



FREE BASIC SERVICES IN RURAL KWAZULU-NATAL

THE BUILT ENVIRONMENT SUPPORT GROUP

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A key task of leadership is to transform our municipalities to ensure that there is commitment to the ideals of the Constitution and a developmental state. This includes realising socio-economic rights through service delivery, ensuring that citizens are represented and that their needs are being met on a progressive basis.



Picture by: John Robinson

THIS paper scrutinises the extent to which rural municipalities within uMgungundlovu District in KwaZulu-Natal are improving service delivery to the poor. Specifically, it examines the extent to which the municipalities provide free basic services to the indigent, and reports on public participation processes and the extent to which indigent people are included in integrated development plans (IDPs) and budgeting.

A MEASURE TO ALLEVIATE POVERTY

National government has strongly promoted the provision of free basic services to alleviate poverty, with the target of delivering these services to 100% of households by 2010. A study undertaken by the former Department of Provincial and Local Government (dplg) in 2005 showed that 84% of municipalities were implementing some form of free basic services. Free basic water tended to be the main free service supplied (83%) in poor communities, followed by free basic electricity (64%).

Further figures supplied to the Provincial and Local Government Portfolio Committee in 2005 suggest that 70% of the total population of 46 553 296 was being provided with free basic water, and 61% of the 29 378 792 indigent population was provided with free basic water (South Africa 2006a).

To ensure that all indigent people receive free basic services, the government committed itself to a framework for indigent support policy. In 2005, dplg published guidelines for a Framework for a Municipal Indigent Policy. This provides the basis for formulating indigent policies at the municipal level and the implementation of the constitutional responsibility to ensure people have access to free basic services (Conteh, Dettman, Dugard, Langford and Tissington 2008). Policy that supports indigent households is aimed at including those currently

Indigent households continue to build up 'debt' with municipalities and face restrictions or, in some cases disconnection, of services

excluded from access to basic services, through the provision of a social safety net, and should specify criteria for eligibility, quantities of service that are free, tariff structure, registration processes and debt management (South Africa 2005).

In terms of indigent policy, indigent free basic services, provided by municipalities to poor households at no cost, include water, electricity, sanitation and waste removal. These services include a minimum amount of electricity, water and sanitation that is sufficient to cater for the basic needs of a poor household (BESG 2008).

Provisions relating to free basic service delivery

- The Constitution says:
...in section 152 that one of the objectives of local government is 'to ensure the provision of services in a sustainable manner'.
...in section 27 that 'everyone has the right to have access to health care services, sufficient food and water....(2) The state must take reasonable legislative and other measures to achieve the progressive realisation of each of these rights'.
...in section 24 that 'everyone has the right to an environment that is not harmful to their health or well being'.
- Government has committed to a Framework for a Municipal Indigent Policy (South Africa, 2005).
- The Municipal Systems Act in section 73 says that: 'A municipality must give effect to the provisions of the Constitution and ensure that all members of the local community have access to at least the minimum level of basic municipal services.' Section 74 says that a tariff policy must ensure that 'poor households have access to at least basic services through subsidisation of tariffs for poor households'.

According to the guidelines drawn up by the former dplg, local government is expected to provide at least the following essential services: water supply, sanitation, refuse removal, a supply of basic energy and assistance in the housing process. The Division

of Revenue Act sees the characteristics of free basic services as distinguishing between poor households connected to services and those that are not connected to services so that alternatives can be provided, recognising water reticulation, sanitation,

refuse removal and electricity reticulation as the priority basic services, and providing municipal health services to all households (South Africa 2009a).

People are classified as indigent if they do not have access to sufficient water, basic sanitation, refuse removal, environmental health, basic energy, health care, housing, food and clothing (South Africa 2005).

The national indigent framework makes the point that 'an indigent policy will only be fully functional once subsidies are targeted in such a way that the indigent benefit and those who are not indigent pay' (Erasibo 2005:19). The legal framework for implementation of free basic services is essentially that of tariff setting, which is guided by the

Constitution of the Republic of South Africa (Act No. 108 of 1996), the Local Government: Municipal Systems Act (Act No. 32 of 2000) and the Water Services Act (Act No. 108 of 1997).

FREE BASIC WATER

In 2007, a nationwide community survey revealed that South Africa had made significant progress in improving access to water supply.¹ However, it should be clearly accepted that the right to water is a basic human right, and that the lack of adequate water supply and sanitation constrains opportunities and intensifies the problems of vulnerable groups particularly affected by HIV/AIDS and other diseases (Africities Summit 2006).

