



ACCOUNTABILITY AND OVERSIGHT OVER MUNICIPAL FINANCES: COUNCIL OVERSIGHT AS A MISSING LINK IN SERVICE DELIVERY

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by Mmamagang Geoffrey Modisha

Abstract

The local government audit outcomes of the 2021/22 financial year showed a continuing deterioration of the financial health of South African municipalities. According to the Auditor-General South Africa (AGSA), this can partly be attributed to lack of accountability and oversight at the local government level. This paper aims to assess the state of accountability and oversight at local government level in South Africa and to establish whether enhancing the scrutiny and oversight role of municipal councils could contribute to improving the financial management and service delivery mandate of municipalities. Using documentary analysis – particularly the municipal accountability legislative framework and AGSA's local government audit outcomes – and literature reviews on the topic, the paper shows that the current conceptualisation and practise of accountability and oversight in South Africa has taken an elitist approach that marginally involves councils. As a readily available army of accountability and oversight at local government level, councils and non-executive councillors could help in closing the principal-agent gap between the municipalities, the provincial and national government, and the public. The paper shows that the practice of accountability and oversight must go beyond availability of oversight committees and tools to include a deliberate stimulation of its potential and capability. To this effect, it is recommended that councils be empowered through the development of a local government oversight model that combines all the guidelines and frameworks developed by various state organs so far, considers the variations in municipalities, and involves the public in the oversight process. It is argued that the rise of coalition politics in South African local government is providing an opportunity to empower councils and non-executive councillors to efficiently and effectively play their scrutiny and oversight role.

Keywords: Accountability; Audit Outcomes; Coalition Politics; Local Government; Municipal Finances

Introduction

In her last consolidated audit report of the 4th political term of local government (2016-2021) in 2022, the Auditor-General South Africa (AGSA) decried the lack of accountability and oversight at the local government level. This, according to AGSA, is one of the contributing factors to the unfavourable audit outcomes of the municipalities in South Africa (AGSA, 2022). Without accountability and oversight, communities are not able to determine whether municipalities used the budget as intended, achieved their service delivery objectives,

and are in a good financial position. AGSA argues that this leads to erosion of public trust in local government. Through oversight, municipal councils can investigate and deal with unauthorised, irregular, fruitless and wasteful (UIFW) expenditure, fraud and corruption, non-performance, and any legislation transgression. This will ensure that public funds are used for what they are intended, namely, service delivery.

The aim of this paper is to assess the current state of the local government accountability system and provide recommendations for the municipalities to improve on this

front. It asks the question as to whether the role of municipal councils in South Africa could contribute to overseeing the financial management and service delivery of the municipalities. The paper analyses the legislative framework of municipal accountability and oversight, assesses AGSA's audit findings and recommendations, and draws from conducted research, both in South Africa and internationally, to achieve this objective. It argues that the current conceptualisation and practise of accountability and oversight seems to render councils, as the legislative bodies of local government, irrelevant.

It is shown that as the source of horizontal accountability, councils might be the missing link to close the principal-agent gap that exists between the municipalities and provincial and national governments in the accountability cycle. It is further illustrated that the failure of the interventions experimented with over the years might be attributed to misdiagnosis of the actual problems besetting municipalities, which non-executive councillors may help with if empowered to do so. The paper calls for more attention to be given to councillors as an army of accountability, scrutiny and oversight, and suggests that coalition politics at local government level provides an opportunity to do that.

The following section defines municipal accountability and oversight, outlines different accountability tools, as well as different dimensions of accountability and what it must achieve. This is followed by a discussion of the legislative framework governing accountability and oversight at the local government level, as well as how the accountability system is understood by providing a sketch of the local government accountability system.

The next section delves into AGSA's latest local government audit outcomes and the state of municipal accountability in the country. It is shown that most interventions have so far excluded the role of councils as the centre of oversight at the local government level and concludes that it is perhaps time the government focusses on this to complete the accountability and oversight architecture of local government.

After this, the paper turns to coalition politics at local government level, as this seems to be the future of local government in South Africa. It is shown in that section that, although there is no sufficient empirical research on the impact of coalition governance on service delivery, governance and council functionality, coalition governments present an opportunity to strengthen the oversight function of council. The last section makes recommendations on how to bring councils into the accountability chain of local government in South Africa.

Understanding Municipal Accountability and Oversight

Accountability in the context of public institutions can be defined as a process whereby public authority or the state responds to citizens on its past, present and future actions in implementing its constitutional mandate of service delivery to the society (Schedler, 1999; Buttler, 2011). It is characterised by one person (the principal) appointing the other (the agent) to do work on their behalf, either because it is impractical or too complex for the principal to do so (Pelizzo & Stapenhurst, 2012; 2014). Unfortunately, this relationship tends to give rise to principal-agent problems, where the agent – because of their information, expertise and technical superiority – avoids being accountable to the principal (Pelizzo & Stapenhurst, 2012).

Accountability can further be seen in terms of answerability and enforcement, it can be spatial (horizontal and/or vertical), it can be internal and external, and can be studied by looking at the degree of control imposed by the principal on the agent (Schedler, 1999; Lindberg, 2009; Pelizzo & Stapenhurst, 2014). Vertical accountability can be both upward – such as local government's accountability to the provincial and national governments – and downward, which denotes citizens' attempts to hold the government accountable for its actions, conduct and performance (Lindberg, 2009). Meanwhile, horizontal accountability, also called intra-state accountability or 'accountability amongst peers', refers to the processes of checks and balances as espoused by the principle of separation of powers and/or between institutions of the same state machinery (ibid.). When the actors of horizontal and vertical accountability collaborate in their oversight efforts it is called diagonal accountability¹. The degree of control denotes the level at which the overseer is doing his/her job in enforcing accountability, which can range from interrogation of the minute details of the department's day-to-day activities, such as financial auditing, to the socio-economic impact of its policies, as is the case with elections (ibid.).

