

**An evaluation of the ‘separation of powers’
governance model in the Johannesburg Metropolitan
Municipality**

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**Thesis presented in fulfilment for the degree of Doctor of Philosophy
to the Faculty of Commerce, Law, and Management, University of
the Witwatersrand**

23 October 2018

DECLARATION

I declare that this thesis titled ‘An evaluation of the ‘separation of powers’ governance model in the Johannesburg Metropolitan Municipality’ is my own, unaided work. I have acknowledged and referenced all sources that I have used and quoted. I hereby submit it in fulfilment of the requirements of the degree of Doctor of Philosophy in the University of the Witwatersrand, Johannesburg. I have not submitted this report before for any other degree or examination to any other institution.

Salatiale Chikwema

23 October, 2018

ABSTRACT

The absence of the separation of executive and legislative functions in local government limits oversight, accountability, and public participation. Governance in municipalities in South Africa is ‘distressed’ because of weak accountability measures resulting from a lack of separation of the functions between the legislature and the executive. In 2006, the City of Johannesburg undertook governance reforms and established a governance model that separated the executive and legislative functions of Council in response to the challenge of weak accountability, inadequate oversight and weak public participation in Council. This study evaluates the governance model implemented in the City of Johannesburg metropolitan municipality.

Using a qualitative research strategy, a case study design and semi-structured interviews as the key data collection method, thirty-five key governance model stakeholders were identified and interviewed across the political and administrative spectrum. All interviews were transcribed and coded according to the relationship between individual leader themes and the extent they linked to particular research focus areas. The patterns determined from the data (interviews and document analysis) were used to explain the conceptualisation, strengths and weaknesses as well as challenges of the ‘separation of powers’ governance model in the City of Johannesburg. The results are discussed and interpreted using institutional, principal-agent and democratic governance theories as analytical frameworks.

The study found that, despite positively influencing the practice of governance, the model failed to maximise its potential for ‘real’ oversight and accountability. Routine, overt, practices were implemented and promoted accountability practices, such as oversight committees, oversight visits, Council debates, performance monitoring and oversight reporting on performance. However, lack of capacity, inability to track Council resolutions, inadequate resourcing, mistrust between the legislature and administration, among other challenges, limited the evidence of the effect of such practices. The more subtle processes of values and culture of oversight were elusive leading to routine oversight activities failing to influence decision making. There was little evidence too that the model promoted public participation in Council processes.

TABLE OF CONTENTS

Declaration	ii
Abstract	iii
Table of contents	iv
List of tables	vii
List of figures	viii
List of graphs	ix
Dedication	x
Acknowledgements	xi
1. Introduction to the research.....	1
1.1. Configuration of South African government	1
1.2. City of Johannesburg Metropolitan Municipality	4
1.3. Governance arrangements in City of Johannesburg Metropolitan municipality	6
1.4. Towards evaluating governance models in local government	8
1.4.1. The research problem statement	8
1.4.2. The research purpose statement	9
1.4.3. The research questions	9
1.5. Delimitations of the research	10
1.6. Justification of the research	11
1.7. Preface to the research report	12
2. Literature review	14
2.1. South African local government and Johannesburg metropolitan municipality – the research context	14
2.2. Governance mis-arrangements in South African local government – the symptoms, root causes, and consequences	17
2.2.1. The South African local government legislative framework	17
2.2.2. Mechanisms to achieve accountability and participatory democracy in South African local government	19
2.3. Methods, data, findings, and conclusions of studies on and evaluations of governance arrangements	25
2.4. Situating ‘separation of powers’ and its critical components within public accountability	32
2.4.1. Governance, democratic governance and the practice of public accountability	33
2.4.2. Accountability in legislature-executive relations	35
2.4.3. Separation of powers doctrine – A foundation for public accountability	39
2.5. Key attributes of separation of powers governance model in local government	43
2.5.1. Appropriate legislative framework providing wide ranging powers	43
2.5.2. Capacitation of oversight committees – Cognitive, administrative and research capacitation	45
2.5.3. Majority party dominance	45
2.5.4. Relationship between oversight committees and the executive	47
2.5.5. Levels of public participation in oversight processes	48
2.5.6. Appropriate tools to effect oversight, accountability and public participation	49

2.6.	Establishing the theory of change of ‘separation of powers’ governance model – An interpretive framework.....	53
2.6.1.	Democratic governance theory and the objectives of the governance model	53
2.6.2.	Institutional theory and the structure and practice of the governance.....	57
2.6.3.	Principal-agent theory as a driver of accountability in legislative-executive relations.....	62
2.6.4.	Public participation theories of governance	65
2.7.	Conceptual framework for evaluating the City of Johannesburg ‘separation of powers’ governance model.....	68
3.	Research methodology	74
3.1.	Research strategy	74
3.2.	Research design	77
3.3.	Research procedure and methods	79
3.3.1.	Data collection instrument	80
3.3.2.	Research participants and selection.....	88
3.3.3.	Ethical considerations when collecting data	91
3.3.4.	Data collection and storage	94
3.3.5.	Data processing and analysis	96
3.4.	Research reliability and validity measures	100
3.5.	Research limitations	101
4.	The causal logic design and implementation compliance of the ‘separation of powers governance model’ at local level: The case of the City of Johannesburg Municipality.....	105
4.1.	Presentation of results.....	106
4.1.2.	Structure of the ‘separation of Powers’ governance model.....	109
4.1.3.	Oversight committees.....	113
4.1.4.	Size and membership of oversight committees.....	114
4.1.5.	Mandate, powers and authority of committees	115
4.1.6.	Activities, processes and procedures for oversight and public participation	116
4.1.7.	Resources and capacity for oversight.....	117
4.1.8.	A logic model outline for the ‘separation of powers’ governance model in the City of Johannesburg	119
4.2.	Comparison of research results to those found by similar studies and evaluations	121
4.3.	Discussion of research findings	124
5.	Challenges of implementing the ‘separation of powers governance model’ at local level: The case of the City of Johannesburg Municipality	129
5.1.	Presentation of results.....	130
5.2.	Comparison of research results to those found in similar studies and evaluations.	149
5.3.	Discussion of research findings	152
6.	To what extent is the ‘separation of powers governance model’ promoting accountability, oversight and public participation in local government?.....	154
6.1.	Presentation of results.....	155
6.1.1.	Promotion of oversight and accountability.....	155
6.1.2.	Promotion of public participation.....	168

6.2.	Comparison of research results to those found in similar studies and evaluations.	171
6.3.	Discussion of findings.....	174
7.	Summary, conclusions, limitations and recommendations	176
7.1.	Summary.....	176
7.2.	Conclusions.....	180
7.3.	Limitations	186
7.4.	Recommendations	187
	References	190
	Appendices	198
	Appendix 1: Sample Interview Guide	198
	Appendix 2: Consent letters.....	205
	Appendix 3: Permission letter.....	206
	Appendix 4: Ethical clearance certificate	207
	Appendix 5: Sample Terms of reference of committees.....	208

LIST OF TABLES

Table 3.1: Description of key stakeholders	90
Table 3.2: Research schedule	94
Table 3.3: Illustration of data capturing spreadsheet	99
Table 4.1: Logic model of the City of Johannesburg 'separation of powers' model.....	120

LIST OF FIGURES

Figure 1.1: Spheres of government in South Africa.....	1
Figure 1.2: Seven regions of CoJ municipality	5
Figure 2.1: An illustration of division of power between legislative, judicial and executive functions of government.	21
Figure 2.2: An illustration of division of power at local government level	21
Figure 2.3: Theoretical underpinnings of the city of Johannesburg governance model	33
Figure 2.4: Separation of Powers and its core objectives	42
Figure 2.5: An illustration of accountability relations agency in legislative-executive relations adapted from (Kinyondo, et al. 2015)	63
Figure 2.6: An illustration of accountability relationships and oversight tools in principal-agent relationships (Kinyondo, et al. 2015)	65
Figure 2.7: Eight rungs of the Ladder of Participation.....	67
Figure 2.8: Conceptual framework for a formative evaluation of City of Johannesburg 'separation of powers' governance model	70
Figure 4.1: An illustration of governance arrangements pre-2006	110
Figure 4.2: Accountability arrangements in the post-2006 governance model.....	111

LIST OF GRAPHS

Graph 6.1: General perception of the functionality of oversight committees.....	155
Graph 6.2: Perception of compliance with Council resolutions as rated by chairpersons of Section 79 Committees	162
Graph 6.3: Percentage of improvement in public participation as a result of implementation of the governance model.....	168

DEDICATION

To **Nicholas Chikwema** who would have loved to witness this. May you smile upon us always...

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1. INTRODUCTION TO THE RESEARCH

This chapter serves to introduce the study. Section 1.1 provides a general and broad description of the research context, the South African government arrangements and in section 1.2 narrows the research context to focus on the City of Johannesburg as a specific case. Section 1.3 introduces notions of democratic governance and accountability, notions that dominate this study. In section 1.4 the study discusses the research problem statement; the purpose of the research as well as the research questions. The chapter closes by providing a delimitation of the study (1.5); a justification of the study (1.6) as well as the general layout of the study (section 1.7).

1.1. Configuration of South African government

There is a constant theme of ‘diffusion of power’ that influenced the post-1994 South African government, hence the three ‘spheres’ namely, national, provincial, and local. The diffusion of power informed the ‘distinct, interdependent and interrelated’ nature of these three spheres, representing independence and interdependence of each government, working together as required by the Constitution and national laws (Mogale, 2003).

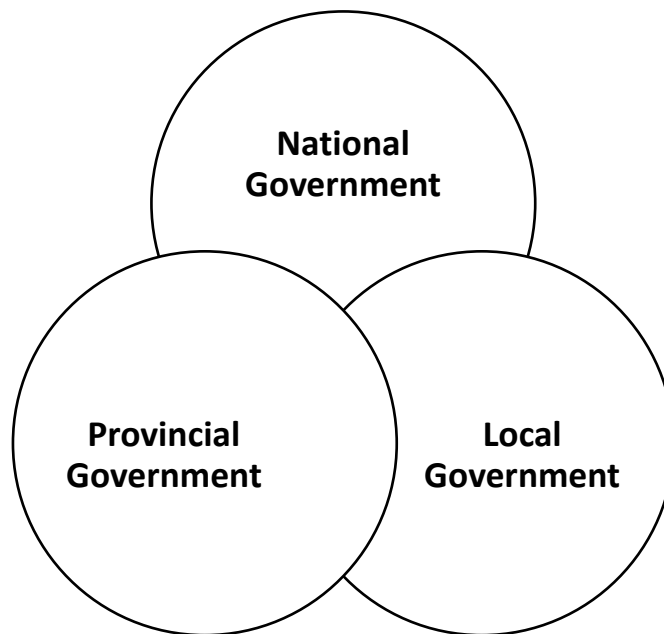


Figure 1.1: Spheres of government in South Africa

The diffusion of power is regulated by the Constitution of South Africa which stresses sharing of power, guiding how cooperative governance and concurrency should work across the spheres of government. Each sphere has administrative and political

structures with specific roles delegated to enable coexistence and accountability within and across each government sphere (Constitution of the Republic of South Africa, 1996). Broadly, national government sets up policy, provincial government exercises oversight on service delivery by local government among other roles and local government is the service delivery arm of government. There are, however, performance dependencies across the spheres premised on the diffusion of power. There have also been debates on the continued existence of provincial governments.

Despite debate on their relevance, the provincial sphere is composed of nine provinces: Eastern Cape, Northern Cape, Free State, Gauteng, KwaZulu-Natal, Limpopo, Mpumalanga, North West and Western Cape. Provincial governments develop growth and development strategies, aligned to national plans, that give an overall idea for developing the provincial economy. They also exercise oversight over municipal performance. To an extent, provinces have improved alignment between national priorities and provincial departmental budgets and plans. However, the usefulness of provincial governments is debatable, with suggestions they are ineffective and can be removed because provincial service delivery is less effective and blurred and that many provincial roles, could be performed by national or local government spheres. In contrast, roles of national and local governments are well-defined and agreed (De Villiers, 2007).