Legal provisions pertaining to water services

- Section 27(1b) of the Constitution provides everyone with the right of access to sufficient water and section 27(2) obliges the state to 'take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation' of this right. Schedule 4(b) of the Constitution determines that water and sanitation services are local government matters under the supervision of national and provincial government.
- The Water Services Act determines in section 10(1) that: 'The Minister may, with the concurrence of the Minister of Finance, from time to time prescribe norms and standards in respect of tariffs for water services'. Section 10(4) stipulates that 'No Water Services Institution may use a tariff which is substantially different from any prescribed norms and standards'. These norms and standards for tariffs have been promulgated by the Minister of Water Affairs. In Regulation 3(2), a water services institution must consider the right of access to basic water supply and the right of access to basic sanitation when determining which water services tariffs are to be subsidised.
- The Water Services Act Section 4(3)(c) states that procedures for limitation or discontinuation of water services must not result in a person being denied access to basic water services for non-payment, where that person proves, to the satisfaction of the relevant water services authority, that he or she is unable to pay for basic services.
- Section 5 of the Water Services Act states that if water services provided by water services institutions fail to meet the needs of all their customers, they must give preference to the provision of basic water supply and basic sanitation. In cases of emergency, basic water supply and sanitation services must be provided, even if it is at the cost of the water services authority.

- The Water Services Act states that the minimum standard for basic water supply services is –
 - 3 (a) the provision of appropriate education in respect of effective water use; and
 - (b) a minimum quantity of potable water of 25 litres per person per day or 6kl per household per month –
 - (i) at a minimum flow rate of not less than 10 litres per minute;
 - (ii) within 200 metres of a household; and
 - (iii) with an effectiveness such that no consumer is without a supply for more than seven full days in any year.
 (South Africa 2001a)
- Recent jurisprudence, in the Mazibuko case, reflects that the state must review its policies on providing services to indigent households in order to ensure the progressive realisation of socioeconomic rights. 'In most circumstances it will be reasonable for municipalities and provinces to strive first to achieve the prescribed (and, in the absence of a challenge, presumptively reasonable) minimum standard, before being required to go beyond that minimum standard for those to whom the minimum is already being supplied' (O'Regan 2009:37).

FREE BASIC ELECTRICITY

Local government and Eskom, the national distributor of electricity, are responsible for the delivery of free basic electricity to poor households (South Africa 2003). In general, municipalities in urban areas distribute electricity generated by Eskom, while in infrastructure-poor rural municipalities Eskom supplies people directly. The policy on free basic electricity, approved by the national government, provides for free basic electricity of 50 kilo-Watt hours (kWh) per month to indigent households (Mabuyakhulu 2005). However, the rollout of this has been delayed in many areas, including rural parts of KwaZulu-Natal, and is

not as widely implemented as free basic water (Mabuyakhulu 2005).

Municipalities are responsible for providing access to free basic electricity for indigent households, or where there is inadequate electrical infrastructure, they should provide free basic alternative energy to indigent households as determined by their indigent register or policy (South Africa undated; Africities Summit 2006).

There has been little transparency or accountability in the spending of equitable share

Stipulated quantity of free basic electricity (FBE)

- R48 per household per month for non-grid electrical systems (i.e. solar power) or 50kWh per household per month for grid electrical systems is the FBE allocation under the FBE policy.
- R55 per household per month for indigent un-electrified households under the Free Basic Alternative Energy Policy (e.g. paraffin, LPG and coal).

FREE BASIC SANITATION AND REFUSE REMOVAL

Free basic sanitation policy has been developed, but has not yet been approved or implemented. The Department of Water Affairs is responsible for developing a strategy, together with a set of guidelines to assist Water Service Authorities to implement the free basic sanitation policy (Conteh *et al* 2008). However, the Framework for a Municipal Indigent Policy says that sanitation services should include either water-borne, VIP (ventilation improved pit) toilets or equivalent services free of charge (South Africa 2005).

A policy for free basic refuse removal has yet not been implemented. The Department of Environmental Affairs is in the process of developing a framework for the provision of this service (GCIS:2007). Refuse removal is part of the municipality's function as outlined in Schedule 4B of the Constitution.

FINANCING FREE BASIC SERVICES

The national indigent framework recognises that municipalities need to have the capacity and resources to roll out and maintain free basic services. Municipalities have access to the following sources to develop a subsidy framework for free basic services that will benefit the indigent:

- Cross subsidies from non-residential and high-income consumers using the particular service, whereby they are charged more than the service costs to generate a surplus to be used to cover the cost of services to the indigent.
- The own revenue of the municipality, which includes property rates and electricity surpluses.

- National Treasury, through the equitable share (Erasibo 2005:19). This is an important component as municipal funding is unable to fund free basic services (Conteh *et al* 2008).

The Division of Revenue Act (DORA) seeks to manage and promote the equitable allocation of the country's collected revenue from the national to the local level. This allocation makes possible the distribution of free basic services to households with limited capacity to pay for them. The equitable share allocation is an unconditional grant from national government to local government, meaning that municipalities are not required to report on how they allocate or spend the funds.

