

**OVERSIGHT REPORT ON 2020/2021 ANNUAL
REPORT**

PRESENTED TO COUNCIL

26 MAY 2022

FOREWORD BY THE CHAIRPERSON OF MPAC

In accordance with the provisions of Section 79(A) of the Municipal Structures Act, no 117 of 1998, a Municipal Council must establish a committee called Municipal Public Accounts Committee. (a) Municipal Public Accounts committee to review Auditor-Generals reports and comments of the management committee and the audit committee and make recommendations to Council. (b) Initiate and develop the oversight report on annual reports contemplated in section 129 of the Local Government: Municipal Finance Management Act. The Municipal Public Accounts Committee of Polokwane Municipality was established by Council and the focus of MPAC is to assist Council to hold the executive to account, play oversight role on behalf of council and ensure the effective and efficient use of municipal resources.

The Municipal Finance Management Act (MFMA) assigns specific oversight responsibilities to Council with regard to the Annual Report and the preparation of an Oversight Report. Given the process required by Council to effectively undertake its oversight role, the establishment of the Municipal Public Accounts Committee (MPAC) of Council provides the appropriate mechanism through which Council can fulfil its oversight responsibilities. This time MPAC's primary role was to consider the Annual Report, probe and prepare Oversight Report for consideration by Council.

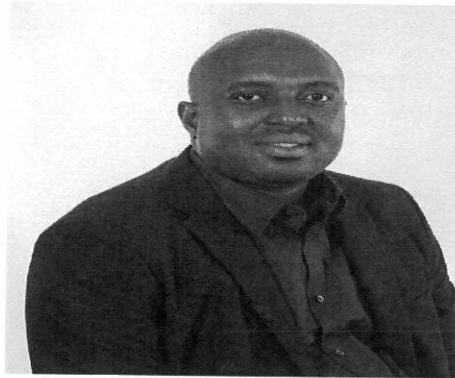
In the light of this responsibility, The Executive Mayor on the 24 March 2022 tabled the 2020/21 Annual Report of Polokwane Municipality for consideration. Council subsequently referred the 2020/21 Annual Report to MPAC for probing and Oversight.

MPAC noted improvements in certain performance areas, as reflected in the 2020/21 Annual Report and also noted areas of unsatisfactory performance and underperformance in some areas as reflected in the Oversight Report. As a result, MPAC has raised concerns and made recommendations on a number of issues that require immediate intervention by the Council. MPAC urge that management improve on areas of underperformance and improve on spending on grants and capital budget.

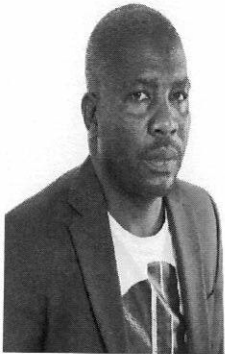
It is my belief that if Council considers these recommendations and the administration implements them fully, the municipality should move from a qualified Audit opinion to at least an unqualified Audit opinion. The committee was not pleased that the municipality retained a qualified audit opinion five years in succession, however we noticed a decrease in number of findings raised by AG and also appreciate that there were no findings raised on the performance report. The committee appreciate the entity (Polokwane Housing Association) for retaining an unqualified audit opinion.

Finally, I would like to extend special gratitude to the members of MPAC for their contribution, dedication and hard work in ensuring that this report was compiled and tabled in Council on time. I would also like to thank the administration led by the Municipal Manager for their cooperation with MPAC and MPAC support staff for their administrative support in ensuring that the activities assigned to the committee are fulfilled including the success of this Oversight Report.

MEMBERS OF MUNICIPAL PUBLIC ACCOUNTS COMMITTEE



Cllr Ngoasheng LH – Chairperson



Cllr Makhafola MD



Cllr Dikgale SJ



Cllr Clarke S



E Cllr Mohlabeng DM



Cllr Mokobodi MV



Cllr Raphela TR



Cllr Ramakgolo MM



Cllr Chidi TD



Cllr Malatji M - Whippery

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Cllr LH NGOASHENG

Ext. 2529

DIRECTORATE: LEGISLATIVE SUPPORT (OFFICE OF THE SPEAKER)

ITEM:

FILE REF:

REPORT OF THE CHAIRPERSON: MUNICIPAL PUBLIC ACCOUNTS COMMITTEE - 2020/2021 OVERSIGHT REPORT

1. INTRODUCTION

The Local Government: Municipal Finance Management Act, Act 56 of 2003 (MFMA) read together with Local Government: Municipal Structures Act 117 of 1998, assigns specific oversight responsibilities to Council with regard to the Annual Report and the preparation of an Oversight Report. The Municipal Public Accounts Committee was established for ensuring that the executive implements programmes and plans in consistent with policy, legislation and the dictates of the Constitution. The annual report is a key instrument of transparent governance and accountability.