The Constitution gives legislative and executive competencies to each sphere of government to manage public interest and to promote accountability of the sphere to the public (Heymans, 2006). As a result national, provincial and local spheres of government have elected members who make up legislatures and carry-out legislative roles of government. These are; at national level, the parliament made up of National Assembly and the National Council of Provinces, the legislature at provincial level and municipal Councils at local government level. The primary responsibility of legislatures is lawmaking, representing the public, approving policies and overseeing the work of the executive. At national and provincial government, cabinets perform executive roles while Mayoral Committees perform executive roles at local government level. They coordinate making of policies and laws and oversee implementation of government programmes by government departments. All three spheres also have departments and public officials (administration) whose responsibility is to do the work of government (Mogale, 2003). Together, the

legislature and executive promote accountable government through executive-legislative accountability relationships.

The national executive is accountable to Parliament (national assembly and national Council of provinces), and the provincial executive is accountable to the provincial legislature. At local government level the mayoral committee is accountable to Council. The municipal manager, as accounting officer, advises the Council and its committees on administrative matters such as policy issues, financial matters, organisational needs and personnel matters. Section 2.2 of the research analyses these government arrangements and their implementation in local government which sometimes can inhibit the public accountability objective of the Constitution.

The local government sphere is central to the realisation of basic services. It was assigned the role of delivering those services that are beneficial to the livelihood of local communities and to societal welfare in general (Sebola, 2015; Chang, 2010). Local government has an elaborate mandate in the constitution, organised into five constitutional objectives. First, local government must provide democratic and accountable government of local communities. This requires councillors and municipal officials to be accountable and for Council to promote accountability to citizens (Department of Constitutional Development, 1998); (Gildenhuys, 1997). Second, local government must provide services to communities in a sustainable way, particularly water, sanitation, electricity and waste management (Department of Constitutional Development, 1998); (Roux, 2005). Third, the local sphere must promote social and economic development while, fourth, promoting a safe and healthy environment. Fifth, local government must involve communities and community organisations in key local government planning, budgeting and decision making process, creating and developing a culture of participatory governance through empowering local communities to take part in the affairs of their areas, (Department of Constitutional Development, 1998); (Constitution of the Republic of South Africa, 1996). This study focuses on two of these objectives, the provision of democratic and accountable government and the involvement of communities and community organisations in local government matters.

South African local government is made up of two hundred and eighty three municipalities distributed into three municipal categories, Category A (metropolitan),

Category B (local) and Category C (district), an intricate arrangement that has sometimes been described as complicated and ineffective. The Municipal Structures Act states that only metropolitan municipalities qualify as category A municipalities. These municipalities are clusters of towns combined into one large city government. In total, South Africa has six metros, namely; Cape Town, EThekweni, Nelson Mandela Bay, Ekurhuleni, and Tshwane. There are two hundred and thirty-one Category B municipalities and forty-seven Category C municipalities. There are also, two-tier Category B municipalities that share executive and legislative authority in their area with a Category C municipality within the same area. Category C municipalities have municipal executive and legislative authority in an area that includes more than one local municipality. Policy shifts and trends have rendered this a complicated and ineffective arrangement, with negative implications for governance practice in municipalities.

1.2. City of Johannesburg Metropolitan Municipality

City of Johannesburg (CoJ) is a Category A municipality located in Gauteng Province. The municipality has over five million inhabitants. The municipal Council employs over thirty thousand employees, spread in ten core departments and eleven municipal entities. The current configuration of the City of Johannesburg municipality was established in 2000 from a merger of Greater Johannesburg Metropolitan Council and its substructures. These substructures included Northern, Eastern, Western, and Southern Metropolitan Local Councils as well as Midrand and Modderfontein Local Councils to form seven regions as illustrated below.

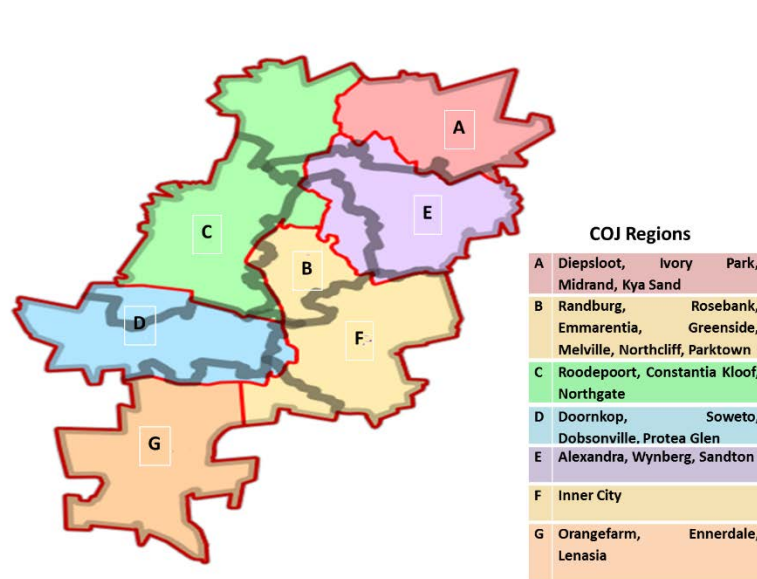


Figure 1.2: Seven regions of CoJ municipality

Metropolitan municipalities together with the other categories of municipalities in South Africa face several challenges including service delivery challenges, corruption and maladministration, poor project management, poor communication with residents and weak governance arrangements (Langa, 2008); (Karamoko, 2011) (Sebola & Nkuna, 2015). Other challenges include tensions between politicians and administrators; limited capacity of some municipalities to deal with the demands on local government; inadequate accountability measures; inadequate resources for local democracy; and poor compliance with the legislative and regulatory requirements (Karamoko, 2011). According to Karamoko (2011), these challenges lead to bad governance practice epitomised by bad audit opinions, fruitless and wasteful expenditure, non-compliance with the law, political instability among other symptoms. These challenges result in poor financial management, poor reporting, ineffectual decision making, poor audit reports, lack of compliance with legislation, ineffective public consultation, among other governance challenges.

According to Carrim (2009), the lack of accountability caused by weak oversight, inadequate scrutiny and ineffective public participation procedures is responsible for the scenario of bad governance in municipalities (Carrim, 2009). This has weakened democratisation of the local sphere of government as envisaged in the Constitution, leading to community protests commonly described in South Africa as service delivery protests (Carrim, 2009). Further, formal forms of municipal accountability and oversight are inaccessible to many citizens who are expected to resort to election processes, media and civil society for accountability effect. All these challenges serve to reduce citizen confidence and trust in the system as shown in the community protests, a symptom of alienating citizens from local government among others (De Visser, 2005).

Representative government as envisaged in the Constitution of the Republic of South Africa, is complemented by the right of communities to take part in the decisions that affect development in their areas. Municipalities have matching duty to encourage community participation in matters of local governance (Negwekhulu, 2009). Despite this vision, the effectiveness of local government's engagement is a common challenge. While national legislation provides the mechanisms for public participation, which include ward committees and various other measures designed to foster open, transparent and consultative municipal government, the functionality and effectiveness of these is

problematic (De Visser, 2005). As a result, in South Africa, improving public participation in government processes remains a critical objective of all spheres of government.

1.3. Governance arrangements in City of Johannesburg Metropolitan municipality

The City of Johannesburg Metropolitan Municipality manages the local governance of Johannesburg, through elaborate political and administrative governance structures and practice. On the administrative side, the City established several departments and municipal entities to improve efficiencies in the delivery of basic services .

As such, at the time of the study, the City had ten core departments, namely, Health and Social Development; Development Planning; Public Safety; Environment and Infrastructure Services; Transportation; Community Development; Housing; Finance; Economic Development; and Corporate and Shared Services. The city also established twelve municipal entities with the objective of improving efficiencies in the delivery of basic services, namely; City Power; Johannesburg City Parks and Zoo; Johannesburg Development Agency (JDA); Johannesburg Market (JFPM); Johannesburg Property Company (JPC); Johannesburg Social Housing Company (JOSHCO); Johannesburg Roads Agency (JRA); Johannesburg Tourism Company (JTC); Johannesburg Water; Metropolitan Bus Company; Metropolitan Trading Company; PIKITUP and Joburg Theatre Company. They deliver basic services—water, sanitation, waste management, power supply, and public transportation—on behalf of the City. Municipal entities are managed through boards of directors that accountable to Council, suggesting an elaborate governance structure.

On the political governance side, the City of Johannesburg has two hundred and seventy councillors, comprised of one hundred and thirty-five ward councillors and an equivalent number of proportional representation councillors. Collectively the two hundred and seventy councillors make up Council and exercise the legislative functions of Council under the chairpersonship of the Speaker of Council. Among the two hundred and seventy councillors, one councillor is elected Executive Mayor who appoints a ten-member Executive Mayoral Committee to whom Council delegates executive functions.

The Members of the Mayoral Committee under the leadership of the Executive Mayor collectively, make up the political executive of Council and exercise all delegated executive functions of Council. All councillors who are not members of the executive committee and are also not appointed as a political office bearer (either Speaker or Chief Whip of Council) serve in committees of the Council that are also delegated some of Council's legislative functions.

The City of Johannesburg Council operates a system of committees as allowed in Section 79 or 80 of the Municipal Structures Act. Post the 1994 elections and the establishment of a new local government dispensation and legislative framework, an executive mayoral system was implemented in the City of Johannesburg and other metropolitan municipalities in South Africa. The executive mayoral system was based on Section 80 committee system as provided for in the Municipal Structures Act of 1998. This model faced several challenges including that it gave non-executive councillors minimum influence in the decision making processes of Council. It also placed a significant responsibility in the Executive Mayor and not Council, the sole decision making body of Council.

As part of on-going governance improvement processes, in 2005 towards the end of the first local government term (2000 to 2005), the Department of Local Government (DLG) in Gauteng Province undertook a review of governance arrangements in metropolitan municipalities in Gauteng. The review established that governance arrangements in municipalities were not facilitating the holding of municipal executives accountable; that the role of Council was being dominated by a powerful executive mayoral system; and, that there was very low meaningful public participation happening in municipalities in general and in metropolitan municipalities in particular.

In response to the some of the governance challenges cited above, the Department of Local Government (DLG) in Gauteng Province resolved to review governance arrangements in metropolitan municipalities. The review recognised the need to improve the practice of democracy in municipalities through strengthening municipal arrangements and practice of accountability, oversight and public participation. The review recommended that the powers of Council would be enhanced by delegating the legislative functions of Council to Council committees and not committees established by the Executive Mayor.

They also recommended that municipal Councils must practice legislative oversight over the executive and increase levels of public participation in Council.

The Department of Local Government (DLG) in Gauteng Province identified the Johannesburg Metropolitan Municipality to pilot the new governance arrangements which were referred to as ‘separation of powers’ governance arrangements (City of Johannesburg, 2005). The pilot project started in the 2006 to 2011 local government term. The pilot ended in 2011 and was formally adopted to be implemented permanently in the 2011 to 2016 local government term of office and beyond. This study undertakes a formative evaluation of the ‘separation of powers’ programme implemented in Johannesburg municipality.

The study is concerned with understanding the logic model of the governance arrangements and to establish whether the project was implemented according to this logic model. It is also concerned with assessing the challenges the City of Johannesburg is facing in the implementation of the governance arrangements and the extent to which the arrangements are promoting oversight accountability and public participation in City of Johannesburg Metropolitan Municipality.

1.4. Towards evaluating governance models in local government

1.4.1. The research problem statement

Since the advent of freedom in South Africa in 1994, government has passed several laws, policies and implemented other interventions to improve governance in municipalities (Department of Cooperative Governance and Traditional Affairs, 2009). However, despite passing of laws and implementation of interventions supporting governance, ineffectiveness of governance remained a challenge for municipalities in South Africa (McLennan, 2009). In a 2009 assessment of the state of local government in South Africa, the Department of Cooperative Governance and Traditional Affairs (COGTA) concluded that municipal governance was in distress. The department identified three causes of distress in municipal governance—lack of clear separation between legislative and executive functions, inadequate accountability measures for local democracy and lack of meaningful public participation in municipal governance processes (Department of Cooperative Governance and Traditional Affairs, 2009).

