



# **Makhado Local Municipality**

## **Municipal Public Account Committee (MPAC) Charter**

**(Council Resolution A.105.29.06.17)**

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## **1. PURPOSE**

The purpose of the MPAC charter is to set out membership, authority, responsibility and status of the MPAC within the organization. MPAC shall perform its responsibilities in terms of the charter and shall be reviewed at least annually to ensure relevance.

## **2. DEFINITIONS/ACRONYMS**

- 2.1.** APAC : Audit and Performance Audit Committee
- 2.2.** AG : Auditor-General (SA)
- 2.3.** M:IA : Manager: Internal Audit
- 2.4.** CFO : Chief Financial Officer
- 2.5.** RMO : Risk Management Officer
- 2.6.** Dir : Directors
- 2.7.** DORA : Division of Revenue Act
- 2.8.** IA : Internal Audit
- 2.9.** IDP : Integrated Development Planning
- 2.10.** IT : Information Technology
- 2.11.** MFMA : Municipal Finance Management Act
- 2.12.** MM : Municipal Manager
- 2.14.** MPAC : Municipal Public Accounts Committee
- 2.15.** MSA : Municipal Systems Act
- 2.16.** MSA (Str) : Municipal Structures Act
- 2.17.** SDBIP : Service Delivery and Budget Implementation Plan
- 2.18.** SALGA : South African Local Government Association
- 2.19.** COGHSTA : Cooperative Governance, Human Settlements and Traditional Affairs
- 2.20.** SAICA : South African Institute of Chartered Accountants

## **3. INTRODUCTION**

Its primary responsibility is to provide oversight over the executive functionaries of council and to ensure good governance in the Municipality

#### **4. LEGISLATION GOVERNING/GUIDING THE MPAC**

- 4.1 The Constitution of the Republic of South Africa No. 108 of 1996, Section 152 (1) (a)
- 4.2 Local Government Municipal Systems Act No. 32 of 2000, section 49 read together with par 14 (2) of Local Government: Municipal Planning and Performance Management Regulations, 2001
- 4.3 Local Government Municipal Finance Management Act No. 56 of 2003, section 166
- 4.5 Local Government Municipal Structures Act No.117 of 1998, Section 79, (1) (a)- (c)
- 4.6 All MFMA Regulation

#### **5. AUTHORITY**

In order to carry out its responsibilities effectively and independently, the MPAC has the following authority:

- 5.1 To report to Council on the activities of the Committee including a report detailing its activities of the preceding financial year
- 5.2 To review the municipal quarterly or annual performance report.
- 5.3 To examine the annual financial statements and audit reports of the Municipality and check whether there are any improvement from previous statements and evaluate the extent to which the Audit and Performance Audit committee's recommendations have been implemented.
- 5.4 To promote good governance, transparency and accountability on the use of Municipal resources.
- 5.5 To recommend any investigation in its area of competence to council.
- 5.6 To seek any information and have access to information through the Speaker in respect of Councillors and through the Municipal Manager in respect of employees.
- 5.7 To perform any other functions assigned by resolution of council within the areas of competence.
- 5.8 To request independent professional advice when necessary through the Office of the Speaker subject to approval by Council.

- 5.9 Engage freely with Council, Mayor and Speaker against any matter requiring attention.
- 5.10 To investigate, interrogate and comment on any other matter contained in its Terms of Reference subject to a referral by Council.

## **6. OBJECTIVES**

- 6.1 To serve as an oversight committee to exercise oversight over the executive obligations of council.
- 6.2 To assist council to hold the executive to account, and to ensure the efficient and effective use of municipal resources. By so doing, the MPAC would help to increase council and public awareness of the financial and performance issues of the municipality
- 6.3 To enhance the objectivity and credibility of reporting to municipal stakeholders.

