

TERMS OF REFERENCE NAMA KHOI MPAC

(Municipal Public Accounts Committee)



*Adopted by Council
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ABBREVIATIONS

- MPAC - Municipal Public Accounts Committee
- TOR - Terms of Reference
- EXCO - Executive Committee
- MFMA - Municipal Finance Management Act
- HOD - Head of Department
- AG - Auditor General

MPAC: TERMS OF REFERENCE

INTRODUCTION

- 1.1 The Municipal Public Accounts Committee (MPAC) is established in terms of *Section 79* of the Municipal Structures Act as a Committee of Council for the efficient and effective performance of its functions. The MPAC Terms of Reference (TOR's) is the statement of its functions and responsibility as delegated by the Council. The Terms of Reference states the purpose of the Committee and its specific responsibilities. MPAC is the Committee of the Council and answerable to the Council on performance of its functions. MPAC's recommendations are only binding when adopted as Council resolutions
- 1.2 The role of MPAC is to serve as an oversight Committee and to review Nama Khoi Municipality's Annual Report with specific focus on the financial aspects as contained in the Auditor-General's Report and also when instructed by the Council to advise Council in respect of unauthorized, irregular or fruitless and wasteful expenditure in terms of *Section 32(2) of the Municipal Financial Management Act (MFMA)*
- 1.3 The Committee (MPAC) is a link in the accountability chain and plays accountability role at the local sphere of government. It enhances the accountability process by ensuring that there is objective political oversight in addition to the other governance committees, such as Council Executive, EXCO, Finance Portfolio and the Independent Audit Committee.
- 1.4 MPAC will assist Council to hold the executive and municipal agencies to account as well as ensure the efficient and effective use of public finance.
- 1.5 For the Committee (MPAC) to fulfil its functions properly, it needs appropriate information.
- 1.6 The MPAC enables the Council, in respect of financial management, to fulfill its constitutional obligation to scrutinize and oversee executive action with regards to financial administration and non financial activities.

Oversight in the Municipality enables the Council to:

1. gain the trust of the voters on good governance related to public resources;
2. to improve service delivery and performance;
3. to hold the executive and administration accountable for their stewardship on policy implementation and use of municipality funds;
4. to enables councillors to evaluate the performance of the municipality against the set and agreed targets;
5. to report on performance of the municipality to their constitutions; and

6. to enhance the integrity of the municipality and thereby installing confidence by the local communities.
7. Monitor , implementation of recommendations by the AG Audit Committee and Internal Audit

2. METHOD OF WORK

- 2.1. It is important that the Committee conducts its affairs in a non-party political manner so as to maximise the effectiveness of its work
- 2.2. The media can be invited to the MPAC meetings as they play an important role in reporting the activities and resolutions of the Committee to the wider public.
- 2.3. The Auditor -General or his / her representative is in attendance at all hearings, except where the Chairperson after consultation with the Auditor – General, feels that the circumstances do not require his or her presence. Finance is also expected to attend all hearings to answer questions as the Department with overall responsibility for regulating financial control and monitoring financial management.
- 2.4. Internal Audit will also be in attendance at hearings, except where the chairperson, after consultations with the Chief Audit Executive agrees that Internal Audit presence will not be necessary at the particular hearing.
- 2.5. MPAC is a committee of Council and therefore Council should determine its composition by a full resolution of Council. The recommended composition of MPAC is as below:
 - 2.5.1 Municipalities with between 15 and 30 councillors may nominate up to 9 members.
 - 2.5.2 The following councillors should be excluded from MPAC, i.e. Mayor , Speaker, Chief Whip, a member of the Executive Committee and Portfolio Committee Chairpersons.
 - 2.5.3 Where the municipality has a sufficient number of councillors, councillors serving on the MPAC should preferably not serve on other Committees of Council to minimise a possible conflict of interest.
- 2.6 The Chairperson should be appointed by means of a Council resolution. If the chairperson of the committee is absent from a specific meeting of the committee, the members present must elect a chairperson from the members present to act as chairperson for that meeting.
- 2.7 Members should be appointed for a term which corresponds to the sitting of Council. If re-elected may serve for only one further term of office(5 year period). To ensure continuity of expertise in the future, it is proposed that the terms of appointment of two members appointed in the first year, vary.