Accountability and oversight are two sides of the same coin (Pelizzo & Stapenhurst, 2012; Pelizzo & Kinyondo, 2015; Malapane, 2019) because both the accountable and accounting or oversight actors must speak and engage on how the allocated/delegated power was utilised (Schedler, 1999). In other words, there is no accountability without oversight, which is a mechanism to ensure transparency and openness of the executive, financial accountability, uphold the rule of law, and hold the executive accountable for its actions and general performance (Madue, 2012). In its Public Sector Oversight Model (PSOM), the Parliament of the Republic of South Africa (2012) defines oversight as:

¹ However, there is no consensus on this conceptualisation, as some scholars expand horizontal accountability to include external accountability actors. In this view, civil society organisations and media are categorised within horizontal accountability (Schedler, 1999; Pelizzo & Stapenhurst, 2013). O'Donnell (1999) argues that categorising civil society as horizontal

accountability is disingenuous because, first, they are in no way equal to other state actors in holding the government accountable. Second, state institutions such as the executive, legislature and the judiciary have clear powers to mete out sanctions amongst each other.

"The proactive interaction initiated by a legislature with the executive and administrative organs that encourages compliance with the constitutional obligation on the executive and administration to ensure delivery on agreed-to objectives for the achievement of government priorities".

Although this definition of oversight encompasses both answerability and enforceability, it is biased towards oversight as a retrospective exercise, i.e., it happens after implementation of government policies, programmes and actions (Malapane, 2019; Kolisang, 2019). The most comprehensive definition of oversight must include both *ex ante* and *post ex* aspects (Pelizzo & Stapenhurst, 2012; Madue, 2012; Malapane, 2019; Verhelst & Peters, 2024).

Political accountability and oversight presupposes an exploration of separation of powers within different arms of the state. Also called *trias politica*, separation of powers doctrine is one of the political philosophical ideas that originated from the enlightenment scholarship of the 17th and 18th centuries, as a vehicle to keep government power in check (Chikwema & Wotela, 2016). In this arrangement, argued Montesquieu, the parliament is responsible for law-making, judiciary to interpret the laws, and the executive is tasked with implementing the laws for the good of the populace (ibid). In South Africa, the real *trias politica* is at the national level, and not the provincial and local spheres of government, because the judiciary is an exclusive national mandate in the country. Therefore, accountability and oversight is mainly between the executive and legislature at provincial and local government levels.

For legislatures to have an impact on policy and the decision-making of the executive, they must have oversight tools that include committees, motions of no confidence, an oversight and scrutiny model, and a relationship with key internal and external accountability institutions such the Internal Audit and Audit Committees, as well as the Auditor-General (A-G) and Public Protector (Pelizzo & Stapenhurst, 2014). Availability of these oversight tools, however, only signifies the legislature's oversight capacity and potential and should not be equated to its effectiveness, as this still needs to be activated. Rockvic and Ivanis (2013) posits that the activation of oversight potential requires at least three conditions, namely, authority, ability, and attitude or political will. The latter is underpinned by such factors as party politics, executive-legislature interface, opposition parties, society's political consciousness and the nature of civil society activism.

According to Koppel (2005), there are five dimensions of accountability, each seeking to address a different area and question as follows:

- Transparency – did the organisation reveal all the facts of its performance?
- Liability – did the organisation or people involved in wrongdoing face consequences for these?
- Controllability – did the organisation do what the principal desires?
- Responsibility – did the officials follow the law or policies in performing their duties?
- Responsiveness – did the organisation fulfil the substantive expectations of the public or deliver on the public good?

Koppel (2005) highlighted that it is important for organisations to be specific and clear in defining their accountability as uncertainties can lead to 'multiple accountabilities disorder'. This means a situation where the organisation is confused about the sense in which it is accountable. Because of lack of clarity, argues Koppel (2005: 95), organisations find themselves "accountable in the wrong sense, or accountable in every sense...[thus]... pleasing no one while trying to please everyone". Clarifying accountability is particularly important in South African local government because of different types of municipalities, their structures and service delivery models².

The following section locates municipal accountability and oversight in the legislative framework of South Africa. It also uses the above discussion to provide a conceptualisation of the accountability system at local government level as understood in this paper.

Legislative Framework of Municipal Accountability and Oversight System in South Africa

While separation of powers at the local sphere of government is not provided for in the Constitution in South Africa, local government legislation – such as the Municipal Structures Act (117 of 1998) "Structures Act", Municipal Systems Act (32 of 2000) "Systems Act", and Municipal Finance Management Act "the MFMA" (56 of 2003) – provides mechanisms through which the municipalities can separate the executive and legislative powers held by council. Section 151(3) of the Constitution provides that a municipality has the right to govern the local government affairs of its own community, subject to national and provincial legislation, as provided for in the Constitution (RSA, 2015a). In terms of section 160(1) of the Constitution, a municipal council can make decisions concerning the exercise of its powers and the

² There are three types of municipalities in South Africa, namely categories A, B, and C. Category A includes metropolitan municipalities, B are the local municipalities, and C are district municipalities established to govern several category B municipalities (RSA, 2015a). Also, there are different governance structures such as the mayoral committees, executive committees or

collective executive municipalities (RSA, 2015b). Furthermore, there are different service delivery models such as the corporation model practised in the City of Johannesburg, where the bulk of services are delivered through municipal-owned entities, those who deliver services through departments, and those who are a mixture of the two models.

performance of its functions. Section 160 (6) of the Constitution empowers municipal councils to pass by-laws prescribing rules and orders for its internal arrangements, business and proceedings, and the establishment, composition, procedures, powers and functions of its committees (RSA, 2015a).