## **7. COMPOSITION**

### **Membership**

- 7.1 The Municipality has determined the number of members that will be appointed as MPAC members, taking into account the number of councillors in the Municipality (within 75 councillors). The Committee members of the Municipality will comprise of a maximum of 11 members.
- 7.2 Preferably members will be appointed for the term of the Council, however Council retains its power and authority to review all its Committees at any time it deems it fit.
- 7.3 The MPAC will comprise of councillors excluding any councillor who is serving as Mayor or Deputy Mayor, Speaker, Chief Whip, a member of Mayoral Committee, a member of the Executive Committee or a member who is saving in any council committee.

- 7.4 Councillors serving on MPAC should preferably not serve in other Committees of Council to minimize possible conflict of interest.
- 7.5 When a councillor resigns or is transferred from the committee, the resignation must be in writing and council must appoint a replacement by resolution at the next scheduled full council meeting.
- 7.6 The following officials will be invited to MPAC meetings:
  - 7.6.1 Speaker: (Invitation – attendance is not compulsory)
  - 7.6.2 Manager: Internal Audit (Standing Invitation)
  - 7.6.3 Auditor-General (Standing Invitation)
  - 7.6.4 Representative(s) of Provincial Treasury (Standing Invitation)
  - 7.6.5 Representative(s) of COGHSTA (Standing Invitation)
  - 7.6.6 Representative(s) of SALGA (Standing Invitation)
  - 7.6.7 Representative(s) of Legislature (Standing invitation)
  - 7.6.8 Representative of the Community ( Only Public hearings)

## **8. ORGANISATIONAL ARRANGEMENTS**

- 8.1 Names of the members serving will be published in the annual report.
- 8.2 Each member should be capable of making valuable contributions to the Committee.
- 8.3 Each member will also sign a Code of Conduct which will be customised from the one of Councillors -MSA Schedule 1.
- 8.4 A quorum will be 50% + 1 member.
- 8.5 MPAC may have one on one meeting with Internal Audit manager and the Auditor-general.
- 8.6 Members of MPAC make presentation at the MPAC meetings.

## **9. CHAIRING OF MPAC**

- 9.1 The Chairperson of the Committee is appointed by Council Resolution.

- 9.2 When appointing the Chairperson of the Committee, Council must take into consideration the requirements of transparency, ethical behaviour and general good governance prescripts.

## **10. FREQUENCY OF MEETINGS**

- 10.1 Section 160(7) of the constitution provides that a Municipal Council must conduct its business in an open manner and may close its sittings. As principle, the meetings of the MPAC should be open to the public and the rules and procedures of the committee should specify in which instances the meeting can be closed to the public.
- 10.2 A minimum of four (4) meetings in a financial year must be held or as may be necessary in accordance with the approved work programme. The meetings of MPAC should be included in the annual calendar of Council and the notice requirements should be similar to those of other committees of Council taking into consideration the timeframes in the Municipal Finance Management Act for preparation and adoption of the oversight report on the Annual report.
- 10.3 The notice of the meetings will be given at least 14 days prior to the meeting. Agendas and relevant documents shall be received at least seven days prior meeting for preparation purposes.
- 10.4 The presence of at least fifty percent plus one of the numbers of MPAC members shall constitute a quorum.
- 10.5 Proceedings of all meetings shall be recorded by way of taking minutes by the municipality secretarial and administration services.

## **11. VACATION OF THE OFFICE**

- 11.1 Resigns as a member of the MPAC.
- 11.2 Is removed from the committee by Council.
- 11.3 Failed to attend three consecutive meetings.

- 11.4 Removed from position of trust.
- 11.5 The Council with the concurrence of the members of MPAC may terminate the service of a committee member when it has been determined that the member has acted in a negligent manner.

## **12. CONFLICT OF INTEREST**

Should any member of the MPAC have any personal financial interest or gain resulting from any discussion at a meeting he/she may not participate in any such discussion and may at the discretion of the Chairperson be requested to leave the meeting.