- 2.8 When a member of the MPAC cannot for any reason continue as a member he/she shall forthwith be replaced by Council.
- 2.9 A quorum shall be the majority of the members plus one.
- 2.10 Members shall not receive any additional remuneration for services rendered.
- 2.11 Membership of MPAC shall be established in the Annual Report.
- 2.12 The effectiveness of the MPAC must be evaluated by the Council on an annual basis.

3. ATTENDANCE OF MEETINGS

- 3.1. Meetings of MPAC are held quarterly. Special meetings can be called where circumstances warrant it.
- 3.2. Members refrain from lengthy debates of issues at public hearings, as the main purpose is to evaluate the information presented and to obtain information by questioning the relevant officials. A standard practise has evolved whereby specific members are responsible for leading questioning about a topic allocated to him or her during planning stage of the Committees preparation. However, this does not preclude any other member from also raising questions on the same topic.
- 3.3. Committee hearings for taking evidence are open to the public media.
- 3.4. Cognisance is taken of the Municipal Finance Management Act, No 56 of 2003, and Chapter 15 – Financial Misconduct, which the Committee will have to consider when addressing unauthorized, irregular or fruitless expenditure as well as other non-compliance issues.
- 3.5. The applicable HOD's and Executive Councillors should attend as and when necessary depending on the content and detail of the agenda.
- 3.6. The MPAC is also empowered to invite persons employed by Nama Khoi Municipality with relevant experience to attend its meetings as it deems fit. Where internal resources are not available, external assistance may be obtained through the assistance of the internal department.
- 3.7. MPAC Office will send out Agendas with supporting documents (if any) at least 7 days prior to a meeting for preparation purposes. Notice of the meeting shall be given at least 14 days prior to the meeting.
- 3.8. MPAC Office with the assistance of the Council Secretariat and Internal Audit provides research and administrative support to the Committee. Internal Audit, and on occasion the Audit-General, provides the Committee with support of a technical nature.

3.9. Financial resources: The Budget on the MPAC is approved by Council control and manage by MPAC.

4. AUTHORITY

4.1. MPAC is authorised to seek any information from and have access to any councillor and/or employee, and to direct all councillors or employees to cooperate with any request by the committee

4.2. Have unrestricted access through the Office of the Municipal Manager to information relating to all personnel, books of account, records, assets and liabilities of the Council and to any other sources of relevant information that may be required from the Council for the purpose of its duties and responsibilities.

4.3. It shall have the authority to instruct committee members, management and other employees of the council to be present at any given meeting for possible interview and input regarding items on the agenda

4.4. The MPAC shall have direct access to internal and external auditors and to direct investigations into any matters referred to it by Council.

4.5. The committee should have permanent referral as they become available of :-

4.5.1. All financial statements and the Annual Report of the municipality and its municipal entities as part of the Committee's oversight process

4.5.2. Audit opinion, other reports and recommendations from the Audit committee

4.5.3. Reports in respect of transgressions in terms of the *MFMA pertaining Sections 32(2) of the MFMA*

4.5.4. Information in respect of transgression in terms of the *MFMA* pertaining to the Council and its Municipal Entities, i.e. failure to prepare and adopt the Annual Report as well as the submission and auditing of the annual financial statements.

4.5.5. Feedback on corrective action taken in respect of recommendations by the MPAC.

4.5.6. Information in respect of any disciplinary action taken in terms of the *MFMA* where it relates to an item that is currently serving or has served before the committee.

4.5.7. Any other audit report from the municipality; and

4.5.8. Performance information of the municipality.

4.6. The Standing Rules for the Council applies to the Committee and provide various other rights and powers to the Committee to assist it in carrying out its functions effectively, for example:

4.6.1 the power to work with other committees of Council

4.6.2. the right of other Committee Members to attend in an observation capacity will be accommodated, but participation in the Committee hearing will be at the discussion of the MPAC Committee members.

4.7 To ensure that the Council oversight report as envisaged in Section 129 of the MFMA is prepared for adoption by Council and that corrective action has been taken in respect of the comments and resolutions in respect of the oversight report.

5. DUTIES OF MPAC

The primary duties of the MPAC shall be:

5.1. To consider any Audit Committee recommendations referred to MPAC

5.2. To report to Council and the EXCO on the activities of the Committee

5.3. In respect of the Oversight report i.e. *Section 129(1)*:

5.3.1. To consider and evaluate the content of the Annual Report of the Council and its entities and to develop the oversight report which will include recommendations to Council (i.e. comments and resolutions) when adopting an oversight report on the annual report.