Section 59 of the Systems Act makes provision for a municipal council to develop a system of delegation to maximise its administrative and operational efficiency and provide for adequate checks and balances in the utilisation of power in the municipality (RSA, 2015b). Sub-section 59(2) of the Systems Act provides that delegation of powers to the executive “does not disinvest the council of the responsibility concerning the exercise of the powers or the performance of the duty” (RSA, 2015b).

The MFMA provides for a clear separation of roles of various role players in the financial management of the municipalities (RSA, 2015d). For instance, the mayor must provide political guidance over the fiscal and financial affairs of the municipality, become a conduit between the executive and council on budgetary matters; and the municipal manager is accountable for the financial management of the municipality. Meanwhile, the council must approve the budget and ensure that the budget is utilised as intended for the benefit of the

communities. It must play an oversight role over the utilisation of the budget (RSA, 2015d).

In order to assist councils with their oversight function, sections 33 and 79 of the Structures Act provide for the establishment of committees (RSA, 2015c). Section 79 of the Structures Act further provides for the council to establish necessary committees to assist in efficiently and effectively performing any of its functions or exercising any of its powers. In 2001, the Structures Act was amended to strengthen the accountability and oversight function of council by giving the Speaker of Council a responsibility to ensure efficient and effective oversight committees, enabling the Whip of Council to assume responsibility for facilitating relations between the executive and the legislature, and making municipal public accounts committees (MPACs) statutory committees of council to be established by all 257 municipal councils (RSA, 2021).

To appreciate the nuances of municipal accountability and oversight, it must be put within the context of the broader accountability regime of a country (Verhelst & Peters, 2024). Figure 1 is a schematic representation of how accountability and oversight at local government level can be contextualised in South Africa.

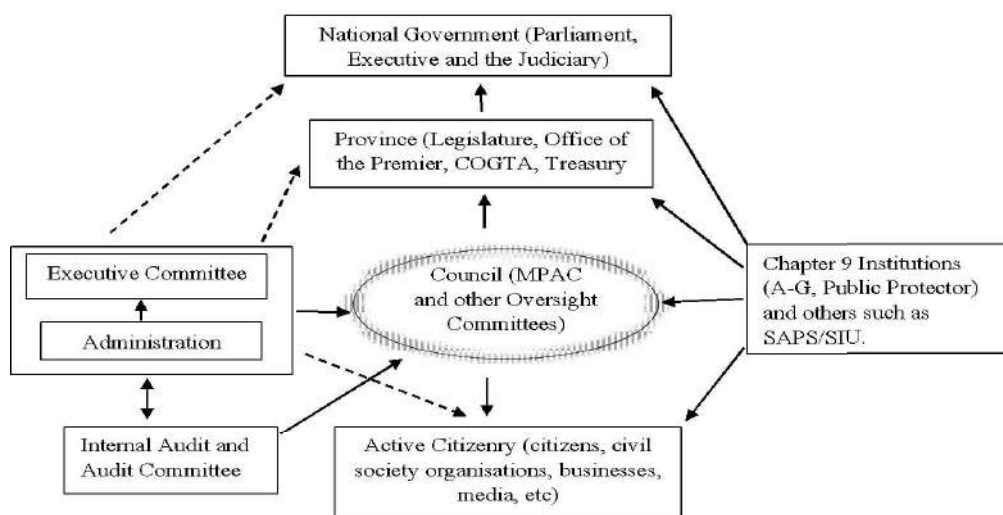


Figure 1: Accountability and Oversight System³

It shows that municipal councils are central to the accountability and oversight processes of local government, as vested by the Constitution of the Republic of South Africa (RSA, 2015a). Through a delegation of powers system, a municipal council must establish the mayoral or executive committees – together with the bureaucracy or

administration – to execute its policies and by-laws and deliver services to the communities (horizontal accountability). The municipality, including councils, the executive and the administration, is also accountable to the national and provincial governments, as well as directly to the citizens through public participation⁴. This can be regarded as vertical accountability, both upward (to provincial and national governments) and downward (citizens)⁵.

³ Source: Figure created by author.

⁴ The reason for the dotted lines from the local government executive to the national and provincial governments and active citizenry is that as a structure of council, the executive is technically accountable through councils, which does not stop them from being individually accountable to these.

⁵ While some scholars regard active citizenry as horizontal accountability, this study follows O'Donnell's assertion that, by virtue of relative powerlessness in relation to the state, and because of the decision-making powers of state institutions, civil society or active citizenry falls within the category of downward vertical accountability (O'Donnell, 1999).

The diagramme also shows other key role players, namely, the internal audit departments and audit committees, as well as chapter 9 institutions, particularly the Auditor-General and Public Protector and law enforcement agencies such as the South African Police Service (SAPS) or Special Investigating Unit (SIU). Together with council, the relationship with these structures constitutes horizontal accountability, because of their statutory support role. While the council, internal audit and audit committee are internal structures, chapter 9 institutions are external structures.

Financial Management in the South African Local Government – State of Accountability and Oversight

The 2021/22 local government audit outcomes have shown a continued deterioration of the financial health of the municipalities, as they are not reporting as required, there is an increase in supply chain management (SCM) contraventions, and information and communication technology (ICT) systems are not utilised efficiently (AGSA, 2023). In addition, very little consequence management has been imposed on those involved in wrongdoing (AGSA, 2023). Only 14,8% of South African municipalities achieved clean audit outcomes, with two out of the eight metropolitan municipalities, i.e., the City of Cape Town and the City of Ekurhuleni, being able to achieve clean audit outcomes. While it can be noted that 33 municipalities improved their audit outcomes in the 2021/22 financial year, there was a decline in 29 municipalities in comparison with the 2020/21 financial year.