De Visser (2005) agrees and explains that there is a governance problem in South African local government represented by poor accountability because of weak oversight in municipalities. This is because accountability of the executive to the Council is a cardinal principle of democracy and good governance. So, the governance challenges affecting municipalities have led to questions about whether there are fault lines in the design of local government that have resulted in lack of accountability and responsiveness (De Visser, 2005; Feesha, 2008). An obscure division between the executive and legislative roles in municipalities is a key cause of distress in municipal governance and this conflation of executive and legislative functions in a single body of Council is criticised as limiting the application of governance processes such as accountability, oversight and public participation in municipalities (De Visser, 2005); (Christmas, 2009). Towards the end of the first term of local government (2000 – 2005), the need to address these challenges received increasing attention and the City of Johannesburg metropolitan municipality piloted new governance arrangements aimed at improving the separation between the executive and the legislature to support oversight, accountability and public participation. However, despite implementation of this governance model, it is not certain the extent to which the new governance arrangements are promoting oversight, accountability and public participation.

1.4.2. The research purpose statement

The primary purpose of this study is to assess the conceptualisation and implementation of a new governance model in the City of Johannesburg. The study does this by examining the logic model (conceptualisation) and implementation of the programme of separating executive and legislative functions of councillors at municipal level as carried out in Johannesburg. This process is undertaken in two processes; (i) assessment of programme logic model and the extent to which the City of Johannesburg governance model comply with this logic model and (ii) an assessment of programme process—the challenges the municipality is facing in implementing these governance arrangements as well as the extent to which the governance model is promoting the attainment of its objectives of oversight, accountability and public participation. Thus, the study focuses mainly on the design and implementation of Johannesburg's governance programme.

1.4.3. The research questions

The study responded to one primary question;

1. Did implementation of the ‘separation of powers governance model’ promote accountability, oversight, and public participation in the City of Johannesburg Municipality?

In responding to the primary research question, the study also addressed the following secondary questions;

2. What is the causal logic of the ‘separation of powers governance model’ and to what extent did its implementation comply with this linkage? (Chapter 4)
3. What challenges is the city of Johannesburg Municipality facing with regards to implementing the ‘separation of powers governance model’? (Chapter 5)
4. To what extent is the ‘separation of powers governance model’ promoting accountability, oversight and public participation in local government? (Chapter 6)

1.5. Delimitations of the research

Local government in South Africa operates on the basis of five-year political terms separated by elections. The scope of the research covered both the two political terms in which the ‘Separation of Powers’ governance model was implemented in Johannesburg; the period between the first political term (2006 – 2011) when the governance model was piloted and the second political terms (2011-2016) when the governance model was adopted and consolidated for continued implementation. Therefore, secondary data (including interviews, reports, official documents conducted and produced during the two terms) utilised in this study cover the two political terms.

Further primary data (from interviews) was collected over a period of eleven months between 2015 and 2016. The data collection process intensified in September 2015 after the attainment of the ethical clearance, and it ended in August 2016 as the 2011-16 political term came to an end. The study confined its sample of interviewees to sitting councillors (key office bearers) and officials (researchers and committee secretariat and senior executive management in the City of Johannesburg), involved with the governance model between the 2011-16 political term of office. The period after the local government elections of 3rd of August 2016 is not covered in this study but would present an interesting future research focus as there was a change of government in Johannesburg with a new political administration, based on a coalition of minority political parties getting into power.

1.6. Justification of the research

The study contributes and is justified at three levels, within the governance and monitoring and evaluation disciplines. From a governance perspective the study contributes to the existing body of knowledge on the influence of local dynamics, in particular South African local government in this case, in the conceptualisation, implementation and success of local governance models. While the influence of local dynamics is hardly accounted for, it is presented as a critical factor leading to most public declarations supporting robust oversight and scrutiny not being backed by actual practice and a subsequent change in values and culture of institutions (Alvey, 2005; Coulson, 2011; Geurtz & Van de Wijdeven, 2010). Using the specific circumstances of City of Johannesburg's governance model, this study contributes a critical South African local government experience and identifies multiple dynamics at play, which influence the conceptualisation and implementation of the governance model.

From an evaluation perspective, the study contributes to the narrowing of a knowledge gap identified by Kuhlmann and Wollmann (2011) who when evaluating institutional reforms at subnational government levels established that the challenge for local government is not the absence of reforms but rather evaluating completed reforms. There is a history of interventions being developed and implemented but not evaluated for continuous improvement. There have been many interventions in South African local government since 1994, however, there has also been a shortage of evaluations of these interventions. (provincial and local).

They identified this as a missing link in policy and programme evaluation discourse (Kuhlmann & Wollmann, 2011). They observed that evaluating provincial and local government has not been common compared to evaluation of national programmes. Attempts to find out the formulation, implementation and impact of subnational reforms have been ignored. In contrast, when compared with evaluation of national public-sector reforms, a significant number of evaluations take place on central government programmes than on sub-national ones (Kuhlmann & Wollmann, 2011). Caulley (1983) further suggests that despite the implementation of public-sector reforms, there is an absence of an evaluation framework that can be used to measure the impact of such reforms (Caulley, 1983). Therefore, the other contribution of this research is the lessons learnt from evaluating this governance model.

The study also makes a case for the adoption and use of logic modelling as a critical tool to assess concepts such as the separation of powers governance model. Given the complexities between the objectives and intent of the separation of powers principle as a governance model and its actual practice and effect are influenced by various factors, including the local context within which the separation of practice is practiced. The study, using an application of logic model exposes these complex influences.

1.7. Preface to the research report

This thesis has seven chapters. In chapter 2 the study further unpacks the context and setting of the study and expands on the research problem. It identifies and defines key concepts and their attributes. It also discusses already existing academic work on local governance to establish methods applicable in the conduct of this study. It settles on relevant analytical frameworks and theories, to interpret its findings maps out the conceptual framework that guides this study. Chapter 3 of the study explains the research design, selects and describes the method that the study applied to evaluate the 'separation of powers' governance model in the City of Johannesburg. It describes data collection instruments used, the processes followed to identify research respondents, collect data and to process it as well as the reliability and limitations of this research.

Chapter 4, 5 and 6 present findings of this research and compares these findings to the studies identified in chapter 2. Chapter 4 responds to secondary research question 1 and describes the logic model of the governance model and critically assesses whether the model was established according to this logic. Chapter 5 responds to secondary research question 2, on the challenges experienced in the implementation of the governance model. The chapter demonstrates that the potential of the City of Johannesburg's governance model has not been maximised due to challenges and weaknesses faced in its implementation. These challenges are reducing the ability of Johannesburg to derive maximum benefits from its governance processes. Chapter 6 responds to secondary research question 3 and presents the extent to which the governance model is promoting the key governance processes of oversight, accountability and public participation. It submits in its assessment that the extent to which the model promoted accountability,

oversight and public participation is evident, however the potential for improvement remains significant.

Chapter 7 responds to the primary research question. Based on the findings in the three preceding findings the chapter summarises and draws inferences on the conceptualisation and implementation of the governance model in relation to the key governance processes. The chapter concludes that the implementation of the City of Johannesburg governance model is dominated by a routine practice of oversight, accountability and public participation, however, these routine activities are yet to translate extensively, into the practice of the values and principles of these concepts. The next chapter reviews literature and past studies relevant to this study.

2. LITERATURE REVIEW

This chapter outlines and critically examines what is already known about the area of my research interest — governance, public accountability and public participation within local government. Using the research questions as a general guide, this chapter is organised into the following structure as broadly suggested by Neuman (2011) and Bryman, (2012) — Sections 2.1 and 2.2 unpack the research problem and its context. Section 2.3 discusses methods, data and findings of past studies on governance and the evaluation of governance models from which informed the methodological approach used in this study. Section 2.4 unpacks relevant concepts of democratic governance, accountability, and separation of powers. Section 2.5 establishes the critical attributes of separation of powers doctrine, and section 2.6 develops a theoretical and analytical framework that inform governance, accountability and the practice of separation of powers, frameworks which the study used to interpret its findings. The study focused democratic theory of governance, principal-agent theory and institutional theory as central theoretical and explanatory framework to explain the City of Johannesburg’s governance model and what emerges from its implementation. In section 2.7, the chapter presents a roadmap of how this study went about evaluating the City of Johannesburg’s ‘separation of powers’ governance model.

2.1. South African local government and Johannesburg metropolitan municipality – the research context

This study focuses on South African local government in general and the City of Johannesburg as a particular case within local government. It has been suggested by Masutha, (2014) that a key understanding that supports the three spheres of government model in South Africa is that each of these levels of government would be distinctive, interdependent and interrelated (Masutha, 2014). This helps the whole of government to be efficient, equitable and accountable, emphasising the democratic intent of government (Masutha, 2014). Particularly for local government, the Constitution requires that a municipality has the right to govern on its own initiative subject to national and provincial legislation and that national or provincial spheres may not compromise or impede a municipality’s ability or right to exercise its powers or perform its functions.

There are benefits to be derived from implementing a three-sphere-system of government such as improved alignment between national and local government intervention and policy objectives. However, there have also been suggestions that this may

not be the best structure to achieve the anticipated responsiveness, public participation, efficiency and accountability of a developmental state (Chang, 2010). There have been suggestions, therefore, that the current constitutional structure and model of cooperative governance while beneficial to the state has its own weaknesses that present challenges in the attainment of objectives of building the South African developmental state (Chang, 2010).

There is evidence of successes and challenges under the cooperative governance model. On the positives, local government in South Africa has experienced significant growth epitomised by rapid increases in access to public services by communities previously denied such; passing of legislative frameworks that enhance local government's ability to meet its mandate, including working with communities, among other positives (Thornhill, 2008). However, despite the recorded growth, there has been criticism that several layers of government, coupled with an unclear division of functional responsibilities can lead to increased complexity and reduction in service delivery effectiveness, particularly at local government level (Carrim, 2009). As a result, parallel to the growth described above, local government in South Africa faces a number of challenges such as poor institutionalisation of systems, weak public participation processes, poor service delivery and poor political governance among others (Carrim, 2009).

One challenge of the structure of government relates to the role and value-add of provincial government. Given the establishment of a new local government in 2000, the future of provincial governments became an area of concern for the cooperative governance model because while a clear mandate of developmental local government was given to local government, there wasn't such certainty around the mandate of provincial government. Let alone the performance of provincial governments was questionable (De Villiers, 2007). While acknowledging the role of provincial governments in mediating between national and local government, provincial governments have demonstrated uneven capabilities, negatively affecting national and local priorities leading to the value add of provincial governments being questioned.

The African National Congress, itself the governing party and architect of the current form of government in South Africa since 1994, notes that if actual service were to be the primary measure of the performance of provincial governments, then some

provinces had added limited value (ANC, 2010). As a result of these challenges, there has been a realisation, that the provincial structures as they are in operation today, in terms of both their political and administrative relevance, required revisiting (De Villiers, 2007). Provincial service delivery is less effective and blurred whilst the developmental roles of national government and local government are well defined and agreed. As a result, it has been suggested that many provincial functions, could be better performed at national or local level (De Villiers, 2007). Despite these suggestions, provincial government remains an important sphere of government in South Africa.

There has been a suggestion that the ineffectiveness of other spheres of government, primarily, provincial government has exacerbated the challenges that local government faces (ANC, 2010). However, it has also been established that often, local government also takes responsibility for the failures of the provincial sphere of government and sometimes, the national sphere of government as well. The provincial government-linked challenges confronting local government are directly related to functions that are the sole responsibility of the province. First, provincial government in South Africa is responsible for exercising oversight over the performance of local government, the general perception of poor performance of local government can be attributed partly to the lack of strong performance management of municipalities by provinces. Second, provinces play a key role in the stability of local communities through the distribution of key services that include; education, health, housing, social welfare and components of public transport. Yet, when the delivery of these services fails, local government has to respond. There are also other challenges such as deployment processes, inter and intra political tensions that spill over to local government. Any failure, perceived or actual in the delivery of any of these services presents challenges of protests for local government. As a result of these responsibilities, there is evidence that some of the service delivery protests that local government has to deal with are within the competence of provincial government and not local government.

However, not all challenges of local government emanate from provincial government, local government is responsible for a fair share of its own challenges. These challenges include a lack of capacity to meet service delivery needs and accompanying service delivery protests, municipal capacity and skills deficiencies, inadequate resources (in places), poor management of available resources, failure to account for resources

(corruption), low revenues, failure to engage communities adequately, weak accountability, political tensions combined with other generally weak governance practices and processes among others (Madumo, 2015). While there are significant benefits to the current configuration of South African government, there is evidence that to some extent, this configuration combined with the internal circumstances within local government present wide ranging governance challenges that inhibit the attainment of an efficient, equitable and accountable government model. Section 2.2 below further unpacks and discusses these governance challenges.