The Municipal Infrastructure Grant (MIG) provides funding for infrastructure programmes, in addition to the municipal budgets, to address backlogs in the infrastructure required to provide basic services (South Africa 2009a).

IDPs have tended to be formulated by consultants on behalf of the municipalities with very little meaningful community participation in the process

RESPONSIBILITIES OF MUNICIPALITIES

There are four key documents that prescribe the role of municipalities. These are the Constitution of South Africa (1996), the White Paper on Local Government (1998), The Municipal Systems Act (Act No. 32 of 2000) and the Municipal Structures Act (Act No. 117 of 1998). The White Paper indicates that the district municipality is responsible for co-ordination of local governance, bulk infrastructure development, technical support to local municipalities and a direct

service provider in rural areas where local municipalities are unviable (CLC 2007).

The Municipal Systems Act, in Section 73(1) states that ‘a municipality must give priority to the basic needs of the local community’ and in section 73(2a) ‘that services must be equitable and accessible’. Schedules 4B and 5B of the Constitution put responsibility for water, electricity, refuse and sanitation roll out on municipalities (South Africa 1996). The Municipal Structures Act divides the roles between district and local municipalities. Generally, the district municipalities are responsible for water, sanitation and electricity and local municipalities are responsible for refuse. However, the responsibility for these functions shifts between the two levels.

The conduct of municipal staff and councillors continues not to be monitored effectively and disciplinary measures are not taken where justified

and councillors ensure their conduct is in the public interest (South Africa 2000). Free basic service policies, no matter how well crafted and funded, have to be implemented through municipalities. Therefore, the effective implementation of free basic services policy and the prudent use of equitable share depend on ethical and committed leadership within the municipality. The Municipal Systems Act describes the conduct expected of councillors and municipal staff.

CONDUCT OF STAFF AND COUNCILLORS

It is critical to the functioning of the municipality and the delivery of free basic services that municipal staff

Code of conduct for councillors and staff

The Municipal Systems Act (Schedule 1 and 2) includes the following provisions:

- A councillor or municipal staff member must perform the functions of office in good faith, honestly, diligently and in a transparent manner.
- A councillor or municipal staff member may not use the position or privileges of a councillor for private gain or to improperly benefit another person.
- A municipal staff member must foster a culture of commitment to serving the public and a collective sense of responsibility for performance in terms of standards and targets.

In addition, municipalities must formulate and implement performance management systems. These systems should show how municipal

processes of performance planning, monitoring, measurement, review, reporting and improvement are undertaken and managed (South Africa 2001b).

CASE STUDY: FREE BASIC SERVICES (FBS) IN PRACTICE IN THE UMGUNGUNDLOVU DISTRICT

This case study of the rural district in KwaZulu-Natal, seeks to examine the following issues:

- How FBS is being implemented in practice.
- How well municipalities have performed in FBS delivery.
- The extent of service delivery backlogs.
- How indigent policy is being used in the rollout of FBS.
- What the functions of the municipalities are with regard to FBS.
- How the equitable share allocation is calculated and used.
- How the performance of the municipality has affected FBS.
- Constraints to effective FBS delivery.

The focus is the local municipalities of Mpofana, Richmond and Impendle and the district municipality of uMgungundlovu. However, data and anecdotal evidence for other municipalities within the district are referred to, where appropriate. The findings are the product of secondary research into literature, legislation, policy and other documents affecting basic services, as well as primary research through interviews, personal communication with municipal officials and experiences with local government processes.

SERVICE DELIVERY BACKLOGS

Table 1: Household (h-holds) distribution for uMgungundlovu District

Municipality	No. of h-holds	h-holds as % of District	No. of Rural h-holds	Rural h-holds as % of District	No. of Urban h-holds	Urban h-holds % of District
uMshwathi	23737	10.96%	19261	21.41%	4475	3.53%
uMngeni	20487	9.46%	8470	9.42%	12016	9.48%
Mooi Mpofana	9597	4.43%	5561	6.18%	4035	3.18%
Impendle	7344	3.39%	7269	8.08%	74	0.06%
Msunduzi	130387	60.18%	27467	30.54%	102930	81.23%
Mkhambathini	12551	5.79%	12322	13.70%	230	0.18%
Richmond	12533	5.79%	9589	10.66%	2947	2.33%
uMgungundlovu	216646	100%	89949	100%	126707	100%

(Impendle Municipality 2006)

Table 1 shows that rural municipalities represent a small proportion of the total number of households in the district. The percentage of rural households in the district is 42%, compared with urban households at 58%. These figures, although based on 2001 census data, are used to determine infrastructure and service delivery funding allocations, such as the equitable share from national government (Impendle Municipality 2006). The lower population figures for rural areas have meant that rural service delivery has been neglected, as urban areas have been prioritised. As a result, there are huge basic services backlogs in rural areas.