At the end of the 2021/22 financial year, the A-G identified R25,47 billion in unauthorised expenditure, R30,34 billion in irregular expenditure, and R4,74 billion in fruitless and wasteful expenditure. The total outstanding balance of unauthorised expenditure stood at R107,38 billion, irregular expenditure at R136 billion, and fruitless and wasteful expenditure totalled R14,65 billion (AGSA, 2023). This means that some of the R539,13 billion budget of the municipalities was spent on things not budgeted for, unlawfully and/or without a benefit to the South African communities. This state of affairs is attributed to lack of accountability by the municipalities, weak institutional capacity, political and leadership instability, and ineffective interventions from the provincial and national governments (AGSA, 2023; Khaile, 2023). As it is always the case in the first year of the local government political term, stated the A-G, political instability in the transition to a new political term worsened the failures seen over the years (AGSA, 2023).

Generally speaking, there have been three intervention thrusts tried in order to deal with this situation throughout the years. First, the provincial and national government have used section 139 of the Constitution to put municipalities under administration. According to Khaile (2023), 33 municipalities were under section 139 intervention in February 2022. However, this has not been helpful in

improving the financial management of the municipalities (ibid.). In a study conducted to assess effectiveness of section 139 interventions in 14 municipalities in the Limpopo, North West and Free State provinces, it was found that only one municipality, i.e., Mangaung Metro, has recorded notable improvement in audit outcomes after the intervention, although it did not achieve a clean audit (Khaile, 2023).

Second, according to the A-G, the audit findings are being thoroughly discussed with the leadership at the national, provincial and local government levels, including the ministers, provincial premiers, mayors, mayoral committees, the speakers of councils, accounting officers and senior management. Thus, the national and provincial departments responsible for local government are given elaborate recommendations by the A-G on how to improve their support to the municipalities and commitments are made to enhance oversight and implement consequence management every year. To this effect, considerable financial and human resources – from national and provincial treasuries, Cooperative Governance and Traditional Affairs (COGTA), including deployment of experts and consultants (who do not come cheap) – are being pumped in a desperate attempt to ensure that the municipalities produce quality reports for audit purposes. For instance, the municipalities spent a total of R1.2 billion on consultants in the 2021/22 financial year without any tangible results on financial reporting (AGSA, 2023).

Finally, the Public Audit Act (24 of 2004) was amended in 2019 to give the A-G consequence management powers. The amendments empower the A-G to report non-compliance with legislation, fraud, theft or breaches of fiduciary duties to relevant law enforcement bodies like the Public Protector, recommend action, take binding remedial action and/or issue a certificate of debt in cases where the accounting officers and authorities do not resolve them appropriately. It remains to be seen whether the implementation of this act will make any difference to the situation.

Nonetheless, the above interventions seem not to help as the audit outcome results have remained the same over the years. According to Hamza (2021:11) this may be because the provided interventions “do not match the actual needs of the municipalities”, resulting from the fact that the higher levels of government do not have a comprehensive understanding of the problems besetting the municipalities. The failure of the interventions to have an impact on audit outcomes of the municipalities may be an indication of a wide principal-agent gap between the municipalities, other spheres of government and the public. Because of this, the municipalities are able to utilise their expertise and specialised information to avoid accountability and ostensibly resist interventions from the provincial and national governments.

Indeed, an assessment of the above interventions indicates an incomplete accountability and oversight function. It only

involves (1) chapter 9 institutions, particularly AGSA; (2) the national and provincial government – through section 139 interventions and recommendations on what is to be done; and (3) the leadership of the municipality. The latter includes the executive committees and administration in the form of the mayors, accounting officers or municipal managers, and chief financial officers (CFOs). Councils, which are supposed to be central to the accountability and oversight processes at local government level, seem to matter very little in the municipal accountability and oversight discourse as outlined above. There seems to be a tacit assumption that the national and provincial governments are more qualified to deal with local government issues than councils. This is clearly an elitist approach to accountability and oversight at local government level.

Section 79 of the Municipal Structures Act (117 of 1998) provides for the establishment of the municipal public accounts committees (MPACs), and other committees, manned by non-executive councillors, to assist in efficiently and effectively performing any council functions or exercising any of its powers tasked specifically with overseeing municipalities' financial management (RSA, 2015b). Particularly, section 79(A) gives MPACs a duty to study the A-G's recommendations with the view to establish whether they have been implemented. This involves initiating investigations especially on UIFW expenditure, as well as fraud and corruption. Unfortunately, these committees are close to non-existent in many municipalities. Where they exist, they are not sufficiently empowered and capacitated to do their jobs (AGSA, 2023). In comparison to the support drummed up to be provided to the national and provincial departments responsible for local government, the municipalities' financial departments, as well as provincial legislatures, there is little, if any, advice on processes and procedures to empower such oversight committees.

Perhaps, more attention should be given to strengthen the oversight function of the council to complement the existing accountability and oversight mechanisms. There is a need to look into stimulating horizontal accountability to augment the vertical accountability which, hitherto, seems to have been the major focus of the above-mentioned attempts. Using Koppel's (2005) framework of accountability dimensions discussed above, one can argue that the local government accountability practice in South Africa deals with transparency, liability and responsibility. It answers the questions as to whether the municipality revealed all the facts pertaining to its performance, followed the law and supply chain management policy in expenditure, and whether those who committed wrongdoing faced consequences.

While the A-G provides information in answering these questions, it is through the above-mentioned interventions

that the dire situation of municipalities is left to be dealt with. It is the municipal leadership, provincial and national government that are entrusted with ensuring that service delivery occurs, in exclusion of non-executive councillors who might be more motivated to ensure that municipalities spend the budget as required and that they fulfil the expectations of their communities. Therefore, this constitutes an accountability disorder because, while the budget is approved by council, the bulk of accountability is done only through the municipalities' leadership, provincial and national government. Secondly, the direct representatives of the communities who must benefit from the budget, both ward and proportional representation (PR) councillors, play a minimal role in scrutiny and oversight.