2.2. Governance mis-arrangements in South African local government – the symptoms, root causes, and consequences

Various mechanisms — legislation, funding structures, internal processes and mechanisms—exist in South African local government to deal with the governance arrangements that support local government in attaining its constitutional mandate, in particular, promoting local democracy. This is an expectation, arising from the Constitution, for local government to be people-centred, accountable and democratic. This section illustrates, through the critical analysis of existing mechanisms, that, despite the existence of these mechanisms, local government in South Africa still experiences challenges in the attainment of this constitutional mandate.

2.2.1. The South African local government legislative framework

Like many other jurisdictions, South Africa elevated local government mandate to Constitutional relevance. Section 152 of the Constitution emphasises the role of local government as to provide democratic and accountable government for local communities; provide services in a sustainable manner; promote social, economic development, promote a safe and healthy environment, and should involving communities and community organisations in all matters concerning local government. The Constitution also specifies that the legislative and executive authority of a municipality be vested in the municipal Council. While the Constitution does not provide the detail of how the constitutional mandate of local government is to be practically achieved, several legislative provisions were passed post 1994 that sought to secure this mandate at local government level. Beyond the Constitution of the Republic of South Africa Act 108 of 1996, the key pieces of legislation include — the Municipal Structures Act 117 of 1998, the Municipal Systems Act 32 of 2000 and the Municipal Finance Management Act 56 of 2003.

The Municipal Structures Act (1998) provides the framework for the establishment of municipalities, the criteria for determining the category and type of municipality to be established as well as the division of functions and powers among municipal types (Municipal Structures Act, 1998). The Act regulates the structures and operation of municipalities and their office bearers and provides for the electoral system of municipal government recommending the combination of party list and ward candidates. It is this Act that establishes Category A metropolitan councils, Category B local councils and Category C district councils as well as the range of types of executive authority models for each category. Section 8 of the Municipal Structures Act also provides for the establishment of ward committee systems in Category A and B municipalities, their composition, election processes and presents a framework for their powers and the term of office of members (Municipal Structures Act, 1998). A critique of the performance of ward committees in the South African context is further discussed in Section 2.3 below.

The Municipal Systems Act (2000) has a broad mandate central to the attainment of local economic development. However, more specifically, the Act supports social and economic uplifting of local communities by providing the core principles, mechanisms and processes required. It defines the legal nature of a municipality and the manner in which municipal powers and functions are exercised and performed. It provides the framework for community participation and municipal planning, performance management by requiring a municipality to develop a culture of municipal governance that complements formal representative government with a system of participatory governance (Municipal Systems Act, 2000). However, despite the centrality of community engagement and participation in the Act, one of the primary challenges for local government in general, is that not enough consultation of communities takes place and when it does, it does not result in communities influencing government decision making processes and decisions.

The Municipal Finance Management Act (2003) was passed to secure sound and sustainable management of the financial affairs of municipalities as well as to establish treasury norms and standards for the local sphere of government. It also institutionalises financial practices and seeks to inculcate a culture of regular performance reporting on municipal finances, including improved financial management and annual reporting (Municipal Finance Management Act, 2003). Despite great positives having been derived

from the implementation of the MFMA and its new financial management requirements, including improved accountability and improved financial management, the progress has been uneven and over ten years after the passing of the Act, many municipalities in South Africa still face challenges relating to poor financial management, irregular and wasteful expenditure as well as poor reporting of financial matters leading to poor audit reports and weak accountability. Therefore, despite the passing of these local government Acts and their collective benefits, the actual practice and functionality of local government have been problematic with the mechanisms to achieve accountability, democratic and participation imperatives of local government being criticised as weak and ineffective.

There are other legislative frameworks that relate to local government in South Africa that are not directly the focus of this study. These include the Municipal Property Rates Act of 2004, Municipal Demarcation Act of 1998 and Cross-boundary Municipalities Act of 200 that all influence various aspects of local government including municipal boundaries and rates framework. These Acts are not, however, the primary focus of the study as they do not deal primarily with systems, structures and governance processes in municipalities.

2.2.2. Mechanisms to achieve accountability and participatory democracy in South African local government

The expectation of a people-centred, accountable and democratic role of government has its foundation in the South African Constitution leading to all three spheres of government being expected to achieve democratic and accountable governance, which, involves and consults communities and community organisations. Therefore, there are several mechanisms that the government architecture has put in place to promote the practice of accountability, democratic and participatory processes towards the attainment of this mandate. While these mechanisms have been useful in government making progress towards this constitutional mandate, there is evidence too that in some instances, the implementation of some of these mechanisms has led to challenges that have reduced the ability of government to achieve the people centered, accountable and democratic government.

The first mechanism the study will engage with is the separation of the three functions of government. The South African Constitution, like many other democratic

constitutions emphasises the separation of the three key functions of government; the judiciary, executive and executive. As a result, in South African government the separation of powers arrangement supports the fundamental values of democracy, through reinforcing the powers and functions of the legislature, the executive and the judiciary.

The South African constitutional and legislative framework maintains a structural element of accountability, oversight and participation by ensuring that in some form or the other, the judiciary, the legislature, the executive, and administration are provided for in all three spheres of government. While the national judicial infrastructure also covers municipalities, the presence of municipal courts is largely ineffective due to functionality challenges. Each sphere of government in South Africa is made up of (i) elected members (legislatures) – who represent the public, approve policies and laws and monitor the work of the executive and departments; (ii) a Cabinet or Executive Committee (executive) – who co-ordinate the making of policies and laws and oversee implementation by the government departments; and (iii) departments and public servants – who are responsible for doing the work of government and account to the Executive. At the national sphere, the legislature is represented by the national parliament and the National Council of Provinces (NCOP).

At provincial sphere, the legislature is represented by the provincial parliament and at local sphere by the Council of elected and seconded councillors. The executive (cabinet or executive committee) co-ordinates the formulation of policies and laws, oversees implementation of policies and laws as well as government departments. Similarly, at national sphere, the president and cabinet make-up the executive while at provincial sphere cabinet is made up of the premier and executive Council. At local government, cabinet comprises the mayor and mayoral committee. The mandate of government departments (public servants) at all levels is to implement government interventions (policies and laws) as directed by the executive. Respective directors general and the specialised departments within national government execute the national administrative functions. At provincial sphere, it is heads of departments and specialised staff while at local sphere it is the municipal manager, heads of departments, and specialised staff. These mechanisms are intended to promote democratic and responsive governance that is accountable and participatory within the three spheres of government. Figure 3 below illustrates this accountability arrangement at national and provincial spheres.

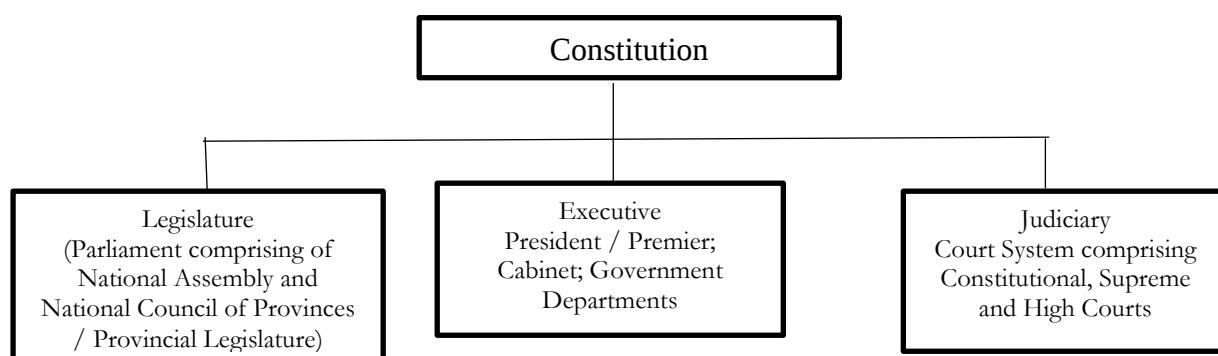


Figure 2.1: An illustration of division of power between legislative, judicial and executive functions of government.

However, while the legislative arrangements for a democratic, responsive, and accountable government are legislatively certain and well defined at national and provincial government, they are not so at the local sphere. Particularly, the Constitution of South Africa (1996) places executive and legislative roles in a single body of Council at local government sphere (Constitution of the Republic of South Africa, 1996). Therefore, in a municipality, a municipal Council, sitting in plenary, possesses both legislative and executive powers as these are conflated into a single body of Council.

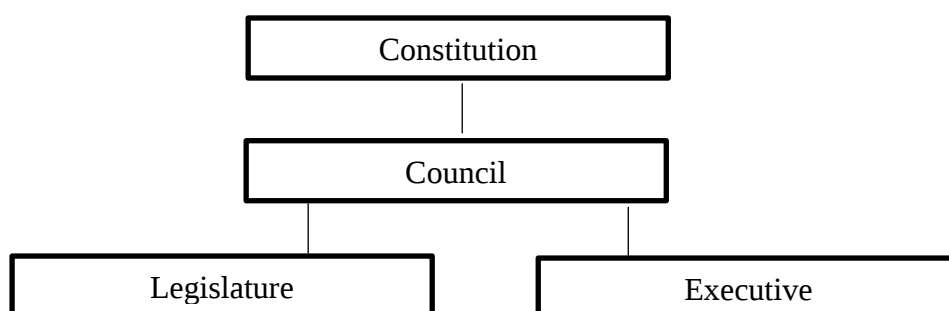


Figure 2.2: An illustration of division of power at local government level

This study argues, as has been argued elsewhere (Christmas, 2009; COGTA, 2009; McLennan, 2009), that this conflation of legislative and executive functions triggers the oversight, accountability and public participation problems that South African local government faces. As a result, this sphere of government cannot provide effective, transparent, and accountable government (Constitution of the Republic of South Africa, 1996). This conflation and lack of certainty and definition results in ineffective democratic, responsive, and unaccountable local governments leading to what has been described as

governance distress in South African local government. It has been suggested that this emanates from the Constitution itself, because even though constitutions provide the basis of separating government functions, they are sometimes criticized for not giving sufficient details on the mechanisms to practically effect this separation. This leads to objectives of separating government functions not being realized completely, sometimes.

The second mechanism to achieve accountability, participation and democratic governance is the phenomenon of committees in legislatures. These committees are sometimes referred to as oversight or portfolio committees. Wherever oversight committee systems are established in legislatures that operate on the basis of parliamentary democracy, such as practiced in South Africa, they are expected aid the effectiveness of accountability arrangements. They are established to be critical drivers for the attainment of good governance, accountability and oversight in government. There are various frameworks that guide the implementation of committee systems at various levels of government. In South African local government, the Municipal Structures Act provides for committees to be established in terms of Sections 79 and 80 of the Act, with varying implications for governance (Municipal Structures Act, 1998).

Section 80 of the Act prescribes that when a municipality has an executive committee, a Council can establish committees to assist the executive mayor or executive committee to exercise their functions (Municipal Structures Act, 1998). The Act recommends that the chairperson of a Section 80 committee be appointed from members of the executive mayoral committee so that the recommendations of the committee can easily be implemented by the administration. Section 80 committees are commended for the speed with which they can deliver decisions, but they are also criticised for being an ineffective accountability structure. This category of committees has several weaknesses.

Section 80 model of committees has been criticised as having a negative influence on the capacity of a municipal Council to hold its executive accountable as committees enhance the blurring of accountability lines as the MMCs chairing a section 80 committees are, literally, exercising oversight over themselves (Feisha, 2008). Particularly, the requirement for the section 80 committees to report (account) to the executive (mayoral) committee and act in accordance with the directions of the executive (mayoral) committee has been found to limit the authority of such a committee to exercise oversight and hold

the executive committee to account. Another key weakness of Section 80 committee systems is they are accused of promoting the “referee and player” concept whereby they are involved in programme development and implementation as well as oversight of the same programme. Therefore Section 80 committees are criticised for being ineffective in attaining accountability and in exercising oversight. They do not provide sufficient space for oversight because a chairperson of a section 80 committee is required to carry responsibility as a political head of department, as a Member of Mayoral Committee (MMC) as well as a chairperson of a Section 80 committee that seeks to hold the executive accountable and to exercise oversight over the department. With Section 80 system of committees there is a limited form of separation of powers in local government, in that it leaves the executive with the role of evaluating itself.