Table 2: Basic services backlogs in uMgungundlovu District vs the Province of KwaZulu-Natal

Basic services	District backlog	Province backlog
Access to water	15.61%	6.04%
Access to sanitation	41.29%	9.72%
Access to electricity	25.64%	6.90%
Access to waste removal	53.97%	11.25%

(Impendle Municipality 2006)

Table 2 indicates that the uMgungundlovu District backlogs (lack of related infrastructure for the service specified) are higher than the average for KwaZulu-Natal provincial backlogs. These are also high compared with other urban inland districts (WFA *et al* 2006).

Table 3 shows the backlogs for the Mpofana, Richmond and Impendle municipalities. According to these statistics, the rollout of services is limited and achieving the national objective of providing basic services to all households in the district by 2010 is unlikely.

Table 3: Basic service backlogs for four municipalities in the district

	Water	Electricity	Sanitation	Waste
uMgungundlovu	16%	26%	41%	54%
Mpofana	19%	64%	82%	55%
Richmond	35%	51%	35%	95%
Impendle	81%	16%	81%	99%

(Impendle Municipality 2006)

INDIGENT POLICY

The existence and implementation of a suitable indigent policy is important for effective free basic service delivery². The purpose of this policy is to identify indigent households for access to free basic services. This research shows that even where there is a municipal indigent support policy, it is often vague and not being applied. Instead of targeting indigent groups, a blanket approach to free basic service delivery is utilised.

Of the four municipalities in the study, only Impendle Municipality has an active indigent policy where indigent groups are targeted for free basic services. The other three municipalities provide free basic services to the entire population within their jurisdiction. This approach reflects poorly on leadership as commitment and accountability towards targeting poor and vulnerable households is avoided. In the case of uMgungundlovu District Municipality, a blanket approach was in use as no billing system existed, which is in contravention of the Municipal Systems Act. On the 1 July 2009 a billing system was established but the blanket approach still applies. The cost effect of blanket approaches on revenue for the respective municipalities is considerable.

Table 4: Free basic services provided

	Water	Electricity	Sanitation	Waste
uMgungundlovu Municipality	Free basic water (6 kl per month)	Function of local municipality or Eskom	Provision of VIP and water borne sanitation	No collection
Mpofana Municipality	Function of district municipality	Eskom supply, no free basic energy provided	Function of district municipality	Collection throughout
Richmond Municipality	Function of district municipality	Eskom supply, free basic energy provided to indigent	Function of district district municipality	Collection in town only
Impendle Municipality	Function of district municipality	Eskom supply, free basic energy provided to indigent	Function of district municipality	Collection in town only (62 sites)

Table 4 shows the functions of respective municipalities in respect of free basic services. It is important to point out that 6kl of water and 50kWh of electricity per month are the minimum requirements for free basic services stipulated by national policy. There is international evidence that these allocations are inadequate, especially for families dealing facing sickness. The Pacific Institute for Studies in Development, Environment and Security recommends 50l of water per person per day for drinking, cooking, bathing and sanitation (Gleick 1996). The Department of Water Affairs has acknowledged international expert advice that 6kl free basic water per

household per month is insufficient and should be increased to 12kl per household per month, which was what government's 1994 Reconstruction and Development Programme (RDP) stipulated as a medium-term goal (CALS 2008).

It also needs to be noted that the figure of 6kl per household per month was not intended to provide for toilet flushing (South Africa 2007). Thus free basic service allocations need to be reviewed as indigent households continue to fall into arrears with their basic service accounts (Conteh *et al* 2008).

Another important issue in rural municipalities is that of farm dwellers. Farm dwellers are at a distinct disadvantage when it comes to service provision and indigent policy. Farm owners do not want to encourage infrastructure development due to the perceived risk of land invasion and claims. This means that farm labourers and dwellers do not have access to free basic services. In rural municipalities focused on agricultural production, like Mpofana and Richmond, this is a large proportion of the work force.

EQUITABLE SHARE ALLOCATIONS

This study found that the biggest single factor affecting basic services is the equitable share allocation and how it is used. The equitable share is allocated to district and local municipalities by National Treasury to support service delivery. In the case of municipalities that cannot generate their own revenue, the equitable share is the lifeblood of the municipality. However, the equitable share formula is not providing rural municipalities with sufficient finance to provide basic services to citizens.

According to Mpofana Municipal Manager, Mr M. Madlala, the equitable share calculations take into account the size of the population and not service delivery backlogs in a municipality. Furthermore, the revenue-raising capacity correction factor is based on projected revenue figures and, as in the case of Mpofana, not actual revenue. The actual revenue is usually much lower due to non-payment and bad debt³. This results in municipalities having less funding available for service delivery⁴ (See Figure 1). Therefore, it is in the interest of a municipality (at least in terms of equitable share) to project low revenues in order to boost their equitable share from National Treasury.