According to the Independent Electoral Commission (IEC), 9 473 councillors were elected as ward and proportionate representative (PR) councillors on the 1st of November 2021 (IEC, 2021). Assuming that the local government leadership referred to above makes up approximately 15% of these councillors, if section 43 of the Municipal Structures Act (117 of 1998)⁶ is anything to go by, over 8 000 councillors could be additional eyes and ears on the ground to complement the good job done by the A-G in an attempt to improve accountability and oversight over financial management and service delivery in local government.

In relation to accountability, the fact that they are closer to the executive, live in communities, and meant to serve communities on a daily basis, suggest that they might have more incentives to genuinely play a role in improving accountability and service delivery in local government. That these councillors are at the coalface of service delivery – and most likely to become the first victims of violent community protests – could spur them to action if given an opportunity to ensure that their communities are given basic services. This observation was also made by Verhelst and Peters (2024: 137) who observed that “although it was assumed that small but efficient elite suffices [to run municipalities], modern accounts stress the importance of involving every councillor in the process, as they all bring personal history, values, and political perspective to the role”. Perhaps, non-executive councillors are the missing link in overseeing the financial and non-financial performance in the municipalities.

Involving ordinary councillors in scrutiny and oversight processes can serve other purposes (Verhelst & Peters, 2024). First, it can enhance councillors' political consciousness and elevate the status of the ward office. Through scrutiny and oversight, councillors would have a deeper understanding of council policies and decisions and, in return, improve their performance on constituency work. Second, such an involvement could assist councillors in developing their political careers. As both their scrutiny and

⁶ Section 43 of the Municipal Structures Act (117 of 1998) provides that the executive committee of a municipality should not exceed 20% or 10 councillors, whichever is the least.

community representation work improves, councillors' reputation in their communities would increase, which would augment their political stature (Verhelst & Peters, 2024).

In a seminal work discussing different modes of legislature-executive interface in parliament, Anthony King (1976) shows that scrutiny and oversight is triggered when parliament is in a non-party or private mode. This happens in various parliamentary committees, which bring together backbenchers from both the ruling party and the opposition. In these committees, public representatives are forced to work together for the benefit of the community, far from intra-political party and factional issues and opposition politics dominating the plenary. In this mode, public representatives become 'professional' backbenchers. In an attempt to theorise the role of council in governance, Verhelst and Peters (2024: 143) hold that "the feeling of scrutiny being directly around the corner compels executives to act properly and professionally". According to King (1976), though, the committee system generally has little influence on policy and decision-making, even less than opposition parties, in majoritarian political systems.

Nonetheless, argued King (1976), it is in coalition governments that the impact of oversight can be seen, in what is called cross-party mode. Coalitions force interaction between dominant and subordinate parties in the executive and their respective backbenchers in the legislature, as well as agreement in voting based on issues on the table (Verhelst & Peters, 2024). The marriage, however, does not eclipse the fact that the parties are ordinarily in opposition to each other. This creates an environment of robust and genuine engagement unfettered by frivolous political considerations. For instance, in cases where administrators were only accessible to the majority party, they are now accessible to both the dominant and subordinate parties in coalitions. Where only a few were consulted, even the minority parties must be consulted in decision-making. The next section discusses how coalition politics can facilitate this scenario in South Africa.

Enter Coalition Politics at Local Government Level

Coalition politics in South African local government is not a new phenomenon, as this has been in motion since the first local government elections in 2000 (Booyesen, 2021). The 2000 local government elections resulted in 29 hung councils, 30 in 2006, 33 in 2011, and 27 in 2016 (Booyesen, 2021). While the number of hung councils was the smallest in 2016, the coalition politics stimulated scholarly interest in how these affect governance and service delivery at local government, because three major cities in Gauteng, i.e., Johannesburg, Tshwane and Ekurhuleni, became hung councils (Booyesen, 2021; Kariuki et al, 2022). The 2021 elections produced 66 hung councils out of the contested 213, with only four out of eight metropolitan municipalities achieving an outright majority (Kariuki et al, 2022; Sithole,

2023). The Cities of Johannesburg, Ekurhuleni, Nelson Mandela Bay and Tshwane were hung councils after the 2021 elections.

At the most basic, coalition government means two or more parties work together to produce the majority and form a government (Booyesen, 2001; Kariuki et al, 2021; Sithole, 2023). Coalitions can be crafted through a formal agreement or informal consensus of the parties in council voting together to form a government (ibid.). One can identify different types of coalitions such as a grand coalition, a bare majority, a minority coalition, and a governance of national or local unity. The common thread on these, though, is that there is always a dominant and subordinate party or parties in the relationship, which makes the relationship a rocky one (Brooks, in Booyesen, 2021). This is because the dominant parties seek coalition partners to consolidate power and small parties enter coalitions to have influence in government (ibid.).

Since 2021, South Africans have been treated to a spectacle of council fistfights and flying chairs, political horse-trading and contestations in such cities as Johannesburg, Ekurhuleni, Tshwane and Nelson Mandela Bay, because of the political instability that accompanied these coalitions. In some councils, such as the City of Johannesburg and the City of Ekurhuleni, the mayors and the mayoral committees have changed more than twice by the mid-term of the sixth political term between November 2021 and June 2024.