This governance arrangement described above also negatively influences the ability of councillors who are part of the committee from exercising their oversight role. Feesha (2008) adds that Section 80 committees promote the lack of transparency through the way the mayoral committee operates and reduces the space for those councillors who are not in ‘government’ to contribute. Section 80 committees centralise decision making in the executive mayor and the executive committee and this leads to a general lack of transparency (Feesha, 2008). Councillors who are not members of the mayoral committee often claim that they cannot influence decisions because they are not involved in the decision-making process of the Council, which takes place in the mayoral committee (Feesha, 2008).

Section 79 of the Municipal Structures Act allows Councils to establish one or more committees necessary for the effective and efficient performance of its duties or the exercise of any of its powers. Council determines the functions of such a committee (s) and delegate duties and powers to determine its procedure. The Act recommends that only non-executive councillors can be appointed chair of a Section 79 committee(s) (Municipal Structures Act, 1998). This model of committees is viewed as supportive of government’s democratic, accountability and participatory objectives mainly because the committees established in terms of section 79 of the Act are accountable to Council and their terms of reference are determined by Council. A major criticism of the section 79 committees is that they are not sustainable in Councils that have very few councillors as they require non-executive councillors to take a more active role in governance matters in a municipality.

The third mechanism of interest to the study is the phenomenon of ward committees that are established to support municipal governance processes. The South African governance system provides for ward committees to facilitate deliberative democratic decision making. Therefore, ward committees are expected to foster public representation, consultation and recommendations on matters affecting communities to or through the ward councillor to a respective Council department, the executive committee, and consequently to the executive mayor and Council. Section 72 of the Municipal Structures Act further allows Council to delegate duties and powers to a ward committee (Municipal Structures Act, 1998).

Ward committees have largely been ineffective in delivering on their legislative expectations. Piper and Deacon (2009) in a study on the Msunduzi municipality, concluded that despite ward committees operating for seven years, they were not fully functional because committee members depended on ward councillors, political parties, and the municipality for the execution of their responsibilities (Piper & Deacon, 2009). This dependence syndrome undermined democratic benefits, therefore, compromising effectiveness of ward committees. Further, Smith et al (2006) and Christmas (2009) argued that structures (ward councillors and ward committees) provided for by the Municipal Structures Act of 1998 to facilitate public participation in municipalities were ineffective, contributing to the perception that municipalities are not responsive to the needs of communities (Christmas, 2009) (Justice, Melitski, & Smith, 2006).

Given these challenges with ineffective mechanisms to achieve accountability, democratic governance and participation, an assessment of local government revealed that local government governance was in distress due to two root causes — (i.) non-separation of legislative and executive functions leading to (ii.) inadequate oversight, and hence accountability, measures (Department of Cooperative Governance and Traditional Affairs, 2009). Christmas (2009) points to an obscure division between executive and legislative roles in municipalities as the key cause of distress in municipal governance (Christmas, 2009). Despite supposedly effective legislative provisions and implementing several interventions, McLennan (2009) thinks that governance arrangements in several South African municipalities are ineffective and remain a critical challenge (McLennan, 2009). There is, therefore, evidence that the governance challenges including a lack of

accountability and responsiveness at municipality level may be caused by a flawed design of local government in South Africa (Feesha, 2008). The design flaw explanation is plausible considering that before 1994, South Africa had over 2 000 municipalities which were reduced to 278 initially, with an average of 172 000 people per municipality, there was always going to be opportunities to, on a regular basis review the functionality of municipalities and to institute local government reforms.

2.3. Methods, data, findings, and conclusions of studies on and evaluations of governance arrangements

There are several existing studies on governance and evaluations of oversight and scrutiny governance models, that provide valuable methodological and findings insights for this study. Specific to local government much of the existing research evidence focuses on the processes of holding the executive to account, policy development and review, performance monitoring and external support for oversight (Ashworth & Snape, 2004). Methodologically, the majority of studies on oversight and scrutiny are qualitative in nature and based upon a case study approach, for example, from a focus on the modernisation and evaluation of scrutiny in a single municipal authority (Cole, 2001) (Johnson & Hatter, 2003) to comparative process evaluations in several Councils (Snape & Taylor, 2001; Stoker, John, Gains, & Harding, 2002). A minority of the studies are quantitative evaluative studies on scrutiny governance models (Ashworth, 2003; Leach, 2003; Ashworth & Snape, 2010). Many of the studies evaluate oversight and scrutiny together with other aspects of the governance model such as public participation (Feesha, 2008; Makhado, Masehela, & Mokhari, 2012; Nyathela & Makhado, 2014). Collectively these studies present significant insight on methods, data and results useful for this evaluation.

One of the major conclusions drawn by Ashworth and Snape (2010) after auditing scrutiny committees is that after five years of implementation, oversight and scrutiny had failed to hold the executive to account effectively (Ashworth & Snape, 2010). This they attributed, as Leach and Wingfield (1999) and Snape and Taylor (2001) suggest, to scrutiny being a problematic function for local government, primarily because of the relationship and interaction between political party representatives and their role within a legislature. They argue that it is important that political parties are protected from undue government restrictions but it is equally important that elected representatives enjoy the right to participate freely and independently in the business of their political assembly (Leach & Wingfield, 1999) (Snape & Taylor, 2001).

Legislative scrutiny and oversight is often best performed by elected members who bring in a degree of independence whilst balancing party sentiments and community preference. This independence and structuring of political activities around political parties makes oversight, scrutiny and accountability problematic for local Councils. Therefore, internal political dynamics in Councils determine the success of scrutiny. As a result, as Leach and Wingfield (1999: 87) point out “scrutiny ... [can] only work effectively in a cabinet/assembly system dominated by one party if its members are prepared to criticise their colleagues or the executive openly—something which is extremely difficult under present party discipline in the current system” (Leach & Wingfield, 1999). They also raise a red flag that such an arrangement may not always succeed. One reason identified for this is that the chairing of scrutiny committees by the majority party makes councillors reluctant to challenge their colleagues, making oversight and scrutiny ineffective.

Similarly, Snape and Taylor (2001) conclude that the function of oversight and scrutiny is a problematic function for local government councillors because they feel it unsettles internal political dynamics. An open and accountable legislative process tests the rights of elected members to take an independent stand on matters of oversight and scrutiny (Snape & Taylor, 2001). However, as a matter of convenience, democratic communities structure their political activities around organised political parties (Uhr, 2001). Snape and others (2002:42) and Leach (1999) argue that holding the executive to account is extremely difficult because it “... directly challenges the power, influence, and culture of the party group system (Leach & Wingfield, 1999). It also directly challenges often, the most powerful elements within the decision-making system. Although leaders, cabinet members and senior officers declare their support for robust scrutiny, in reality some will not complain if the role emphasis lies with policy development and review rather than holding the executive to account” (Snape & Taylor, 2001). As a result sometimes there is evidence of a preference for less controversial oversight and scrutiny functions due to complications on internal political dynamics.

Leach and Wingfield (1999) suggest that, while it is important that political parties are protected from undue government restrictions, it is equally important that elected representatives enjoy the right to participate freely and independently in the business of their political assembly. The task of legislative scrutiny and oversight is often best

performed by elected members who bring a degree of independence: balancing party sentiment and community preference. It is this degree of independence and the structuring of political activities around political parties that makes oversight and scrutiny and public accountability a problematic function for Councils. This makes internal political dynamics in Councils a determining factor to the success of oversight and scrutiny (Leach & Wingfield, 1999). Based on this observation, Leach and Wingfield (1999:87) note that; "... scrutiny role would only work effectively in a cabinet/assembly system dominated by one party if its members are prepared to criticise their colleagues or the executive openly – something which is extremely difficult under present party discipline in the current system (Leach & Wingfield, 1999)" This suggests party discipline is an influential determinant to effective oversight arrangements.

The findings by Leach and Wingfield (1999) are relevant to this study because they refer to internal governance arrangements in municipal Councils to reflect how scrutiny is a problematic function for local government. They raise a red flag on the potential of success of similar reforms. According to their study in the United Kingdom, the dominance of chairing of scrutiny committees by the majority party creates reluctance in councillors to challenge their colleagues. This reluctance contributes to scrutiny arrangements becoming ineffective (Leach & Wingfield, 1999). Their study also notes a general reluctance to apply approved oversight mechanisms such as the call-in mechanism, even though this was identified as the tool most likely to aid accountability. The claim that scrutiny is a problem function for Councils is given credence by evidence that in the early stages of the existence of scrutiny committees in the United Kingdom from 2000, the scrutiny of executive decisions and actions of Council employees was given low priority by many scrutiny committees (Cole, 2001); (Ashworth, 2003). Instead the executive exerted more influence on scrutiny than the scrutiny committee.

Leach (2003) as well as Ashworth and Snape (2004) have discussed local municipal Council scrutiny committees established in 2000 to improve the effectiveness of local governance in the United Kingdom. They were meant to provide a clearcut delegation of executive and scrutiny functions between the executive and the non-executive councillors, respectively. The task of the former was making and implementing key decisions while the latter hold the executive to account. Obviously, the aim of these reforms was to make the executive accountable through scrutinising executive decisions and actions before they

were made, before they were implemented, and after they were implemented (Leach, 2003) (Ashworth & Snape, 2004).

Leach (2003) argues that scrutiny is problematic for Councils based on evidence generated in the early stages of these scrutiny committees in which they concluded there was a general reluctance to apply approved oversight mechanisms, such as the call-in mechanism, to improve accountability (Leach, 2003). They note that, in the early stages, scrutiny committees gave low priority to scrutinising executive decisions and actions of Council employees (Cole, 2001); (Ashworth, 2003). Instead, it was the executive that exerted more influence on scrutiny than the scrutiny committee. Ashworth and Snape (2004) also audited scrutiny committees from 2000 (when the reforms were introduced) to 2005. Their audit shows that oversight and scrutiny contributed positively to policy review but failed to hold the executive to account effectively. They conclude that oversight and scrutiny failed to become an effective part of local governance and was not yet an effective arrangement to 'check and balance' the executive (Ashworth & Snape, 2004).

The findings by Snape (2000) as well as Leach (2003) emphasise how a majority party can view scrutiny and how this perception determines the success or failure of local government oversight and scrutiny arrangements. For this reason, Snape (2000) emphasises that before legislating local municipality oversight and scrutiny practices, this challenge should be considered local political and organisational factors are important ingredients of effective oversight and scrutiny (Snape, 2000; Leach, 2003; Hankla & Downs, 2010). This makes the choice of a municipality's governance structure and the authority devolved to its internal organs critical to the success of any governance initiative.

To achieve effective governance arrangements, there are various options for structuring local municipal institutions and devolving authority. One option is Councils establishing strong executives as local executive dominance may lead to a successful oversight and other governance arrangements as it provides for sufficient financial resources as well as access to information and expertise to oversee the executive (Hankla & Downs, 2010). However, this may lead to a downside as it weakens local democracy and eliminates responsive local government. It is unlikely that local citizens would prefer a strong executive compared with a Council-driven system (Hankla & Downs, 2010).

The other option, as Hankla and Downs (2010) suggest, is establishing influential legislatures that are critical for good governance and democratic oversight. Their role of the legislature is to verify whether executives are carrying out their responsibilities honestly and whether they are effectively ensuring citizen participation. A parliamentary form of institution where the elected Council makes up the legislature with powers to appoint and a local executive is also effective in providing for local municipal authority and enhance public accountability. Such an arrangement will allow the local Council to hold the local executive to account. One weakness with this arrangement is that local authorities would not remove executives without provincial consent (Hankla & Downs, 2010).

Past studies that assessed local governance arrangements established several core key requirements, activities and processes that legislatures are expected to undertake if they are to be effective in achieving their accountable government imperatives (Johnson, 2003); (Snape, 2003). These include securing legislative backing; separate, as far as possible functions of executive and non-executive councillors; reconfigure the functioning of the Council; establishing of committees to undertake oversight, scrutiny and public participation functions among other roles; implementation of processes and procedures that promote executive question time and debates; implementation of tools of oversight that include oversight visits, evidence gathering sessions; providing sufficient capacity for effectives which includes skilled scrutiny (research) officers; the extent to which the legislature accommodates the role of other agencies such as Chapter 9 institutions in South Africa, including the Auditor General in the work of the legislature, among other activities (Leach, 2003; Dacombe, 2008; Uhr, 2001). They concluded that the effectiveness of legislatures in their oversight and scrutiny functions is greatly influenced by how many of these activities and processes are implemented and allowed to function optimally (Leach, 2003). These activities and processes are useful as criteria to measure legislatures and their work.