5.3.2. To examine the financial statements and audit reports of the municipality and municipal entities with the aim of considering the improvement from previous statements and reports and the extent to which the Audit Committee and Auditor-General's recommendations have been implemented

5.3.3. Conduct an informal briefing session with the Auditor-General (approximately one week after the Annual Report was tabled in January) where the MPAC could post relevant questions to obtain further clarity on audit report.

5.3.4. At a formal meeting of the MPAC the Accounting officer and members of the Executive Management team would then be required to respond to the MPAC in respect of questions that the committee may have regarding the Annual Report.

5.3.5. To review and track the comments and resolutions as per the Oversight Report in respect of the evaluation of the Annual Report, in order to ensure that matters are concluded that may not previously have been finalised

5.4. To undertake an investigation referred to it through a resolution of Council, in respect of Section 32(2) of the MFMA or any other area within its Terms of Reference area of responsibility with a view to recommend to Council whether such expenditure is irrecoverable or not.

5.5. MPAC is not responsible and does not concern itself with the policy formulation or authorization of Council or with determining its merit. The committee is concerned with how

policy is carried out, by ensuring that the policies and programmes of Council are implemented :-

- 5.5.1 within a framework of sound financial management;
 - 5.5.2 with due adherence to probity;
 - 5.5.3 giving due scrutiny of the regularity, efficiency and effectiveness of the collection of revenue; and
 - 5.5.4 with due regard to maintaining legislative accountability and enhancing it where necessary.
- 5.6. To work very closely with the Audit Committee, an independent body, that advises Council and EXCO on financial and risk matters to ensure maximum accountability.
- 5.7. To work very closely with the Auditor-General, an independent organisation, to obtain information regarding the financial management of the Municipality and its entities where necessary.
- 5.8. To ensure that proper accounting records are kept by requesting and evaluating documentation obtained when conducting an investigation into any matter.
- 5.9. To promote good governance, transparency and public accountability on the use of municipal resources.
- 5.10 To evaluate, direct and supervise investigations into any matters within in the scope of its duties and responsibilities including projects as requested by the Mayor, EXCO and/or Council
- 5.11 To report on any investigations requested in terms of *section 5.8* to the ToR.

6. REPORTING BY THE MPAC

- 6.1. The Committee has no executive powers, however, the findings and recommendations of the Committee carry considerable weight for good governance. The committee submits report to Council on its recommendations as soon as possible after adoption. These recommendations are submitted to Council for consideration and approval.
- 6.2. The MPAC must discuss and adopt its report for Council in accordance with the procedure for tabling matters in Council defined in the standing rules of Council.
- 6.3. The name of individuals are not normally included in its reports, except in exceptional circumstances, and only if all Committee members agree. These reports would then be considered at in-committee meetings.

6.4. The MPAC should be able to communicate freely with the Mayor, EXCO, the Speaker and the Finance Portfolio Committee.

7. MONITORING BY MPAC

7.1. The Committee should have effective follow-up procedures to determine if the action has been taken to implement its recommendations. Without this last link in the accountability chain, much of the work done by the Committee, Auditor-General and Internal Audit may be wasted.

7.2. Replies to recommendations contained in Reports of the MPAC Committee are required from the accounting officer or designated official concerned. The replies are important documents, as they are intended to convey the considered view of the executive to the matters raised on behalf of the Council by the Committee. They should indicate the action taken or to be taken by the executive in the implementation of such recommendation which are accepted, and, where not accepted, reasons should be provided for the non-adoption thereof which will be reported to Council.

7.3. The replies to reports from the AG and Audit Committee are to be provided to MPAC at its meetings or at a date determined by MPAC

7.4. The replies submitted to MPAC should be signed by the accounting officer or the relevant Executive Director as he/she will be held accountable for assurances and implementation actions furnished in the reply.

7.5. Attention should be drawn to the act that late replies or no replies will be reported to the Committee.

7.6. The format of the reply/replies must meet the following requirements:

7.6.1. Replies must be brief and concise and vagueness must be avoided.

7.6.2. Where corrective steps are still to be taken, target dates must be given.

7.6.3. If directive circulars in respect of the Committee resolution have been issued, full particulars must be given.

7.6.4. Highly technical background information/terminology, where essential to the reply, should be provided in separate annexures.