In response to this, the South African Local Government Association (SALGA) developed a framework on how to handle coalitions in local government (Beukes & de Visser, 2021). This is because, in the view of SALGA:

"Instability in a local coalition can have a severe impact as it may compromise the municipality's ability to adopt policies and by-laws, make senior management appointments, or even adopt a budget. Coalition instability ultimately compromises the municipal administration's ability to deliver services to local communities. It puts strain on the planning of the administration because it is difficult to predict whether items would pass in the council. Ultimately, local communities will continue to bear the brunt of unstable coalition politics." (Beukes & de Visser, 2021: 4)

While the above observation is welcome to kickstart the discussion about the future of local government coalitions in the country, Mutereko (2022) cautions that the spectacle seen on coalition councils should not be equated to the reality of the functionality of municipalities in fulfilling their mandate of service delivery. Of course, there is huge media interest in the drama unfolding around the formation of coalition governments, the disagreements and conflicts during their

course, and – particularly – their termination or collapse, which is usually accompanied by a frenzy of political activity. However, this should not make us hasten to castigate coalition governments without empirical research on how they negatively impact the municipalities. One can identify three research areas that would illuminate the impact of coalition governments on the municipalities, namely, financial management and delivery of services, politics-administration/bureaucracy interface, and council functionality.

With regard to financial management and service delivery, there is little evidence, if any, to support that indeed coalition governance has negative effects on service delivery. According to de Visser and Chigwata (2023), the local government administration is not able to function because if council does not approve policies such as the integrated development plan (IDP), credit control policy, zoning schemes, indigent policy, supply chain management, etc., service delivery will stall. This assertion is also based on an incredulous claim by one municipal manager that “When my council fails to meet, the next day, the trucks don’t leave the depot” (de Visser & Chigwata, 2023: 3). All the policies stated above are approved by councils once a year and some, such as the IDP and supply chain management policies, can be dealt with in an interval of five years. It is not clear how trucks can fail to leave a depot due to a failure of council meeting, because such functions are delegated to the administration and do not require a daily approval by council.

Another attempt to explain the impact of coalition on financial management and service delivery is made by Masiya (2022), who relates audit opinion outcomes of the municipalities and unauthorised, irregular, and fruitless and wasteful (UIFW) expenditure to coalition governments. Masiya (2022) claims that, for example, the fact that the cities of Johannesburg, Tshwane and Ekurhuleni had “material misstatements” in 2017/18 can be attributed to coalition governments. However, there is no evidence that such are a result of coalitions.

For instance, the cities of Tshwane and Johannesburg had achieved unqualified audit opinions with findings and material misstatements from 2010/11 and 2012/13 financial years, respectively, and this did not change over the period of the coalitions from 2016 to 2021. Furthermore, a comparative analysis of the cities’ financial performance shows that there had been a steady increase in UIFW expenditure and incidents or transactions in those cities since the late 2000s, making it difficult to see how coalition governments contributed to the trend. For example, the City of Johannesburg recorded approximately 95 UIFW transactions in the 2017/18 financial year – which is the anchor of Masiya’s (2022) argument – and

the highest of 217 in the 2012/13 financial year, when there were no coalitions. Similarly, the City of Tshwane recorded 16 UIFW transactions in 2017/18 and the highest of 59 in 2015/16, when there were no coalitions.

The research conducted on the political-administrative interface is not conclusive on whether coalition governments have a negative impact. Reporting on the research conducted on hung metropolitan municipalities in the 2016-2021 political term of local government, Olver (in Booysen, 2021: 269) observes:

“The coalitions in local government have tended to accentuate problems in the political-administrative interface, even though there have been some remarkably stable coalitions, which have been able to insulate administration from political fighting and build performing administrations”.

On the one hand, the research narrates stories told by senior managers of how political tensions of coalitions spill to the administration, prolong decision-making processes, plunge municipalities into policy uncertainties, and create a conducive environment for corruption. In such a context, city managers bemoan being caught up between the warring coalition partners, having to navigate contradicting policy positions, and being isolated by both their subordinates and political principals. In the latter case, the members of the mayoral committees (MMCs) tend to give instructions – most of which are for the benefit of both the concerned MMCs and directors – directly to the directors or heads of departments (HODs) without consulting the city managers, which creates accountability confusions.

On the other hand, Olver (in Booysen, 2021) shows that some coalitions yielded very well-governed administrations. Quoting a study done by Good Governance Africa, Olver (2021) shows that out of 20 best-performing municipalities, five were under coalition governments and this could be attributed to the heightened levels of accountability and oversight. In some cases, such as Nelson Mandela Bay Metropolitan Municipality, there is a good working relationship between the mayor and the city manager. In other cases, such as the GladAfrica scandal in the City of Tshwane, corrupt activities were stopped⁷.

Olver (2021) further shows that there is a continuation of the corrupt practices seen under the majority party government, but with a different hue under coalition governments. Where conflicts were between different party factions, they are now between and amongst coalition partners. Senior managers are not angels either in this situation, as they also have a fair

⁷ In 2017, the City of Tshwane awarded a three-year contract valued at approximately R1.2 billion for project management consultancy to a company called GladAfrica. It was alleged that the appointment of the company was done irregularly, which prompted an investigation and mutual termination of the

contract in 2019 before its expiry in 2020. By the time of its termination, the municipality had already spent over R498 million in payment of GladAfrica’s services (Goba, 2019).

share of the political play, which may have a negative influence on the direction a coalition government can take. By virtue of being trusted lieutenants in the relationship, some senior managers tend to attempt to manipulate the situation for their own benefit and individual survival. But, argues Olver (in Booysen, 2021: 292), "Regardless of whether municipalities are run by coalitions or majority parties, the interface between municipal administrations and council politics are vexed".

Some of the most rigorous research on this topic was conducted by Miller and McTavish (2012) on Scottish local government after the 2000 local government reforms, which saw the rise of coalitions not only in the municipal councils, but also at the ward level called multi-member wards or constituencies. They found that because of multiple – and sometimes contradictory – views and demands from coalition partners, policymaking and political decision-making become a tedious and painstaking process, which increases the complexity of the roles of senior managers in the municipalities. Just as it was also found in South Africa, senior managers find themselves playing the role of intermediaries between the coalition partners, which make them highly active political managers. However, this leads to a greater scrutiny of policy and decisions made in council and induces senior managers to consider the views of the majority of political parties in council, as opposed to one political party in a majority council (ibid.).