## **13. DELEGATION, ROLES AND RESPONSIBILITIES OF THE MPAC**

**13.1 The following responsibilities** are to be delegated to the MPAC in terms of the provisions of section 59 of the Systems Act:

13.1.1 The authority to interrogate the following documents and to make recommendations to the municipal council in accordance with the terms of reference of the committee:

- 13.1.1.1 Unforeseen and unavoidable expenditure;
- 13.1.1.2 Unauthorised, irregular or fruitless and wasteful expenditure;
- 13.1.1.3 SDBIP
- 13.1.1.4 Monthly budget statements
- 13.1.1.5 Mid-year budget and performance assessment;
- 13.1.1.6 Mid-year budget and performance assessment of municipal entities;
- 13.1.1.7 Disclosures concerning councillors, directors and officials;
- 13.1.1.8 Annual financial statements;
- 13.1.1.9 Annual report;
- 13.1.1.10 Issues raised by the A-G in the audit reports;
- 13.1.1.11 Disciplinary steps instituted in terms of the MFMA;
- 13.1.1.12 The review of the IDP post elections;
- 13.1.1.13 The annual review of the IDP;
- 13.1.1.14 Performance management plan;

- 13.1.1.15 The draft annual budget with reference to the approved IDP;  
and
- 13.1.1.16 Declaration of interest forms submitted by councillors.

**13.2 The authority to instruct** any member of the executive or the municipal manager through the Office of the Speaker to attend the meeting of the MPAC to address matters specified by the MPAC and to provide the MPAC with copies of documents to be dealt with by the committee in terms of its terms of reference.

### **13.3 Terms of reference for the MPAC**

The MPAC must interrogate the following financial aspects addressed in the Municipal Finance Management Act:

#### **13.3.1 Unforeseen and unavoidable expenditure (Section 29)**

- any unforeseen and unavoidable expenditure incurred must be reported to the MPAC;
- proof of the necessary appropriation in an adjustment budget;
- the MPAC must consider the expenditure and make recommendations to the council; and
- where the necessary adjustment budget has not been prepared, the MPAC must report same to the council.

#### **13.3.2 Unauthorized, irregular or fruitless and wasteful expenditure**

(Section 32)

- any unauthorized, irregular or fruitless and wasteful expenditure by the council, mayor, executive committee or any political office bearer of the municipality must also be reported to the MPAC;
- the municipal manager must report to the MPAC on all steps taken to either authorize or certify the payment or to recover or write off the expenditure;

- the municipal manager must report on whether any criminal action was instituted in this regard; and
- the MPAC must report to the council on the appropriateness of the any criminal or civil steps taken and report where no further action was taken and why.

**13.3.3 The quarterly report of the mayor on the implementation of the budget and the state of affairs of the municipality / SDBIP (Section 52(d))**

- a copy of the quarterly report of the mayor on the implementation of the budget and the state of affairs of the municipality must be submitted to the MPAC;
- where the report is not submitted to the MPAC within 30 days after the end of the quarter, the MPAC must report this to the council;
- where the report is submitted, it must be interrogated and recommendations must be made to the council;
- the MPAC must ensure that the mayor attend to the necessary amendments to the SDBIP and submit the necessary report to the council with proposals for the adjustment budget, and where this is not done by the mayor, report it to the council;
- the MPAC must report any matter of concern regarding the report of the mayor to the council.

**13.3.4 Monthly budget statements (Section 71)**

- the monthly budget statement submitted to the mayor must be submitted to the MPAC;
- the MPAC must interrogate the statement and report any matter of concern on the statement to the council.

**13.3.5 Mid-year budget and performance assessment (Section 72)**

- the mid-year budget and performance assessment report submitted to the mayor must be submitted to the MPAC;

- the MPAC must interrogate the assessment and submit its comments on the assessment to the council.

### **13.3.6 Disclosures concerning councillors, directors and officials** (Section 124)

- as part of its interrogation of the annual financial statements, the MPAC must ensure that the necessary disclosures were made in the financial statements, including:
  - salaries, allowances and benefits of political office bearers and councillors of the municipality;
  - arrears owed by individual councillors by the municipality for more than 90 days;
  - salaries, allowances and benefits of the municipal manager, CFO and senior managers;

### **13.3.7 Submission and auditing of annual financial statements** (Section 126)

- copies of the financial statements submitted to the A-G must be submitted to the MPAC as well as proof of submission thereof to the A-G;
- where the MPAC has not been provided with the financial statements or with proof that it has been submitted to the A-G, it must be reported to the council.