Figure 1: Structure of the local government equitable share formula

$$\text{Grant} = \text{Adjustment factor} * (\text{BS} + \text{D} + \text{I}) - \text{R} \pm \text{C}$$

where

BS is the basic services component

D is the development component

I is the institutional support component

R is the revenue-raising capacity correction, and

C is a correction and stabilisation factor.

(South Africa 2009b)

The equitable share formula is made up of different components as shown in Figure 1. The most critical contribution to the formula is that of basic services. The basic services component makes up 92% of the equitable share and hence is the focus (South Africa 2009b). However, the institutional support component is supposed to assist with operational, administrative and governance costs. In practice, this component is inadequate for the optimal functioning of rural municipalities. Further, census data from 2001 is used for equitable share calculations, which does not provide a true statistical reflection of households in 2009 (Conteh *et al* 2008).

Figure 2 shows that the basic service component is made up of the four basic services and a yearly municipal health service levy. The breakdown of the subsidy for each basic service includes that for indigent or poor households provided with basic services and those that are unserved.

Table 5 identifies the rand value of the basic service allocation for both serviced and unserved households and the adjusted subsidy as recalculated by the adjustment factor. DORA is not clear about how the adjustment factor is calculated.

Figure 2: The make up of the basic services component

The basic services component

$$BS = [Water\ Subsidy\ 1 * Poor\ with\ Water + Water\ Subsidy\ 2 * Poor\ without\ Water] + [Sanitation\ Subsidy\ 1 * Poor\ with\ Sanitation + Sanitation\ Subsidy\ 2 * Poor\ without\ Sanitation] + [Refuse\ Subsidy\ 1 * Poor\ with\ Refuse + Refuse\ Subsidy\ 2 * Poor\ without\ Refuse] + [Electricity\ Subsidy\ 1 * Poor\ with\ Electricity + Electricity\ Subsidy\ 2 * Poor\ without\ Electricity] + [Municipal\ Health\ Services * Total\ number\ of\ households]$$

(South Africa 2009b)

Table 5: Basic service costs and their adjusted value

	Serviced households		Unserviced households	
	Basic service allocation	Adjusted subsidy 2009/2010	Basic service allocation	Adjusted subsidy 2009/2010
Electricity	45	136.9	16	50.6
Refuse	30	60.3	10	44.5
Water	30	97	10	28.9
Sanitation	30	64	10	42.7
Total	135	358.1	46	166.7

(South Africa 2009b)

The adjustment factor inflates the basic service component substantially, as shown in Table 5. As a result, the equitable share is much larger than it would be based purely on basic service allocations. Similarly, the actual average annual subsidy per household for the provision of municipal health services is R48 compared to the allocated cost of R18 per year.

Table 6: Equitable share allocations for uMgungundlovu District

Municipality	Equitable Share Allocations (R millions)			
	2008/2009	2009/2010	2010/2011	2011/2012
B KZN221 uMshwathi	22356	32399	40 030	43681
B KZN222 uMngeni	15879	19999	25415	27949
B KZN223 Mooi Mpofana	9113	13106	16228	17717
B KZN224 Impendle	8997	12919	15941	17392
B KZN225 Msunduzi	166588	199824	255504	284638
B KZN226 Mkhambathini	11298	16242	20028	21849
B KZN227 Richmond	11827	17073	21080	23002
C DC22 uMgungundlovu District Municipality	180165	218249	254738	264245
Total: uMgungundlovu Municipalities	426223	529810	648965	700471

(South Africa 2009a)

There are two points important to these findings.

Firstly, the equitable share formula is made up of a basic services component (as shown in Table 5), including services that municipalities currently do not provide⁵. Table 4 shows that the local municipalities do not provide water or sanitation functions. Furthermore, Mpofana and the uMgungundlovu District Municipality do not make provision for free basic services. The uMgungundlovu District Municipality also does not provide municipal health services, or refuse collection (only partial disposal)⁶. The adjustment of water and sanitation functions away from local municipalities to the district municipality should theoretically reduce the equitable share for local municipalities not operating these functions. However, this would impact negatively on these municipalities, making them even less viable. This shows that the equitable share formula has not been adjusted to channel funds to the service provider responsible for the designated basic service.

Secondly, the equitable share allocation is being used for operational costs, including staff salaries, rather than for delivery of basic services to indigent households. The unconditional nature of the equitable share grant needs to be revisited, with guidelines for expenditure and reporting of equitable share spending in order to improve service delivery to poor and vulnerable households.

MUNICIPAL PERFORMANCE

Levels of performance are a critical factor affecting free basic service delivery, with performance management systems not in place or not being used. 'Very few municipalities have been monitoring the implementation of their free basic services programme and even less can talk to the real impacts that the programme has had on the quality of life of beneficiaries' (Erasibo 2005:17).