The presence of administrative and technical research support for legislature committees also referred to as scrutiny officers by Snape and Taylor (2001) and Caulley (1983) was identified as critical element that helps to promote the cause of public accountability through oversight and scrutiny support (Snape & Taylor, 2001; Caulley, 1983). Legislature support staff assist in supporting oversight and scrutiny process through supporting the detailed work of accountability through public hearings and investigation

which are both tools of oversight that involve public. They produce published reports produced to communicate findings of such processes. According to Snape and Taylor (2001) and Caulley (1983) ideally, staff that supports legislative processes of scrutiny and oversight should produce an accurate and timely public record of legislative debates and committee engagements, with democratic worth, and useful as official transcripts and evidence of the competence of government in managing public affairs (Snape & Taylor, 2001; Caulley, 1983). A key assumption is that the integrity of the record produced by support officers is rarely in doubt, making it possible for public representatives, the public and the media to view these accountability records as significant illustrations of the conduct of government. This assumption is based on the legislature support officers being technically competent, skilled and not over-worked.

Promoting public participation in government processes with a view to improve oversight, scrutiny, and public accountability is yet another key function of legislatures. As Geurtz and Wijdeven (2010) argued public participation in local government emerged as an important mechanism to discourage one-sided decisions (Geurtz & Van de Wijdeven, 2010). They encourage shared power and decision-making. Further, Orr and McAteer (2004) identified three generic benefits of public participation. First, increasing public participation in decision making improves the quality of services delivered to communities because the local government can proactively consult with local communities and develop authoritative resource allocation (Heller, 2001). Second, other than service delivery, local government provides a platform for political activity—that is, engaging the public better to capture the poorly organised, the poorly resourced, and the dissents. Third, greater levels of participation ensure the future of local government because if they do not consult they risk becoming irrelevant (Orr & McAteer, 2010). Despite these perceived benefits of public participation, there are many challenges that lead to public participation being ineffective at local government level.

Orr and McAteer (2004) have argued that the ineffectiveness and disempowering nature of public participation at local government arises out perceptions the public participation process does not lead to improved oversight, scrutiny and public accountability. Piper and Deacon (2009) suggest that sometimes Councils perceive public participation as a survival strategy, creating a semblance of consultation but not being applied as a genuine consultation tool, further disempowering public participation. With

this perception, Councils configure public participation to meet the basic requirements of the law and to resemble legitimate consultation when it is meaningless, in contrast to the recommendations of the International Association of Public Participation (2004) that meaningful public participation is hierarchical and involves a process that informs, consults, involves, collaborates, and empowers local communities. When public participation is effective the impact of the public on governance processes is certain. Piper and Deacon (2009) studied the functionality of local government public participation in South Africa based on performance of ward committees in the Msunduzi municipality and discovered a dysfunctional public participation practice and process due to compliance driven processes as well as political influence as a result of local political dynamics (Piper & Deacon, 2009).

Michels and De Graaf (2010) also assessed the relationship between citizens and government in two Netherlands municipalities to ascertain if public or citizen participation can improve the quality of democracy. The aim of their study was to establish the role of the public vis-à-vis government in local participatory democracy and account for the true contribution of citizens involved in policymaking. They focus on the relations between citizens and government from a citizens' perspective. Their findings show that the role of citizens is limited primarily to providing information which government uses to make decisions. They conclude that for a local level healthy democracy to emerge, there is a need for democratic citizenship—that is, collective responsibility in public matters, increased public engagement, and improved legitimacy of decisions more importantly than having a voice in decision-making.

Further, Geurtz and van de Wijdeven's (2010) study described direct participatory democracy experiences of a medium sized municipality in the Netherlands and they identified two main reasons a government involves the public in its programmes. First, is the potential of citizen participation leading to people-informed outputs. Second, is the potential of citizen participation to make decision-making process democratic (Geurtz & Van de Wijdeven, 2010). They conclude that strong citizen participation at local government connects citizens to its government and tests a governance system's ability to accommodate oversight and scrutiny. Legislative scrutiny is enhanced if it can disallow or veto executive regulations if they do not conform to specific standards or legal form (Geurtz & Van de Wijdeven, 2010). In relation to bills and regulations, political assemblies

are tested for their willingness to promote greater public participation in scrutinising the core activities of government.

Similarly another challenge inhibiting effective public participation is compliance driven public consultation processes which are usually void of meaningful public participation, oversight and accountability in municipalities. In South Africa, Mogale (2003) has suggested that meaningful public participation is not always attained because its conceptualisation at local government level is fuzzy and ideological (Mogale, 2003). This has led to a mismatch between public participation conceptualisation and operationalisation. This disconnection between theory and practice, degenerates public participation into just a strategy that convinces local audiences that local government recognises their development needs and is attending to them. As a result, positive effects of participation are minimal and municipalities are seen as unresponsive and not accountable to the public. Only a more collegial approach increases policy legitimacy especially if the initiative is supported by a representative structure.

The foregoing review identified accountability, oversight and public participation as important governance factors to be delivered through effective governance arrangements. It has also shown that despite progress being made in the legislative frameworks supporting governance, local government continues to struggle with these concepts. The review has also cautioned that there is evidence that local governance reforms have experienced challenges emanating from internal political dynamics that limit oversight, scrutiny, public consultation and consequently public accountability.

2.4. Situating ‘separation of powers’ and its critical components within public accountability

The approach to governance and public accountability as envisaged in the South African local government arrangements outlined in section 2.2 above resides within the broad concepts of democratic governance, public accountability, separation of powers and legislative oversight. In this section, the study unpacks these key concepts and reviews their understanding and application in different contexts. Together, these four concepts lead this study to the theoretical underpinnings of the City of Johannesburg governance model as illustrated in figure 6 below.

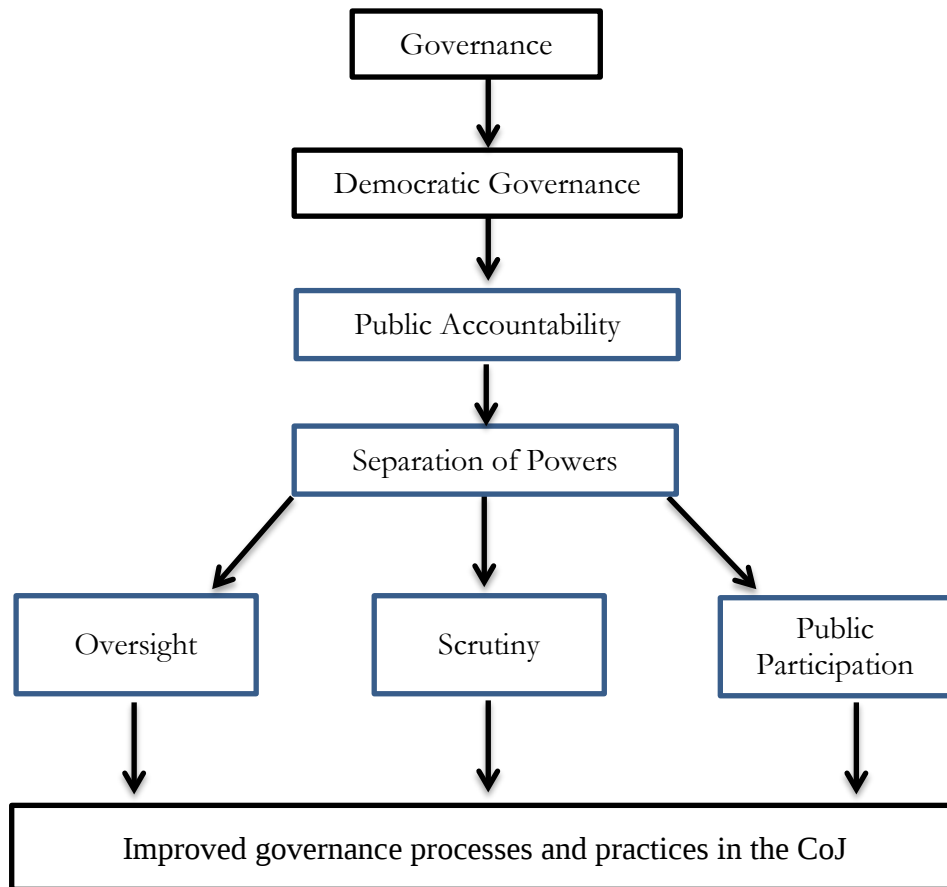


Figure 2.3: Theoretical underpinnings of the city of Johannesburg governance model

2.4.1. Governance, democratic governance and the practice of public accountability

A broad assessment of governance reveals several concepts, definitions and applications of governance; however, key aspects emerge when the different definitions of governance are analysed. First, there is an emphasis on the workings of multiple actors, group decision or collective decision making to address shared problems (Carrington, Jim DeBuse, & Lee, 2008; Hill & Hupe, 2002). Second, there is also emphasis on the how rules, rulings and other formal processes are used by organisation or governments to exercise of power (Pillora, 2011; Hill & Hupe, 2002). Other definitions emphasise key characteristics of democracy such as universal suffrage, elections, credible voting, as key determinants of governance (Dahl, 1989). The latter is used to advance the ‘good governance’ argument which this study does not pursue. Despite the different conceptualisations of governance this study draws on the different points of emphasis to view governance as how the state is constituted, how it executes its mandate and how it is connected to different stakeholders in the execution of this mandate (Mhone and Edigheji 2003). There are various ways that

governments, organisations and society exercise power, and one of the primary ways is informed by democratic practice.

Democracy is variably defined but key to the various definitions is that there is a strong reference to people-oriented government as epitomised by “government that comes from the people; exercised by the people, and for the purpose of the people’s own interests” (Becker & Raveloson, 2008). As such, the exercise of power in a democratic environment is informed by the following key principles of democracy—emphasis on fundamental basic freedoms, elections, rule of law, separation of powers, and a parliament (legislature). The basic definitions of democracy have wide appeal as it is viewed as government by the people, carried out in the interest of the public and therefore providing opportunities for higher accountability by those in power (Dahl, 2000; Lijphart, 1999). It is a form of government based on enforcing the fundamental values of democracy in the power exercise, values such as promoting liberty and equality, allowing public and civic participation in government, access to public offices, freedoms of expression and the freedom to express different political, economic and social choices. These values also lead to the principles of participation, efficiency, efficacy, responsibility, transparency and rule of law. Many of these values and principles ensure that governments are accountable to their electorate (public accountability) (Dahl, 2000; Fox & Shotts, 2007).

However, merely following these key principles does not guarantee the presence of a democratic environment. It has been established that these principles must be backed by an environment of values, culture and real processes, an environment where the views of the minority are respected, a respected separation of powers as well as a functional legislature because democracy is a continuously evolving concept that requires procedures and mechanisms to be constantly maintained and consolidated. This explains governance reforms and why many countries continue to improve their democratic practice and seek to improve on the components of democracy and how they are applied. Despite the wide appeal of democratic governance, the creation of a truly democratic environment goes beyond the existence of principles to an actual practice of democratic culture and values.

Democratic governance is a governance practice that allows governments, organisations and society to enforce the fundamental values of democracy in the power exercise. It has been demonstrated that there is a strong relationship between governance

and democracy, and that there is evidence that when a state moves towards democracy, it can trigger improved governance practices (Stockemer, 2009). Despite evidence of a link between democracy and governance, there is evidence too, that, sometimes the stated practice of key elements of democracy does not always translate to improve governance practices such as the attainment of public accountability of government to citizens. This requires transparency in governing processes as well as honesty and integrity of the elected representatives and the administration (Pillora, 2011).

2.4.2 Accountability in legislature-executive relations

Relationships between the legislature and the executive can be framed within the broad framework of accountability. Accountability is variably defined, but most definitions reveal a role for an actor (agent) (individual or agency) who has a duty to explain and justify conduct in situations where the tasks of an individual or institution are subject to oversight by another individual or institution (principal). Some definitions also recommend the possibility of sanctions when responsibilities have not been met (Grant & Keohane, 2005); (Kassim & Menon, 2003) . However, there is evidence that the sanctions component of accountability is not always emphasised nor practiced in many legislative-executive accountability arrangements for a number of reasons as illustrated below.