7.6.5. Where a department does not agree with a recommendation of the committee, this must be fully motivated in the reply.

7.7. The Departmental Head/ delegated person will be asked to give account to the Committee in cases where replies were not received in time for the Internal Audit to table or where the reply is obviously incomplete.

7.8. Where further investigation is required in terms of replies received, the MPAC schedules a review of these replies in order to decide on any further action that may be necessary. Such action normally consists of one or more of the following :

- 7.8.1. accepting the reply and reporting on it back to Council
- 7.8.2. further enquiry through correspondence, for matters not satisfactorily responded to by the Departmental Head;
- 7.8.3. calling the Departmental Head/Executive Member/ Accounting officer before the Committee in the case of responses of a materially unsatisfactory nature

8. WORK FLOW

8.1. The Committee uses a schedule of outstanding matters to keep track of the various stages of the Committee's review process with respect to each of the reports of topics under consideration.

8.2. It is the intention of the committee to deal with all matters referred to it, though not all with the same amount of detail. It is therefore important to prioritise the items on the schedule of outstanding matters

8.3. The Committee in consultation with the Chief Audit Executive adopts a programme of activities annually. The programme is flexible, however, and is often amended to accommodate new priorities.

8.4. The Committee must appoint a member to perform an in-depth investigation on the matters referred to the committee.

8.4.1. In order to arrive at informed findings and recommendations the MPAC collect as much information which may involve interviewing officials and scrutiny of supporting and relevant documentation.

8.4.2. During investigations reporting will be done on a formal or official template of council and should include details relating to the background, management action taken and recommendations regarding the corrective action.

8.4.3. Once MPAC is satisfied with the investigations it adopts the report and make recommendation to the Council.

8.4.4. Once Council has adopted the recommendations of the MPAC, the officials will be required to implement the recommendations.

8.4.5. The Officials will be required to provide feedback to the Committee on the implementation of recommendations in a required time frame.

8.5. A retrospective evaluation of its work for the year should be done annually for the Committee to determine how effective it had been, through a process of self-evaluation and evaluation by Council.

8.6. The Committee would require input from Internal Audit on the following matters, if necessary :

- 8.6.1. Briefing of Committee members at preliminary meetings;
- 8.6.2. Assistance in preparations of reports to be submitted to Council;
- 8.6.3. Assistance in advising the sub-committee on technical matters and obtaining the relevant information in to perform its investigations;
- 8.6.4. The preparation of the agenda and outstanding matters schedule and review of the minutes prepared by Executive Support of the main meetings;
- 8.6.5. The preparation of agendas, minutes and logistics for sub-committee meetings;
- 8.6.6. Assistance in co-ordination of the procedures related to the evaluation and scrutiny of the Annual Report;
- 8.6.7. Assistance in the preparations of the Oversight Report;
- 8.6.8. Assistance in trading of comments and resolutions of the Oversight report;
- 8.6.9. Internal Audit to co-ordinate responses to reports in order to ensure independence and confidentiality;
- 8.6.10. Performs research regarding developments within the sphere of Public Accounts Committee;
- 8.6.11. Prepares and conducts the required training;
- 8.6.12. Liaise with service providers regarding training and conferences pertaining to Public Accounts Committees; and
- 8.6.13. Assign the coordination of the annual assessments of Committee by Council.

9. LEGISLATIVE FRAMEWORK

The Oversight process will be guided by the following Legislation and other important resources:

- 9.1. Guideline for the Establishment of Municipal Public Accounts Committee (*by the Department of Cooperative Governance and the National Treasury, 2011*)
- 9.2. Handbook for the Municipal Councillors : Councillors Induction programme (*SALGA & GTZ South Africa , March 2006*)
- 9.3. Municipal Public Accounts Committee : Enhancing oversight in the municipality – practical guide (*SALGA, March 2012*) ,
Municipal Financial Management Act , *Circular 32, 2006*
- 9.4. Municipal Financial Management Act (*Act 53 of 2003*), *MFMA*
- 9.5. Municipal Systems Act (*Act 32 of 2000*) as amended, *MSA*
- 9.6. Municipal Structures Act (*Act 32 of 2000*) as amended
- 9.7. Municipal Structures Act (*Act 117 of 1998*) as amended
- 9.8. The Constitution of the Republic of South Africa (*Act 108 of 1996*) as amended
- 9.10 Training manual for MPACs (*Association of Public Accounts Committ*