Former Minister of Local Government, Housing and Traditional Affairs in KwaZulu-Natal, Mike Mabuyakhulu, in a meeting with mayors of uMgungundlovu district on 18 May 2006, highlighted the fact that the municipalities have failed to deliver basic services. He blamed this on a lack of community-centred approaches to governance, a high proportion of municipal expenditure on wages, councillors' self-enrichment and corruption⁷. Auditor General reports have also indicated incidences of procedural non-compliance related to implementation of performance management systems, the submission of financial statements, incorrect and incomplete financials, and overpayment (Mabuyakhulu 2006).

The issues Mabuyakhulu raises are indicative of the state of local government in South Africa. The Minister for Cooperative Governance and Traditional Affairs, Shiceko Shiceka, confirms that a new national priority is to reduce the instances of fraud and corruption in municipalities (Shiceka 2009).

Municipalities surveyed in this study have indicated that they struggle because of resource constraints. 'Many municipalities highlight that they do not believe they have sufficient funds for a full-scale implementation of the free basic services programme' (Erasibo 2005:17). MIG funding in particular is not sufficient to achieve the national basic service delivery targets to address the backlogs (Mabuyakhulu 2006).

But there is also evidence to the contrary, showing that municipalities are unable to spend their budget allocations (South Africa 2006b). Impendle Municipality had their funding allocation for the Management Assistance Programme⁸ (MAP) withdrawn as a result of non-expenditure (Mabuyakhulu 2006). This was after the entire senior management was suspended after a forensic investigation. The MAP was part of a strategy to improve spending of conditional grants like MIG and to meet financial reporting requirements, as the Auditor General's report had found constant financial discrepancies since 2003 (PMG 2008).

A point made by the Centre for Applied Legal Studies is that municipalities have been preoccupied with cost recovery and credit control rather than prioritising the needs of the poor (CALs 2008; Conteh *et al* 2008). This preoccupation with cost recovery is an imposed requirement, as municipalities cannot budget for a deficit, unlike their provincial and national counterparts. In attempting to secure sufficient funding for projects and operations, coupled with poor and unaccountable administrative capacity, municipalities have neglected the implementation of free basic services.

That the uMgungundlovu Municipality for a number of years under-performed even with its relatively large equitable share allocation shows the negative impact of poor leadership, incompetence and corruption⁹. The leadership of the municipality was replaced, and while the new administration seems to be recovering lost ground, there are still huge institutional capacity gaps.

In Impendle, the municipal manager has changed eight times since 2001¹⁰. Between 2004 and 2007, the senior management was suspended (and managers were dismissed) after a forensic investigation initiated by the provincial department. Last year the mayor was found to be using a municipal vehicle for private purposes, with her daily commute from Durban to Impendle resulting in operational costs of about R8 000 per month

(Mgaga 2008). She remains in her job. It is unknown if any disciplinary action was taken against the mayors of either municipality.

The municipality of Richmond has not had a municipal manager since April 2008¹¹ due to internal problems and the post is currently being advertised (Richmond and District Times 2009). Vacant leadership posts have implications for service delivery and general development in the municipality.

Staff turnover is high in rural municipalities, with vacancies persisting for long periods of time. Many staff members do not live in the municipalities where they work. The Impendle Municipality has a minibus that brings staff to work from Pietermaritzburg every day, a round trip of 160 km¹². The lack of commitment to living in the municipality, a commuter culture, the perception of inadequate salaries and poor job satisfaction contribute to high staff turnover. Of these four points raised, job satisfaction can be identified as a priority, with the other three linked to issues of urbanisation. But a major reason for job dissatisfaction is that rural municipalities lack the resources for the huge challenges they face.

PUBLIC PARTICIPATION

The Good Governance Learning Network (GGLN) publication 'Local Democracy in Action' (2008) documents important legislation, policy and guidelines with regard to public participation. Very few reports have been written on the izimbizos across the province¹³, but some observations can be made about the IDP and budget reviews in uMgungundlovu District in 2009.

In municipalities in which BESG works, a general observation has been that IDPs have tended to be formulated by consultants on behalf of the municipalities with very little meaningful community participation in the process. This lack of consultation is continuing.

A typical constraint to community participation has been the limited provision by municipalities of channels for informing the public about opportunities to participate in IDP and budget processes. For example, the only information provided about such meetings is a notice in a local newspaper, which has limited distribution both geographically and within poor communities. Even more concerning is that meetings are often publicised at very short notice or even after the event (Brisbane 2009).

