



## System of Delegations

### Purpose

The implementation of various public sector reforms, across the three spheres of government, was identified as part of the strategic priorities of government needing intervention. One of the many ways to ensure this occurs involves organs of state developing and implementing measures for an effective public service. The system of delegations was identified for analysis, review and improvements in order to address challenges faced with service delivery, accountability and assignment of responsibilities.

### Overview

The systems of delegation in the public sector therefore have a profound effect on the ability of government institutions to improve decision making and implementation thereof.

In adopting any system of delegations, all of the procedures and processes associated with each delegation are performance driven and must contribute towards the overall effectiveness and efficiency of the municipality and municipal entity's operations with minimal delays in service delivery.

In order to give effect to the adoption by municipalities and municipal entities of a robust and coherent set of delegations, a principles document has been developed to provide broad principles which would assist municipalities and municipal entities in drafting their systems of delegations that will maximize administrative and operational efficiency and provide adequate checks and balance in the financial administrations of municipalities and municipal entities.

In addition to the principles document, the National Treasury has also developed templates that will assist municipalities to formalise their system of delegations within their respective institutions. These templates allow for the signatories of both the delegator and delegatee to understand their roles, responsibilities and areas of accountability in performing tasks as assigned by the Council. The MFMA delegations framework is consistent with the broader principles and has been developed to assist municipalities in reviewing and amending their system of delegations for financial management, consistent with the MFMA and its regulations.

Annexure A provides information on the principles to be considered for an effective system of delegation, supported by Annexure B delegations template, Annexure C sub-delegations, Annexure D sub-delegations to acting positions, and Annexure E detailed delegation framework.

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## Legal Framework

It is important that delegations are consistent with the legal framework. In this regard, section 238 of the Constitution of the Republic of South Africa, 1996 provides that an executive organ of state in any sphere of Government may delegate any power or function that is to be performed in terms of legislation to any other executive organ of state, provided that the delegation is consistent with the legislation in terms of which the power is exercised or the function is performed. The Constitution therefore sets down the qualification that the particular delegation must be consistent with the enabling legislation.

In terms of section 59 of the Municipal Systems Act, the responsibility of developing and maintaining a system of delegation vests with the Municipal Council. The responsibility of the Accounting Officer is to manage and implement the system of delegations. It must be noted that in terms of section 79 of the MFMA the Accounting Officer is responsible for ensuring that an appropriate system of delegations is developed to maximise administrative and operational efficiency and provide adequate checks and balances in the municipality's financial administration. This responsibility is important and should be documented as a key performance area in the performance agreements of the Accounting Officer and others that are entrusted with delegated authority.

The Chief Financial Officer is provided with the option to, in terms of section 82 of the MFMA, sub-delegate all of the duties, functions and responsibilities that are referred to in terms of section 81(1)(b), (d) and (e) of the MFMA. The Chief Financial Officer may also sub-delegate any of the duties referred to in the latter section, to an official in the budget and treasury office, to the holder of a specific post in that office or with the concurrence of the accounting officer, to any other official of the municipality or any person contracted by the municipality for the work of the office.

In terms of section 60 of the MFMA, the Accounting Officer must:

- Exercise the functions and powers that is assigned to the Accounting Officer in terms of the MFMA; and
- Provide guidance and advice on compliance with the MFMA to various role players in the municipality.

In view of the aforementioned, the Act thus places accountability on the Accounting Officer to ensure that its requirements are implemented.

## Hierarchy of Delegations

The principles document clarifies the roles and responsibilities between role players in the delegation process in order to ensure a hierarchy of delegations from executive authorities to officials in the administration. The executive (municipal councils) is responsible for providing political leadership by deciding on policies and outcomes whereas the municipal manager and other senior managers are responsible for implementation and outputs in respect of the expected deliverables.

## Delegation Principles

Certain key principles are required for an effective and efficient system of delegations. The primary principles provide for the upholding of the Constitution and legislation to avoid any potential inconsistency in its application. The delegation must be authorised by the statutory authority.

The municipal council must provide the municipal manager with appropriate powers and authority to enable the municipal manager to execute his responsibilities in an effective and efficient manner. A municipal manager empowers the administration by means of appropriate delegations.

Every system of delegations must be able to measure performance against agreed outputs that has to be undertaken and achieved to ensure the delivery of quality and timeous services to communities. It must uphold the principles of responsibility, accountability, effectiveness and efficiency and fast track decision-making.

A municipality must periodically review its system of delegations for validity and completeness and specific responsibility must be assigned to an official to manage, maintain and monitor delegations in the municipality. A municipality's delegations must be aligned to measurable objectives and the organisational structure.

Moreover, the following principles must be implemented:

- Any delegation or authorisation to perform a power or duty must be in writing;
- A delegation does not prevent the delegator who made the delegation or granted the authorisation from exercising that power or performing the duty. Such action by the delegator must however be communicated to the delegatee to avoid duplication and wasteful expenditure.
- Any delegation may at any time be withdrawn by the delegator subject to the governing legislation.
- The MFMA allows the accounting officer to delegate a power or function to a specific individual or to the holder of a post. A delegation to the holder of a post will however ensure the continuation of service delivery in instances where another person lawfully acts in a position with associated delegated powers and duties.
- A municipality's system of delegation must be reviewed when a new council is elected or appointed or when a new municipal manager is appointed or when there is a change to the organisational structure due to reorganising or restructuring or there are amendments to municipal policies or legislation.
- Municipalities must ensure that the delegatee to whom a power or function is delegated has the required capacity and skills to perform a particular power or function.

Municipalities are encouraged to familiarise themselves with the content of the principles document to ensure that these are encapsulated in their system of delegations.

## **Conclusion**

It is important that the accounting officer ensure that this Circular together with the principles document and supporting annexures are brought to the attention of the Municipal Council and other relevant officials within municipalities and municipal entities.

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- Annexure A: Principles Document
- Annexure B: Delegations Template
- Annexure C: Sub-delegations Template
- Annexure D: Sub-delegations to Acting Positions Template
- Annexure E: Detailed Delegation Framework (MFMA)