It is a post-financial year document which provides an overview of the process of financial and non-financial performance in respect of the previous financial year, in this instance 2020/2021 financial year. The adoption of an Annual Report and oversight report is a legislated requirement in terms of the Local Government: Municipal Finance Management Act, Act 56 of 2003 (MFMA).

Section 129 of the Local Government Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA) requires the Council to consider the annual reports of its municipality and of any municipal entity to adopt an "oversight report" containing the Council's comments on each annual report. The Oversight Report is the final major step in the annual reporting process of the municipality.

The oversight report must include a statement whether the Council:

- Has approved the annual report, with or without reservations;
- Has rejected the annual report; or
- Has referred the annual report back for revision of those components that can be revised.

2. PURPOSE OF THE REPORT

To submit the Oversight Report on the Annual Report for the 2020/2021 financial year in terms of Section 129 of the MFMA. To recommend to Council the consideration of the 2020/2021 Annual Report and to adopt an oversight report containing Council's comments on the Annual Report in terms of Section 129(1) of the Local Government: Municipal Finance Management Act, 2003 (Act no.56 of 2003).

3. BACKGROUND

The 2020/21 Annual Report was tabled in Council by the Executive Mayor on the 24 March 2022. According to Section 129 of the MFMA, Council has to consider the Annual Report of the Municipality, its entity and by no later than two months from the date on which the annual report was tabled, adopt an oversight report containing the Council's comments on the report. Council has then referred the Annual Report to the Municipal Public Accounts Committee (MPAC) for consideration and probing (CR/137/03/22). The MPAC is expected to probe the Annual Report and compile an Oversight Report on the Annual Report on behalf of Council. The Oversight report is the final step in the Annual reporting process.

4. LEGAL FRAMEWORK

4.1. Preparation and adoption of annual reports.

Section 121 (1) of the MFMA requires that every municipality and every municipal entity must for each financial year to prepare an annual report in accordance with this Chapter. The council of a municipality must within nine months after the end of a financial year deal with the annual report of the municipality and of any municipal entity under the municipality's sole or shared control in accordance with section 129.

- Polokwane Municipality was unable to deal with the annual report of the municipality and its entity within nine months as required by MFMA, due to delay in release of the audit report and audited financials.

4.2. The purpose of an annual report

Sec 121 (2) Municipal Finance Management Act, Act 56 of 2003 indicates the purpose of the Annual Report as: —

- a) To provide a record of the activities of the municipality or municipal entity during the financial year to which the report relates;

- b) To provide a report on performance against the budget of the municipality or municipal entity for that financial year; and
- c) To promote accountability to the local community for the decisions made throughout the year by the municipality or municipal entity.

4.3. Tabling of the Annual Report

Section 127 of the MFMA says the Mayor of a municipality must, within seven months after the end of a financial year, table in the municipal council the annual report of the municipality and of any municipal entity under the municipality's sole or shared control.

4.4. Submission of the Annual Report

Section 127 (5) (b) of the MFMA requires the Accounting Officer to submit annual report to the Auditor-General, the relevant provincial treasury and the provincial department responsible for local government in the province.

4.5. Oversight reports on annual reports

The oversight report is compiled in terms of Section 129 (1) of the Municipal Finance Management Act, No. 56 of 2003 which reads as follows: " The council of a municipality must consider the annual report of the municipality and of any municipality entity under the municipality's sole or shared control and by no later than two months from the date on which the annual report was tabled in the council in terms of section 127, adopt an oversight report containing the council's comments on the annual report, which must include statement whether the council:-

- (a) Has approved the annual report with or without reservations;
- (b) Has rejected the annual report
- (c) Has referred the annual report back for revision of those components that can be revised".