### **13.3.8 Submission of the annual report** (Section 127)

- the annual report must be submitted to the MPAC no later than two weeks after the date required for submission to the council;
- where the annual report is not submitted to the council as required, the MPAC must be provided with a copy of the written explanations of the mayor as submitted to the council;
- where neither the annual report nor the explanation has been submitted, the MPAC must report same to the council;

- the MPAC must monitor that the annual report has been submitted to the A-G, as well as the provincial government departments required and has been published for comment.

#### **13.3.9 Oversight report on the annual report (Section 129)**

- the MPAC must consider the annual report and prepare a draft oversight report to be submitted to the council for purposes of adopting the oversight report;
- in preparing the draft oversight report, the MPAC must consider all representations in connection with the annual report received from the local community;
- the meeting of the MPAC considering the annual report must be open to the public and members of the local community must be allowed to make representations in connection with the annual report at the meeting;

#### **13.3.10 Issues raised by the Auditor-General in audit reports (Section 131)**

- the MPAC must be provided with the report prepared to address issues raised by the A-G;
- where the report is submitted, MPAC should interrogate same and make recommendations to the council; and
- where the report has not been submitted, MPAC should report this to the council.

#### **13.3.11 Disciplinary action instituted in terms of the MFMA**

- all disciplinary processes instituted for the contravention of the MFMA must be reported to the MPAC;
- MPAC must monitor that all matters are brought to conclusion;
- MPAC must report to council where matters are not dealt with effectively and timeously.

### **13.4 The MPAC must interrogate the following aspects addressed in the Municipal Systems Act**

#### **13.4.1 Review of the IDP post elections (Section 25)**

- MPAC must monitor whether the Mayor / Exco initiate the review of the IDP posts elections;
- Where the review is not done, the MPAC must report same to the council.

#### **13.4.2 Annual review of the IDP (Section 34)**

- MPAC must monitor whether the Mayor / Exco initiate the annual review of the IDP;
- Where the review is not done, the MPAC must report same to the council.

#### **13.4.3 Performance management plan (Section 39)**

- MPAC must monitor whether the annual performance plan is being prepared;
- Where the plan is not prepared, the MPAC must report same to the council.

#### **13.4.4 Monitoring that the annual budget is informed by the IDP (Regulation 6 of the Local Government: Municipal Planning and Performance Management Regulations)**

- MPAC must review the draft annual budget and ensure that it is informed by the IDP adopted by the municipal council; but
- Where the draft annual budget is not aligned with the IDP, the MPAC must report same to the municipal council.

#### **13.4.5 Monitoring that all declaration of interest forms are completed by councillors on an annual basis (Section 54 read with Item 7 of Schedule 1)**

- MPAC must monitor whether all councillors have completed their declaration of interest forms and update it annually;
- Where declaration of interest forms have not be completed or updated same must be reported to the municipal council.
- The MPAC must prepare an annual work plan for approval by the municipal council prior to start of the financial year.

**14. REVIEW OF THE CHARTER**

The charter will be reviewed subject to approval by Council.

**15. ACCOUNTABILITY**

MPAC is accountable to the Council in terms of section 79 of the Local Government: Municipal Structures Act, No 17 of 1998 as amended

**16. AMENDMENTS**

Any amendment to this Charter shall be first recommended by the Committee and thereafter approved by Council.

**17. APPROVAL OF THE CHARTER**

The Charter approved on the \_\_\_\_\_ day of \_\_\_\_\_  
2017

\_\_\_\_\_  
Prepared and recommended by MPAC

\_\_\_\_\_  
Date

\_\_\_\_\_  
Approved by: Council

\_\_\_\_\_  
Date