In terms of council functionality, one can argue that the political instability of coalition governments leads to the disruption of the council mandate of by-law making, oversight and public participation. Indeed, the contests make it difficult to pass by-laws, policies and scrutinise the items from the executive. In some cases, a council can go for days or weeks without a mayor or the mayoral committee or changes can happen in such rapid succession that the mayoral committees do not have sufficient time to familiarise themselves with the work of the administration to function properly (Olver, 2021). This means that during these times of leadership vacuum, there would be no one to account to council, or oversight committees such as MPAC, on the performance of the municipality. According to Brooks (in Booysen, 2021), political stability is a precondition of accountability in coalitions.

Nonetheless, Mutereko (2022), argues that below the drama of fights and disruptions is a world of informal negotiations, consideration of others' points of view, compromises and balancing of tensions, and efforts to satisfy multiple stakeholders with competing values and interests. According to Masiya (2022: 111-112):

"Governance authority [in coalition government] is diffused across institutions controlled by parties responsive to different societal interests in municipalities led by

coalitions. This encourages sincere commitments to long-term people-centred policy stability in South Africa ... With growing coalitions, it is apparent that various forms of coalition-led municipalities could influence the future of control and accountability in local government".

This is exactly what King (1976) meant by cross-party mode. It allows for sincere and rigorous decision-making as various interests must be taken into account and this runs through the legislature-executive setting, including the executive committees and council committees. As also argued by Verhelst and Peters (2024), Masiya (2022) further holds that coalition governance creates an anticipation of scrutiny from coalition partners, which promotes good governance, financial prudence, transparency and accountability. It is this situation that could be leveraged to strengthen the scrutiny and oversight function of councils, particularly as this is now legislated through the 2021 Structures Act amendments. For instance, coalitions in most metropolitan municipalities, such as the City of Johannesburg and the City of Ekurhuleni, saw, for the first time, MPAC chairpersons being appointed from the opposition parties (Mutereko, 2022).

According to Brooks (in Booysen, 2021), legislatures can also play an important role in the oversight of coalition agreements. By scrutinising the policies of coalition governments, legislatures can serve to close the wedge created by opposition forces existing between different parties in coalition. Through accountability to both the legislature and the public, coalition governments will be amplifying their chances of success in government (Brooks, 2021; Sithole, 2023).

What is to be done?

Following from the above discussion, one can make a few recommendations to be considered in order to strengthen the councils' scrutiny and oversight function in completion of the country's local government accountability architecture. First, there is a need to empower councils for them to play a meaningful role in the accountability system of local government. This requires us to go beyond the assumption that establishment of MPACs automatically translates to effective municipal accountability and oversight and start looking at councils' oversight potential and capacity. We need to ask ourselves about the structure of MPACs, its oversight tools, and how the oversight capacity can be stimulated to hold the executive accountable. Simply reiterating that accountability is the responsibility of council, expressing disappointment that it is not happening, and getting commitment from the councils and premiers that it will be strengthened, is not enough.

Second, just as it is the case at the national and provincial government level, there is a need for a local government oversight model at the local government level. Various guidelines produced by the National Treasury (NT),

Department of Cooperative Governance and Traditional Affairs (COGTA) and South African Local Government Association (SALGA) need to be synthesised to provide an oversight cycle, section 79 committee (including MPAC) template, and a picture of what effective section 79 committees look like. In doing this, we need to consider differences in municipalities and modalities through which oversight could be done in different municipalities. For example, oversight in executive committees-type municipalities should not be the same as in the mayoral-type municipalities. Also, the organisational makeup of cities such as the City of Johannesburg, which delivers almost all of its services through municipal entities, should be taken into consideration when thinking about accountability and oversight. Such a service delivery model adds another accountability layer, which makes it difficult for the council to play its oversight role.

Furthermore, the local oversight model must make provision for the involvement of the public in the oversight process. By doing so, it will be encouraging diagonal accountability, where the oversight committees of council, as horizontal oversight actors, and the citizens, civil society organisations and the media (vertical accountability actors) would be working together to hold the executive and administration accountable. This will heighten the accountability and oversight sensibilities of the executive and administration and act as a further deterrence for wrongdoing. As also argued by Verhelst and Peters (2024) above, the awareness of being watched by the principals makes the agents think twice before doing wrong things.

Third, coalition governments seem to be presenting an opportunity for the government to leverage on scrutiny expectation or anticipation in order to strengthen the scrutiny and oversight role of councils. This comes after the amendment of the Structures Act in an attempt to improve the scrutiny and oversight roles of councils. Therefore, the government could leverage on this to ensure that accountability and oversight is strengthened at local government level for the benefit of the communities.

At the national and provincial government level, the oversight model expressly seeks to insulate accountability and oversight from parliamentary politics by, firstly, ensuring that a certain level of service delivery to the communities occurs, even under political contestations amongst different political actors in government (Parliament of the Republic of South Africa, 2012). Secondly, the model aims to remove Parliament's work from confrontational opposition-based oversight, famous in Westminster parliamentary style, by setting conditions for collaboration between the legislature and the executive in service delivery, thus making the former partly liable for service delivery failures of the latter arm of the state. Perhaps, the availability of a unified oversight model will serve to conscientise coalition partners, both in the executive and the legislature, of the fact that service delivery failures as a result of coalition politics make them liable.

In addition to MPACs, councils should be encouraged to establish more oversight committees, manned by non-executive councillors under the stewardship of the Speaker of Council and the Whip of Council, to assist in carrying out their by-law making, oversight and public participation mandate. Depending on the size and the nature of municipalities, these committees may not be more than two in some municipalities and there might be more than 10 in others. In small municipalities, for instance, MPACs should be able and empowered to play an all-encompassing oversight role.