According to Bovens, (1998) accountability, therefore, has two distinct stages, a core notion revolving around answerability and another notion of enforcement (Bovens, 1998). Answerability is an obligation of the accountee (such as government and its staff and agents) to provide information about its decisions and actions and to justify them to those institutions of accountability (such as the legislature) including the public (Peters, 1999). Enforcement suggests that the institution (or public) to whom accountability is due can sanction or provide remediation to the accountee. Specifically, vertical accountability is relevant to this study, wherein citizens and members of the public (principals in the principal-agent relationship) can enforce performance management on government (agents) (Peters, 1999)

Legislative-executive relations is a key framework within which accountability and the notions of answerability and enforcement in the public sector are practiced. Legislative-executive relations are a key feature of democratic governance, emphasising holding to account of those in power. Legislative-executive relations provide a platform for

institutional practices of giving account for the execution of assigned responsibilities through the chain of principal agent relationships (Strom, 2000) (further discussed in section 2.6.). In the public sector, legislature-executive relations are exemplified by interactions of oversight between parliament and the executive with ultimate accountability resting with the public representatives and this theoretically happens at election time (Bovens, 1998). These oversight interactions may also include providing direction or requests for explanations or justification of specific actions, implying explanation and justification (associated with the idea of 'giving an account') and the imposition of sanctions for inadequate or improper performance or maladministration (associated with 'calling to account'). This is epitomised by, on the one hand, the answerability obligation of government (its agencies and officials) to provide information about its decisions and actions and justify them to the public and the legislature that has the responsibility of oversight. On the other hand, enforcement suggests that the public or the legislature can sanction the offending party or remedy the contravening behaviour. This is the traditional concept of accountability which has evolved over time to incorporate new approaches.

New approaches to accountability now include the notion of rectification which has tended to replace that of sanctions (loss of office). New actors, in particular citizens collectively and individually, are increasingly incorporated into accountability relationships over and above the traditional participants of legislature and executive actors (Considine, 2002). This has resulted in accountability moving from being primarily vertical and horizontal to also include social and diagonal accountability. While this study is more concerned with vertical and horizontal accountability and the participatory mechanisms to accountability, it acknowledges the influence of social and diagonal accountability within executive-legislative relations.

Yet another important factor in legislative-executive relations is the concept of institutions and how they affect individual political behaviour, thus making institutions critical players in how the legislative-executive relations unfold. A generic definition of institutions refers to institutions as governance structures based on rules, norms, values and systems of cultural meaning (Teubner, 1986). Institutions can be formal structures like parliament as well as unstructured entities like social class. Some definitions of institutions emphasise the existence of standard sequences of interactions (set working rules) that determine who is eligible to make decisions in some arena, the appropriate actions

permitted or not, procedures to be followed among other criteria (Ostrom, 1990); (Jepperson, 1991). However, there are other definitions that equate institutions to organisations while in political science, 'institutions' can refer to a formal structure like a parliament.

As March and Olsen (1989) suggested, institutions sometimes come with an almost inherent legitimacy that commits their members to behave in ways that may even violate their own self-interest (March & Olsen, 1989). This suggestion is interrogated further in Section 2.6 below. According to Peters (1999), there are several characteristics that define an institution — it must have structural features, it must be stable over time, it should be able to influence (constrain or abate) individual behaviour and must have a common value system (Peters, 1999). March and Olsen (1989) further describe another key feature of institutions as their tendency to have a 'logic of appropriateness' that influences behaviour more than a 'logic of consequentiality' that also might shape individual action. This implies that if an institution is effective in influencing the behaviour of its members, those members will think more about whether an action conforms to the norms of the organization than about what the consequences will be for him - or herself (March & Olsen, 1989). Therefore, while individuals will make conscious choices, those choices will remain within the parameters established by the dominant institutional values. Those choices also will require that each individual make an interpretation of just what the dominant institutional values are; even the most thoroughly developed institutions will leave many areas of behaviour open to interpretation by individual members. This will, in turn, require some means of monitoring behaviours and reinforcing dominant views about appropriateness.

However, this conceptualization of institutions is not without criticisms, first, in the degree of uniformity assumed to exist within an institution. There is always a risk of different people understanding things like cultural signals differently and will define 'appropriate' in very different ways compounded with the existence of multiple cultures within a single organization. Other criticisms relate to the definitions of components such as rule and routines. For the routine, however it has been suggested by March and Olsen (1989) that focus must be placed on whether there is a stable pattern of behaviour, without the sense that it is unchangeable, dysfunctional, or even enforceable. There is always a risk that rules will also be interpreted differently and acted upon differently.

This study draws from the reference to institutions as physical governance structures based on a collection of rules, norms, systems and values and sees parliaments or legislatures as relevant institutional reference points. It views an institution as a collection of interrelated rules and routines that define appropriate actions in terms of relations between roles and situations (March & Olsen, 1989). Institutions and their specific institutional arrangements can determine the quality of accountability arrangements and political behaviour that are possible.

Therefore, in relation to accountability in legislative-executive relations, institutions set the required checks and balances, facilitate political cooperation and try to reduce political uncertainties, all which are key determinants if accountability is to be institutionalised. The effect of such arrangements is to confer power and authority to some e.g. to confirm the right for a principal to receive reports and to sanction and to ensure the agent accepts such a right for the principal. The institutional arrangements must also capacitate the accountability holder to sanction. It has been suggested, however, that power-asymmetries between accountability holders and power wielders can disrupt the sanctioning process when the former is institutionally weak and unable in either absolute or relative terms, to sanction the latter effectively. This makes the institutions within which the legislative-relations play themselves out quite critical because they can abate or hinder the attainment of accountability in the public sector.

This section has demonstrated that there are several benefits of accountability in a democratic space. According to Woods and Narlika (2001), accountability enhances integrity of public governance and so safeguards the public from corruption, nepotism and abuse of power. Accountability effects democratic control by promoting transparency, responsiveness and answerability thereby building public confidence in government. Government has an obligation to ensure decision making, policies and procedures are in the best interests of stakeholders, promoting vertical accountability through the power of oversight held by stakeholders (Woods & Narlika, 2001). It has also demonstrated that the quality of public accountability that emerges from legislative-executive relations can be influenced by the nature of institution with which it is applied.

2.4.3. Separation of powers doctrine – A foundation for public accountability

The principle of separating the different branches of government has been described by Uhr (2001), as a core part of accountability in democratic governance, in which different kinds of public roles should be separated from one another and exercised by different institutions or individuals. Each of these should be allocated matching identifiable roles, the principle recommends that the legislature should make laws, while the executive administers the law, and the judiciary presides over and interprets the law. This is intended to balance the distribution of power and prevent an overconcentration of power in a single person or institution (Uhr, 2001). However, over time, two forms of separation have been emphasised, that which preserves the independence of the judiciary from the political executive as well as that which protects the freedom of the legislature or parliament from domination by the executive government. This second form is achieved by establishing two distinct branches of government or by devising institutional checks and balances to highlight the different responsibilities of the political executive and legislature. This study is concerned more with the second form. This is why in many instances, separation of powers has become a core component of practices linked to democratic governance and accountability (Uhr, 2001).

There exists a real risk of poor governance and abuse of power if some form of separation and checks and balances is not implemented. Most parliamentary governance systems have executive members drawn from the party with majority of members of parliament. Therefore, if independence of law-making is not protected, parliamentary systems can degenerate to subservience. Persson, Gerard, and Tabellini (1997) go on to point out that if that happens, then the assembly is nothing more than a ‘rubber stamp’ of the executive. To avoid this, democratic governments should protect the independence of representative assemblies because making democracy effective means promoting the independence of the legislature since it is the central forum for community deliberation on law and policy (Persson, Roland, & Tabellini, Separation of Powers and Political Accountability, 1997). In sum, accountability is forged when governance arrangements allow for public scrutiny of the executive and the government operations are subjected to sustained oversight by parliamentary and other specialist authorities (Steffan, 2009). There is evidence however, that despite the active separation of powers and the implementation of checks and balances, poor governance still persists in many parliamentary democracies,

for a number of reasons, including that a full separation of powers as defined in theory is not practically implemented.

Alvey (2005) attributes the development of the 'separation of powers' doctrine to both ancient and modern writers. The former includes, Plato (427-347 BC), Aristotle (384-322 BC), and Polybus (205-123 BC) who collectively formulated theories of government, political theory, and defined key functions of government (Alvey, 2005). Fitzgerald (1980) points out that the ancient 'mixed constitution' designed to avoid competition between factions is an older version of 'separation of powers' because it was a mix of and balance among three constitutional mandates, monarchy (rule by one), aristocracy (rule by the few), and democracy (rule by many) (Fitzgerald, 1980). Further, Alvey (2005) points out that the ancient writers also influenced modern writers such as Locke (1690), Baron de Montesquieu, the 'Spirit of Laws' (1748) and Madison (1788) who coined the modern 'separation of powers' (Alvey, 2005). In Carney (1993), Montesquieu (1748) suggests that, to avoid arbitrariness and promote liberty, power of governance should be divided between three state organs. Locke (1690) criticised absolute monarchies and advocated for constitutional monarchies whose powers are limited. Montesquieu (1748) improved on Locke's idea and conceptualised the modern 'separation of powers' doctrine. Collectively, they advocated for 'separation of powers' as a system that fosters checks and balances (Alvey, 2005). There is evidence that in later years the principle has continued to influence governance arrangements as more current trends continued to influence adoption of the principle. Figure 1 illustrates the 'separation of powers' principle, its core objective, and avenues for achieving this objective envisioned from literature interrogated here.

The conceptualisation and implementation of the 'separation of powers' doctrine has evolved with time leading to the initial theoretical concept not being implemented as envisaged in different contexts. As a result, as Barendt (1995), and Alvey (2005) point out, a major critique of the 'separation of powers' principle is the difference between its theory and practice (Alvey, 2005); (Barendt, 1995). A complete separation is only theoretically possible but practically impossible mainly because it is impossible to define, then firmly allocate government functions and mandates to its three branches because government enjoys significant delegated authority. Actually, as Lumb (1983) has argued, an absolute 'separation of powers' would lead to anarchy. Therefore, reality dictates that power should only be partially separated and then complimented by other controls (Lumb, 1983).

However, the inability to implement a strict ‘separation of powers’ doctrine should not compromise the overall objective of separating powers—which is to promote liberty and prevent arbitrariness or tyranny in government because of a concentration of power in one individual or institution.

The challenge of allocating functions to distinct arms of government has created different adaptations of the principle. For example, Bagehot (1963) has argued that in many countries, especially the Commonwealth countries the judiciary is sacrosanct, and its functions and responsibilities are distinct but there exists partial fusion between the executive and the legislature (Assembly) (Bagehot, 1963). More explicitly, in the Westminster system, executive personnel (ministers) are chosen from legislative assembly (members of parliament). This presents a necessary overlap because, as Alvey, (2005) has argued, it makes cabinet members accountable to the legislative assembly. Therefore, while there is a clear distinction between the judiciary and the other two branches, in many cases the powers of the other two branches of government may overlap. In sum, due to implementation challenges leading to innovative adaptations, a complete and strict doctrine of ‘separation of powers’ remains theoretical rather than practical (Alvey, 2005).

Structural, institutional, and organisational arrangements are key determinants of the type and model of separation of powers to be implemented in a particular context. Barber (2001) emphasises that rather than just allocating functions to the supposedly distinct and appropriate institutions, the competency of these institutions should be assessed beforehand, including the composition and availability of skills, knowledge and experience, information gathering abilities, decision-making processes, and the vulnerability of the institution to outside factors (Barber, 2001). The conclusion to be drawn from Barber (2001) is ‘separation of powers’ doctrine provides for exercising power efficiently but only when it is allocated sensibly to the right institution (Barber, 2001). Similarly, Barendt (1995) argues that allocation of functions between branches should not be as important as achieving the objective of separating power bearing in mind that insensitive allocation may result in an incompetent and inefficient government (Barendt, 1995). While traditional governance theories including decentralisation provide for structural organisational changes to organisations, Peters and Pierre point out that the problems associated with changing the culture of the organization are often much more difficult than the structural changes (Guy Peters & Pierre, 1998). So new public

management recommends specific types of management tools, which operate within the broad propositions of governance, set forth earlier, from which the practices of oversight and scrutiny are derived.