5. ANNUAL REPORT CONSULTATION PROCESS

- 5.1. Section 127 (2) of the MFMA says "The Mayor of a municipality must, within seven months after the end of a financial year, table in the municipal council the annual report of the municipality."
- The 2020/21 Annual Report was tabled in Council of 31 January 2022, however the report was incomplete since it did not have the audit report and the audited financials. The completed annual report with the audit report and audited financials was then tabled in council on the 24 March 2022. **Annexure B**

5.2. Section 127 (5) (a) (i) of the MFMA requires the Accounting Officer to make the annual report public.

- The 2020/21 Annual Report was made public on the Municipal Website, Municipal clusters, municipal libraries and Municipal Facebook page within five (days) and within seven (7) days in the local newspapers after it was approved by Council on 24 March 2022. **Annexure C**

5.3. Section 127 (5) (a) (ii) of the MFMA requires the Accounting Officer to invite the local community to submit representations in connections with the annual report.

- A notice was published to invite members of the community and other stakeholders to submit written comments/inputs into the Annual Report. In addition, the 2020/21 Annual Report was also made available at all Municipal Libraries, All Cluster Offices, Municipal Website and Municipal Facebook page. **Annexure C.**
- The municipality did not receive any comments from the members of the public and relevant stakeholders.

5.4. Section 127 (5) (b) of the MFMA requires the Accounting Officer to submit annual report to the Auditor-General, the relevant provincial treasury and the provincial department responsible for local government in the province.

- Copies of the 2020/21 Annual Report were submitted in terms of Section 127(5) (b) to the following stakeholders, Provincial Treasury, National Treasury, Provincial COGHSTA and Auditor General. **Annexure D.**

5.5. The Municipal Public Accounts Committee held a meeting to adopt the Action Plan for probing the 2020/21 annual report. **Annexure E.**

- Meetings were held as per adopted action plan and other meetings were also convened due to volume of documents to be considered.

5.6. The committee conducted a project site inspection / visits on the 11, 13 and 21 April 2022. Project visits report is attached as **annexure F.**

5.7. **MPAC Public Participation**

- MPAC held a public Participation meeting on the 10th of May 2022 in terms of Section 21 (a) of the Municipal Systems Act No. 32 of 2000.

- Members of the Public and municipal stakeholders where invited, the Executive Mayor presented the annual report and members of the public posed questions to the Executive Mayor to respond.
- The committee further distributed the summary of the 2020/21 Annual report to all municipal clusters, published a notice in local newspaper, municipal Facebook page and municipal website. **Annexure G.**

5.8. MPAC held a public hearing on the 12th of May 2022 at the Mayors parlor. Management led by the Acting Municipal Manager was responding to clarity seeking questions posed by MPAC members. Members of the public, media and stakeholders were invited to the hearing. **Annexure H**

6. MPAC Findings

- 6.1. Financial statements of the municipality and its entity were not prepared in all material aspects. The committee is concerned about the process of reviewing the AFS in the municipality and its entity since this is a recurring finding.
- 6.2. Contravention of SCM regulations, Polokwane Housing Association (PHA) does not have capacity to perform Supply Chain Management duties especially in relation to compliance issues. This lead to the finding on contravention of SCM regulations to recur.
- 6.3. Annual report of the Municipality and its entity (PHA) was not properly reviewed, errors were identified during probing through the annual report checklist template and projects are not correctly named.
- 6.4. Directors are not reviewing reported information prior submission to Council hence obvious errors and other indicators not reported were detected by MPAC during probing.
- 6.5. Completed projects are not registered as completed projects in the assets register of the municipality due to officials who keeps records in their offices and not notify assets management when their projects are complete.
- 6.6. Records management within the municipality is a concern, the municipality was unable to provide Auditor General with old building plans, during the design of the projects existing designs are not provided to engineers especially on water reticulations and

that delays projects during construction when they detect existing structures that will require relocation.