There is also inappropriate reporting around the success of izimbizo. The Umphithi News (Umphithi News 2009:4), produced by the Msunduzi Municipality, reported that 'izimbizo provide them [the community] with the single opportunity to interact with city officials as far development is concerned'. This report indicates that people want to participate in local government, but lack the opportunity to do this. Izimbizo, as the single opportunity to contribute to their IDPs, are limited to an inadequate question and answer session and therefore do not provide a forum for substantive public participation. It was reported in the same article that 'some of the councillors indicated that izimbizo were costly and they should be discontinued'. This exemplifies ignorance of public participation legislation and avoidance of meaningful public interaction by councillors and municipal leadership.

Attendance at these meetings within the uMgungundlovu District has been high. People were bussed in from communities far from the venues. However, researchers observed that although attendance was good, there were high numbers of children present. This perhaps implies that people were motivated to attend by the promise of food and T-shirts. As BESG facilitator Sanele Dlamini observed, 'You didn't see people present who are paying taxes or rates'.

At the Richmond 2007/2008 annual report back, to which the public were invited for a consultative meeting, the public was given an opportunity to voice their concerns and issues (approximately 20 minutes) and thereafter was asked to leave the meeting. In this case, the public were not present for the report back and the primary reason for public presence was overlooked.

At the uMngeni Municipality IDP/budget meeting, there was a different situation. The meeting was advertised by a mobile unit the day before and was set down for 5pm so that working people were able to attend. The meeting, conducted in isiZulu with a detailed handout in isiZulu on the budget, started with a report back on IDP achievements and was followed by a two-hour question and answer session, which was open to the entire community. It seemed most people were satisfied and further comments and complaints were welcomed at the municipal offices. The municipality also mentioned that their annual report was available at their offices. However, this municipality has been notorious for under performance and, as is often the case, even though public comment and input may be noted, it is not acted upon.

Public participation has remained theoretical and eludes ordinary citizens. Government has tended to marginalise citizens from governance and policy making and as a result there has been very little substantive and deliberative participation in governance.¹⁴

CONCLUSION

The poor state of service delivery in rural areas of uMgungundlovu District points to a lack of transformation within the municipalities. This transformation, necessary to ensure the progressive realisation of socio-economic rights and a developmental state, has been a key task for local leadership.

After 15 years of democracy, there has been a high rate of failure in achieving service delivery targets. The national target of 100% of households receiving basic services by 2010 is unachievable given the current service delivery backlogs in uMgungundlovu District. Waste and sanitation, in particular, fall far short of targets.

Legislation, policy and guidelines, where present, are not adhered to. Constitutional rights to basic services are not being realised. A policy for the delivery of these services and the provision of municipal health services to all households has not been forthcoming. The poor rollout of basic services in uMgungundlovu District has been attributed to three key areas – inadequate indigent support policy, deficient equitable share and dismal municipal performance.

Generally, there has been little attempt by municipalities to target indigent groups for free basic service delivery. The blanket approach has been deemed more suitable as it is easier to implement and there has been little commitment shown by leadership to redirect resources to obviously poor and vulnerable households.

The objective of indigent policy is to target indigent groups for free service delivery. Blanket approaches are not specific and negate the positive impacts of cross subsidisation by those who can afford services so that free basic services can be progressively increased to those in need. Further, 6kl of water per month and 50kWh of electricity per month are the minimum quantities of free basic service required by legislation, but in reality people require more support, especially where there is a high prevalence of HIV and AIDS and other diseases. Some larger municipalities in South Africa have taken the initiative to increase basic service allocations, as provided in the guidelines.

Municipalities should be realising constitutional rights, including those in relation to access to services, on a progressive basis. However, indigent households continue to build up 'debt' with municipalities and face restrictions or, in some cases disconnection, of services. This is not the intention of national policy that is supposed to support indigent households in a market-driven economy to which they have no access.

It has been shown that there are problems¹⁵ with the formula for determining equitable share allocation, which is the main source of finance for rural municipalities. DORA is unclear how equitable share allocations are calculated, and it is questionable whether the equitable share weightings and allocations are indeed equitable. There has been little transparency or accountability in the spending of equitable share, although National Treasury is currently in the process of changing this to ensure that municipalities do report on equitable share expenditure. Salaries and operational costs of municipalities, particularly in resource-poor rural municipalities, have been met by equitable share allocations meant for service delivery. This indicates that municipal leadership does not see service delivery as a critical priority, and also that resource-poor municipalities have had no alternative but to use equitable share funds for operational requirements.

Municipal performance has been poor. Service delivery is falling behind targets and poor households continue to be marginalised as a result. Staff capacity is a limiting factor in the performance of municipalities. High staff turnover due to low salaries, poor morale, corruption and incompetence has undermined effective leadership. The conduct of municipal staff and councillors continues not to be monitored effectively and disciplinary measures are not taken where justified.

