery mandates. This fact sheet offers some recommendations for reducing the administrative burden on the municipalities, not only in the WC but across South Africa.

The following reforms are proposed:

1. General regulatory principles

Rationalise the regulatory environment. The core pieces of legislation underpinning local governance (such as the Municipal Systems Act of 2000 and the Municipal Finance Management Act of 2003) are about two decades old and have not yet been systematically reviewed in the light of the last 20 years of municipal experience, while regulations have proliferated – some of which deviate markedly from the original intent in their primary legislation.

Pay closer attention to differentiation between different local government contexts in regulatory regimes.

Consider more collaborative operational models and determine the extent to which the regulatory environment facilitates or prohibits such collaborative approaches.

Institutionalise meticulous impact assessments of all new regulatory prescripts from an implementation perspective, based on comprehensive, reliable data.

Scrutinise all new norms and standards closely to determine whether they in fact represent minimum norms and standards or gold standards.

Ensure that findings of impact assessments are adequately internalised across the regulatory framework, including in funding decisions.

Move away from a paradigm of national agenda-setting that informs regulatory prescripts that are forced down on local governments to simply implement in favour of a model where local governments drive the regulatory agendas from the bottom up, both in terms of setting the agenda and priorities and in terms of the content of regulatory instruments.

Further research on the formulation of regulatory prescripts, including norms and standards, in particular areas is required in order to identify the presence or absence of local government perspectives, and by implication implementation perspectives, in such formation processes. The results of such research will be important to formulate appropriate reforms.

2. Supply chain management: a regulatory approach

- Adopt a regulatory regime that is more flexible in the way that it should be applied in different municipal contexts. This must include rules that are suitable to the context of rural supply chain management (SCM). For instance, if there is only one supplier in a small town, requirement for 3 quotations may not be very practical.
- Rethink SCM regulatory approaches that are currently focused on individual municipalities rather than any form of collaborative approaches.
- Design and experiment with mechanisms that encourage greater collaboration, for example by providing for SCM as a shared service or streamlined Public Private Partnership processes or other mechanisms to collaborate such as through joint municipal entities.
- Engage in more dedicated capacity development for SCM units at local government level, include engaging with the latest case law.
- Develop and implement minimum competency levels for SCM officials, linked to a drive towards greater professionalization of SCM in South Africa in general and in local government as a sub-specialisation more specifically.
- Encourage greater collaboration between municipalities in SCM, e.g. SCM as a shared service.
- Adjust the thresholds for the use of competitive bidding procedures upwards (at least to R500 000 if not more), taking into account real figures of contract values and transaction costs. Risk management approach could rather be adopted to thresholds, including maturity levels of individual entities, e.g. clean audits over time as way of determining maturity as opposed to stark contract values.
- Allow more flexibility in entering into long-term contracts. Reduce the regulatory burden regarding such contracts, e.g. mandatory input from various levels of government.

3. Regulatory reporting

- Systems should be improved to enable data to be captured in a manner accessible to all stakeholders, which would not only enable continuous oversight, but also provide ongoing management data.
- There should be greater use of technology, such as cloud-based solutions, in this regard. Municipalities should ideally only be responsible for capturing the base data in a system that is generally accessible to other levels of government and organs of state that play an oversight role (such as the Auditor-General) in order for those entities to analyse the data for their own purposes.
- The attention to capturing data in appropriate systems should also serve to make the data available to the municipalities themselves for management purposes, such as, for example, informing business intelligence solutions.
- Careful attention should be given to what type of data is really required and in what format to remove redundancies.

4. Mandates of municipalities

- Consider adjusting the approach to municipal mandates, either by way of a constitutional amendment to bring more agility to the system or by way of overarching legislation.
- Align actual mandates with legal mandates.
- Explore ways in which newer functions, such as the provision of data services, could be incorporated at appropriate levels within the mandate scheme

5. Intergovernmental debt (Eskom, etc)

- Urgent attention must be given to resolve Eskom's municipal debt problem. This will seemingly only be possible by way of intergovernmental collaboration between all three levels of government.
- A more reliable and efficient system of resolving intergovernmental debt must be established.
- In creating intergovernmental mechanisms to deal with problems at local government level, care should be taken not to adopt an approach that routinely results in local powers and capacities being absorbed into higher levels of government, but rather to work with the problem at the local level and with the local capacities.

6. Financial impact of court orders

- When service delivery orders are granted, all levels of government should be joined so as to ensure that the burden of implementation can be appropriately shared between the different levels of government.
- In instances where court orders routinely result in disruption to municipal planning, a process of review should be initiated to establish the underlying reasons for such disruptions, e.g. whether the demands made on municipalities in such cases are inappropriate and thus requiring an adjustment to the entitlements enforced in such cases or whether planning processes and budgeting are inadequate to cater for legitimate claims made on municipalities and thus requiring appropriate adjustments in municipal planning and budgeting. Such a review process could be initiated as part of ongoing local government oversight by bodies such as COGTA or SALGA.

KEY CONCEPTS:

- Norms and standards: Where uniformity across the nation is required, the constitution provides for national legislation to establish norms and standards, frameworks or national policies in areas such as promotion of equal opportunity or equal access to government services, environmental protection and maintenance of economic unity and national security.
- Supply chain management (SCM): Section 110 of the Municipal Finance Management Act of 2003 defines SCM as the procurement by a municipality or municipal entity of goods and services and the disposal of goods no longer needed, the selection of contractors to engage in the provision of municipal services and the selection of external mechanisms for service delivery (e.g. outsourcing, public-private partnerships etc). Section 217 of the South African constitution requires that procurement systems be a system which is fair, equitable, transparent, competitive and cost-effective, and makes provision for preferential procurement for previously disadvantaged persons.
- Public-Private Partnerships: Long term contracts between a municipality and a private-sector company to deliver a service on behalf of the municipality or to finance, build, maintain or manage certain facilities, such as public transportation networks, parks, and convention centres. Resources such as skills, financial and physical assets are shared among partners, as are the risks and rewards.
- Intergovernmental debt: debt owed by one organ of state to another, for example, payments outstanding by municipalities to Eskom for bulk services, or property rates owed by national and provincial departments to municipalities.