- 6.7. Buildings are altered without approval of building plans from the municipality.
- 6.8. Management did not investigate unauthorized, irregular, fruitless and wasteful expenditure incurred.
- 6.9. Supply Chain Management processes on procurement of service providers takes time to unfold and that lead to late appointment of service providers which ultimately contribute to delay in service delivery.
- 6.10. Grant funded projects are not completed in time and the municipality is losing grants which also contributes to delay in service delivery.
- 6.11. Poor performance on capital works programmes was due to late appointment of contractors, budget constraints and tenders which are advertised but service providers are not appointed on time.
- 6.12. The Municipality did not perform well in terms of service delivery, projects which were planned to be completed in 2020/21 financial year were not completed within the planned timeframe as per SDBIP targets.
- 6.13. Performance of some of the contractors or service providers are not monitored as required by section 116(2) of the MFMA.
- 6.14. The municipality is reporting revenue collection of over 90% but still raise a challenge of budget constraints when planned projects are not implemented. This is a concern that must be looked into since all projects in the Service Delivery Implementation Plan (SDBIP) are aligned to the approved budget for the financial year.
- 6.15. Persons in service of the municipality whose close family members had a private or business interests in contracts awarded by the municipality failed to disclose such interests, in contravention of SCM regulation 46(2) (e), the code of conduct for councilors issued in terms of the Municipal Systems Act, 2000 (Act No 32 of 2000) (MSA) and the code of conduct for staff members issued in terms of the MSA. This was also raised in the previous audit report.
- 6.16. During MPAC public hearing the committee requested an additional information from management, however members did not have an ample time to can probe additional information provided and as such the committee will make time to probe the additional information submitted. In the event whereby there are findings that needs to be reported to Council, the committee will write a report to Council and if the committee find the response to be of satisfactory there won't be a need to write a report to council.

7. Conclusion

Management must ensure that Supply Chain Management process on appointment of service providers is effective and appointments are made in time. A commitment made by management to practice forward planning must be realised so that contractors will be appointed at the early stage of the financial year.

The municipality must implement stringent measures to improve performance on Grants and capital spending. The municipality must look into poor performing contractors, Company Directors and not consider them for future projects since they delay plans for service delivery.

The municipality must continue with assessment of service providers and in the event of unsatisfactory performance, written notices be written to the poor performing service providers. Bids from poor performing service providers be rejected. Should it be evident that poor performing service providers are awarded bids, consequences management be applied.

Municipal Manager must hold accountable directors who deliberately do not review reported performance in their directorates and allow incomplete performance reports to serve in Council.

8. MPAC Recommendations to Council

That MPAC, having fully considered the 2020/21 Annual Report of Polokwane Municipality and its Entity Polokwane Housing Association (PHA), recommends that Council adopts the 2020/21 Oversight Report.

1. That the 2020/21 annual report be approved without reservations.
2. That the 2020/21 Oversight Report be made public in accordance with Section 129(3) of the Municipal Finance Management Act 56 of 2003.
3. That the Oversight Report be submitted to the Provincial Legislature in accordance with Section 132(2) of the Municipal Finance Management Act 56 of 2003.
4. Position of the Compliance Officer in the entity be prioritised when filling the vacant positions.
5. Project managers must ensure that all completed projects are submitted to Assets management unit for proper recording in the assets register of the municipality.
6. Each director must review reported performance within the directorates prior submission of the report to Council.
7. That management appoint contractors as per set targets in the SDBIP, to ensure that projects are implemented within the planned timeframe of the financial year.

8. That written notices be given to all poor performing contractors and service providers to enable the municipality to reject their Bids for future projects as per Section 38 1 (d) (ii) of the Municipal Supply Chain Management Regulations of 2005.
9. That Risk Management Unit investigate the findings on awards made to persons in service of the municipality whose close family members had a private or business interests in contracts awarded by the municipality failed to disclose such interests, in contravention of SCM regulation 46(2) (e), the code of conduct for councilors issued in terms of the Municipal Systems Act, 2000 (Act No 32 of 2000) (MSA) and the code of conduct for staff members issued in terms of the MSA.
10. That Risk Management report to Council within two months from the date of this Council with recommendations. The recommendations of Risk Management Unit to determine if there is a need for an external investigation since this is a recurring finding.
11. That the financial misconduct board provide their investigation report on Polokwane Housing Associations contravention of SCM regulations to Council within two months from the date of this Council with recommendations.



Cllr: LH Ngoasheng
MPAC: Chairperson

20/05/2022

Date