Municipalities face irregularities with regard to finances, which point to performance management systems and internal auditing processes being inadequate or complicit in unethical behaviour¹⁶. The trend seems to be that the bigger municipalities in the district with larger funds are the main culprits for corruption and irregularities. The Auditor-General reports are the only insight the public has into the operations of municipalities, but these reports have not led to corrective action being taken by municipal management.

Participation processes continue to be superficial and little actual engagement with communities takes place, yet municipalities claim their consultation processes are successful. Citizens have little influence over the way development occurs or how services are delivered. In some municipalities, it is apparent that municipal officials and councillors do not want to be held accountable for poor service delivery, avoiding public meetings.

Public confidence in local government is at an all-time low. The Human Sciences Research Council (HSRC) has recorded a 20% drop of public confidence in local government, from 55% in 2004 to 34% in 2007 (HSRC 2008). The poor performance of municipalities and the marginalisation of public participation processes have contributed significantly to this. Ongoing corruption without consequences and the distancing of municipalities from civil society continue to undermine good governance.

RECOMMENDATIONS

- Good leadership practices in municipalities need to be sought out and exemplified.
- Municipal leaders should be role models for subordinates by upholding conduct entrenched in ethical standards set in legislation. They should be held accountable for their actions and be instrumental in halting corrupt practices.
- The equitable share formula needs to be reviewed to ensure rural municipalities have operational resources, over and above their share for service delivery.
- There should be transparency and accountability to local communities on the allocation and expenditure of the equitable share by municipalities. There should be conditions associated with the expenditure of equitable share allocations.
- A targeted approach to free basic services needs to be implemented using indigent policy based primarily on household income as a qualification criterion. A comprehensive socio-economic survey should be done to determine needs of communities and income levels in order to establish informed indigent criteria. Presently, 2001 census date is being used for the calculation of equitable share and indigent income.
- National and provincial government should exercise stronger oversight on Auditor-General findings where municipalities receive qualified or disclaimer reports. Penalties for non-compliance need to be considered.
- Municipal officials and councillors need to be trained in ethical principles and a monitoring system established to improve staff performance.
- Free basic service allocations need to be reviewed, taking into account research showing that current quantities are inadequate and the impact of the economic recession on indigent households.
- Farm owners should be engaged by municipalities to ensure that farm dwellers have access to services provided by the municipality or the farmer as a service provider (and compensated as such).
- Public participation processes need to be meaningful and constructive in order to achieve their objectives. While municipalities are required to submit annual reports on public consultation processes to the Department of Cooperative Governance and Traditional Affairs, the department does not have internal capacity to monitor and evaluate the quality of those processes.

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NOTES

- ¹ The survey findings show that 88.6% of South Africans have access to piped water (Statistics South Africa, 2007. Community Survey, http://www.statssa.gov.za/community_new/content.asp).
- ² It is important to note that the dplg definition of indigent people (p3) is not utilised by municipalities. Indigent policy drafted by municipalities has been more specific usually based on income or property value.
- ³ Madlala, M. 2 June 2009. Mpofana Municipal Manager. Personal Communication.
- ⁴ Poor debt recovery is also because indigent policy is not utilised or inadequate for indigent households needs.
- ⁵ The basic services component weightings associated with the respective basic service functions carried out by municipalities are not reflected in DORA.
- ⁶ Jogiat, R. 18 May 2009. uMgungundlovu Municipality. Personal Communication.
- ⁷ uMngeni Municipality has just been exposed for irregular remuneration, corruption, procedural non-compliance and financial misrepresentations (Naidoo, 2009; Dell, 2009).
- ⁸ This programme aims to ensure the implementation of core municipal systems which will enhance service delivery, financial management and good management practices.
- ⁹ Khuzwayo, S. 26 May 2009. uMgungundlovu Municipal Manager. Personal Communication.
- ¹⁰ Zulu, K. 28 May 2009. Impendle Municipality. Personal Communication.
- ¹¹ Donnelly, W. 5 June 2009. Richmond Municipality Personal Communication.
- ¹² Zulu, K. 28 May 2009. Impendle Municipality. Personal Communication.
- ¹³ Mahlangu, B. 18 May 2009. Public Policy Unit, Office of the Premier. Personal Communication.
- ¹⁴ Mahlangu, B. 18 May 2009. Public Policy Unit, Office of the Premier. Personal Communication.
- ¹⁵ Including:
 - The utilisation of redundant census data and
 - A lack of clarity regarding basic service weightings and the adjustment factor.
- ¹⁶ 2003/2004 was damning with all the municipalities within the uMgungundlovu District receiving qualified, disclaimer or adverse audit opinions. However, the audit opinion for 2007/2008 indicates all municipalities, except Impendle, were credited with unqualified audits with findings. Only 1% of South African municipalities received clean unqualified audits for 2007/2008 (AGSA, 25 June 2009, personal communication).