The committees may include standing committees and portfolio oversight committees. Just as it is the case in parliament (Republic of South Africa, 2012), the former should be permanent committees of council, comprising internal political management committees such as the programming committees, committees of chairpersons, and ethics committees; and transversal committees such as gender, youth and persons with disabilities (GEYODI) and MPAC. The latter, i.e., portfolio oversight committees, should correspond with the available portfolios in the executive or mayoral committee. For example, the Finance Department must account to the Finance Oversight Committee, and the Energy Department to account to the Energy Oversight Committee.

The powers, functions and duties of the committees must be codified in the standing orders of council, terms of reference of the committees, and the local government oversight model. The model should outline the process to be followed by the committees in scrutinising and interrogating the department's policies, plans, budgets and their financial and non-financial performance, as well as evaluation of the impact of the municipalities in communities. Some of these documents and reports are already provided in various legislative provisions, such as section 129 of the MFMA and circular 63 released by the National Treasury in 2013, providing guidelines on how councils should handle various accountability reports such as integrated development plans (IDPs) / medium-term revenue and expenditure frameworks (MTREFs), annual reports, and in-year service delivery and budget implementation plan (SDBIP) reports, by the mayor.

Since most of these are standard throughout a year, such as the fact that the mayor must table an annual report in council by the end of January every year, the oversight model must also provide for an accountability and oversight cycle designed in accordance with these reporting requirements and expected timeframes for the committees to deal with these. It must also outline oversight tools at the disposal of committees – such as powers to call the members of the mayoral committees (MMCs) to appear before the committees, research and investigation powers, and public participation strategy – to ensure an effective oversight process. The model must also provide guidelines on the relationship between the internal and external stakeholders

such as the HoDs, audit committees, AGSA, Public Protector, media and civil society organisations.

Furthermore, the committees must be provided with enough powers to determine their own agendas, provided with sufficient resources, and provided meeting dates in the council calendar to execute their mandate. This should include enough budget to do their own investigations and benchmark their work with other committees in the country or internationally. Also, they must be given sufficient support staff including committee officers, researchers, legal advisors, and public participation officers to assist them in their daily work. With these, councils will be able to oversee not only the performance of the departments, but also coalition agreements in cases of coalition governments. Non-executive councillors would also be empowered to play their oversight roles and learn more about the operations of the municipality. The other accountability and oversight actors – such as the A-G, provincial and national governments – would be able to get timeous and first-hand information about both the financial and non-financial performance of the municipalities, as well as enriched suggestions about what can be done to improve the situation in the municipalities.

Conclusion

This article sought to assess the accountability and oversight architecture of local government and its functionality in relation to financial management in South Africa. It shows that while there are legislative provisions of accountability and oversight in the mould of separation of powers principles at local government level, these provisions have not been utilised to the fullest, as the role of councils have been excluded to a large extent. Bringing in councils may assist in improving the municipalities' financial management and service delivery to the communities.

It is shown that the failure of the elitist interventions experimented with over the years seems to be an indication of a wide principal-agent gap between the municipalities, other spheres of government and the citizens. Locating these within the municipal accountability and oversight system, it is shown that oversight is done with little involvement of councils, which are supposed to be central to that process. The fact that the accountability and oversight practices at local government level focus only on transparency, liability and responsibility aspects of accountability suggests that there is an accountability disorder in South African local government. It is thus argued that involving councils as legislatures, and non-executive councillors, can play a role in completing this accountability and oversight architecture by bringing much-needed scrutiny of control and responsiveness as other aspects of accountability. Since they are closer to the financial management and service delivery action and live in communities, councillors can be regarded as a ready army to assist in the accountability and oversight processes of local government, if given an opportunity to do so in oversight

committees. This can also serve to create better councillors and politicians to serve in other capacities after their lives as councillors.

Using Anthony King's (1979) seminal work on different modes of legislature-executive interface, the article argues that the local government structures provide for the required non-party mode for effective oversight. Nonetheless, coalition politics in local government might be providing an opportunity to improve the situation. In coalition governments, the cross-party mode spreads scrutiny not only within the executive, but also on the political-administrative interface, legislature-executive interface, as well as within parliamentary committees. As the dominant parties need partners to hold onto power, and the minority political actors seek to have an influence in government, it becomes harder to ignore these different views and issues in running the government. This is the basis of effective scrutiny and oversight and gives rise to inclusive policymaking and decision-making, which argues well for service delivery and democracy.

Therefore, there is a need for a heightened focus on councils as the source of horizontal accountability. This requires the government to go beyond the establishment of municipal public accounts committees (MPACs) and stimulate councils' oversight potential and capacity. As argued by Pelizzo and Stapenhurst (2014), not only do we need to ensure that MPACs and other oversight committees have appropriate oversight tools, but these need to be used for the efficacy of the oversight capacity of councils. Furthermore, there is a need for the establishment of an oversight model at the local government level. So as to avoid multiple accountability disorders, the oversight model must be specific and clear on its definition of accountability, as well as the roles of different stakeholders in the accountability system of local government. Also, the model must consider differences in municipalities, as accountability and oversight in a small municipality of 20 councillors cannot work similarly to a 200-councillors strong metropolitan city delivering 80% of its services through municipal-owned entities. It must also encourage community involvement in the oversight processes of the council.

The article further highlights some of the important characteristics of a functional accountability and oversight strategy, such as the types of committees required and the fact that the committees' powers, functions and duties must be formalised through standing orders of council, committees' terms of reference, and the local government oversight model. The committees must further be autonomous and independent enough to exert their influence on the affairs of the municipalities. The oversight model should provide for the modalities through which oversight must happen, oversight tools at the disposal of the committees, as well as guidelines in management of the relationship between the legislature and various stakeholders.

Through these and learning from those who have done it before, it is possible to strengthen accountability and oversight at local government for the benefit of the communities.

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