To achieve public accountability, the ‘separation of powers’ framework relies on the application of key democratic governance principles of oversight and scrutiny as well as public participation, functions that are traditionally allocated to legislatures. This makes legislatures or parliaments key public accountability institutions in parliamentary democracies (Uhr, 2001). The application of these values has evolved, as Snape and Taylor (2004) suggest through three broad phases—that is, (i.) initially promoting the need for government accountability to parliament and the courts; (ii.) followed by extending it to public scrutiny and (iii.) finally extending the range of oversight mechanisms designed to supplement parliamentary scrutiny. Therefore, it has not been sufficient to simply separate functions of government, but this has been augmented with increased transparency and increased mechanisms to manage accountability arrangements in parliamentary regimes. These arrangements have brought oversight and scrutiny to the fore of public accountability arrangements.

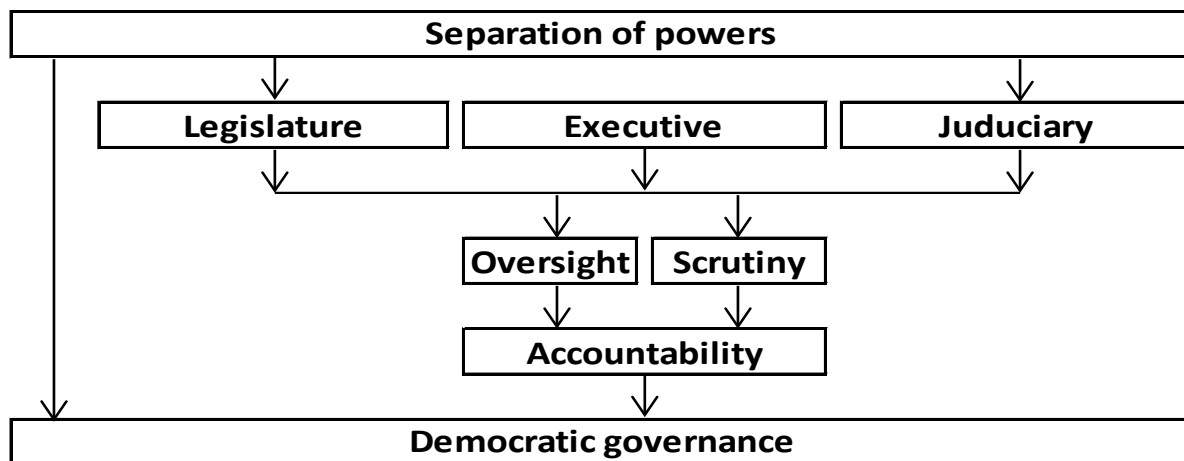


Figure 2.4: Separation of Powers and its core objectives

Despite the existence of theoretical frameworks of attaining public accountability, as Snape and Taylor (2001) point out, it is easier to secure public accountability in political theory than in concrete practice because the process involves extending parliamentary controls over the spheres of responsibility exercised by the political executive. This has potential to go against executive convenience (Snape & Taylor, 2001). This is why public accountability is consistently reformulated by refinements in scrutiny and oversight. Uhr

(2001) has suggested that “...left to itself, the attractive banner of ‘parliamentary government’ could be raised just as easily by unaccountable parliamentary oligarchs ... as by friends of parliamentary democracy” (Uhr, 2001).

2.5. Key attributes of separation of powers governance model in local government

A review of past and current studies on and evaluation of oversight mechanisms in legislatures, governance arrangements and governance models in general brought to light recommended oversight and scrutiny models and their limitations. Several authors highlight the positive work of legislature oversight committees as well as their influence in the relationship between the executive and the legislature. Ashworth (2003) suggests, the positives and limitations present a fairly common set of attributes or variables that characterises effective ‘separation of powers’ governance models or oversight and scrutiny models. These attributes include, among others (i.) the legislative and policy environment as well as the range of powers available to oversight committees (ii) the capacitation of oversight committees including availability of technical support (iii) levels of majority party dominance including appointments to leadership positions (iv) the influence of oversight committees in the budgetary process (v) the relationship between the legislature and the executive (vi) levels of public participation practiced by oversight committees and (vii) appropriate tools for oversight and accountability.

2.5.1. Appropriate legislative framework providing wide ranging powers

The first attribute of a functional separation of powers governance model is the nature of formal powers available to the committees within Council to undertake their responsibilities. Most importantly committees must be assessed on the extent to which the committees utilise those powers (Ashworth, 2003). Committees must have clarity on their responsibilities, powers and the authority they have to summon and sanction the executive appropriately. For example, Ryle (1997), recommends that there should be clarity on what a committee can investigate, the methodology a committee can apply to its processes. Beyond the identification of the range of powers, any assessment of oversight committees would also focus on the extent to which the committees operationalise their powers (Ryle, 1997).

The establishment of structures that have sufficient functions and powers is central to this attribute. This requires an appropriate, unambiguous, legislative, policy framework or terms of reference to support implementation and compliance of mechanisms. Common practice is that the principle of separation of powers is largely enshrined in the constitutions of countries. However, further legislative Acts that support the constitutional objective are required because there is a risk of non-compliance or lack of respect for some components of the separation of powers principle if left to the Constitution alone. This has led to the need for an appropriate legislative framework to support implementation of separation of powers, especially at local government level.

In the United Kingdom where a similar governance model was introduced as part of local government reforms, powers of oversight mechanisms included the power to do the following; call witnesses (including executives), investigate a subject of their choice, to instigate Council debates, to request responses from executive. This was complemented with the passing of the Local Government Act of 2000. In Northern Ireland the Local Government Act (Northern Ireland) 2014, allowed authorities to choose between a committee system and a cabinet-based system and that where the latter was chosen, they had to appoint at least one overview and scrutiny committee (Sandford, 2017). The legislation in England, Wales and Northern Ireland further specifies the powers and functions of overview and scrutiny committees, including providing for committee members to inform committee agendas; the holding of inquiries and production of reports; attendance by executive members and officers as well as external people; turn-around times for executive response to the scrutiny committee; as well as the limits of scrutiny committee power, i.e. overview and scrutiny committee cannot oblige either the executive, the Council or external bodies to act upon their findings. It also specifies that each authority must appoint at least one 'scrutiny officer' to support oversight committees in their work.

While such elaborate guidelines are useful, there are also jurisdictions such as Scotland, where there is no legislative provision for separate executives or for overview and scrutiny committees to scrutinise them. Scottish Councils with 'scrutiny committees', work on the basis of local working arrangements. This has emerged as an important attribute that Councils must have their own guiding framework which is in line with the

broader legislative framework which Council uses as a basis to manage separation of powers at a local level.

2.5.2. Capacitation of oversight committees – Cognitive, administrative and research capacitation

Yet another important characteristic of legislative oversight through oversight committees is the requirement for strong capacitation councillors. This capacity is required at various levels including cognitive, internal and external technical as well as efficient administrative and research support for the oversight process. Ashworth (2003) and Hogg and Jenkins (1999) identified internal technical support in the form of scrutiny officers as well as external technical support in the form of expert advisers for specialised investigations to assist oversight committees to undertake in-depth investigations into issues (Ashworth, 2003; Hogg & Jenkins, 1999). Oversight committees require sufficient technical support in the form of dedicated officer support and specialist advisors for them to cope in the role designed for them in the oversight committees (Ashworth, 2003). Beyond providing adequate technical support, Sandford and Maer (2004) note, within this attribute, there are issues to consider when deciding what kind of administrative support is required as well as whether the administrative support must be shared between the executive and the legislature (Sandford & Maer, 2004).

While Ashworth (2003) and Hogg and Jenkins 1999 emphasise technical support, from a cognitive perspective, the new role of non-executive councillors demands that they have a particular understanding of their new role and the demands of the committee. In a study undertaken by Sandford & Maer (2004), a major emphasis on changing the legislature was largely informed by the need to empower the legislature and give a greater role to non-executive councillors who were deemed critical for improving accountability, oversight and public participation, this new role demanded sufficient capacitation (Sandford & Maer, 2004).

2.5.3. Majority party dominance

While oversight committees must be politically representative of their local authority, the propensity for one party to dominate scrutiny activities is great. So, another important attribute relates to the levels of dominance by the majority party or its representatives in oversight committees. This is a critical attribute because it has potential to contribute to a weak oversight community system because, as Ashworth (2003) notes,

most public representatives aspire to be part of the executive. Thus, they would reduce their criticism of the executive. Particularly, where a single party dominates the legislature, the position and role of committee chairperson becomes an important factor. While it is possible to find objective, hardworking committee chairs from the majority party in a legislature with a large single party dominance, Beetham and Weir suggest that this is not the norm, but exception (Beetham & Weir, 1999). Ashworth (2003) concludes that it is most likely that where a party has an overall majority in Council and the executive it will also dominate the oversight committees, leading to fears that this will impede oversight and scrutiny. Oversight; suggests Leach (1999) will only be successful committee members are prepared to criticise their political party colleagues in the executive and in the committee (Leach, 1999).

The primary debate, therefore, is whether in a majority party dominated legislature, should oversight committees be chaired by the majority party or the opposition. The argument for the opposition councillors chairing oversight committees is that they would not be conflicted as they are not involved in the development of government programmes which is a preserve of executive councillors from the majority party. It is assumed this would make opposition councillors thorough in their oversight approach. However, there is also an argument that having opposition councillors chair oversight committees will lead to them deliberately derailing the programme of government as their political mandate is not to support the majority party.

There is evidence however, that despite these arguments, many jurisdictions prefer that oversight committees be chaired by majority party councillors as a survey undertaken by the Centre for Public Scrutiny in 2014 established that in 65% of respondent Councils, all of the scrutiny chair positions were held by the majority party. While there can be survey-based predictions (Snape 2000) that oversight can be predicted to be more effective if committee chairs are appointed from opposition parties, there is limited conclusive research that confirms the difference in the performance of committees based on whether the chairperson is from the majority party or the opposition (Snape & Taylor, 2001).

2.5.4. Relationship between oversight committees and the executive

One of the major attributes of ‘separation of powers’ governance models is the nature of the relationship between the legislature and the executive (Ashworth, 2003). This relationship can take different forms including defining the context within which executive members can attend meetings of oversight committees. There are several recommendations including that executive members attend only with observer status or they can attend only to account on matters of relevance to the committee (Shenga, 2007).

Oversight committees rely on holding the executive to account for them to be functional making the relationship between the executive and the legislature an important attribute of ‘separation of powers’ governance models. The relationship between the executive and the legislature (oversight committees) is, therefore, a determinant of whether oversight committees can be functional or not. This requires executives at local government level to accept the role of the legislature and to accept the role as being to account to the legislature through oversight committees. The relationship between the legislature (oversight committees) and the executive emerges as a key process in the attainment of democratic governance ideal of public accountability within legislative-executive relations. How oversight influences other structures including the executive is a critical assessment criterion for the functionality of oversight (Shenga, 2007).

According to Smith (2003) legislative oversight relates to what the legislatures and their members do, which involves reviewing, monitoring and supervising the executive and other organs of state’s programmes, activities and policy implementation (Smith, 2003). Oversight activities may seek to determine the efficacy of agents or their capacity to fulfil their mandate. Efficacy is about whether an organ of state has made sufficient use of public funds and whether it provides good value for money. It may, as well, seek to identify or determine the propriety of actions that is, whether an agency acted correctly and complied with legal or ethical norms in its activities and objectives (Nyathela & Makhado, 2014). All the functions stated above require for the executive to be forthcoming with information if the oversight function is to work. As Cole (2001) pointed out information from the executive is not always forthcoming and that how the oversight function starts off will have implications on how the rest of the function progresses.

Beyond the accountability relationship, one measure of the relationship between the executive and the legislature is in who owns the committee programme of action or agenda. It is recommended that the committee shapes its own oversight agenda and avoid being dictated to by the executive. This requires that oversight committees are proactive in selecting oversight issues and then ensuring that the process is undertaken through a careful control of the agenda (Johnson & Hatter, 2003). However, it is not always easy for committees to assert themselves and take ownership of the oversight programme. A study undertaken by Johnson and Hatter (2003) revealed that councillors on oversight committees revealed that their meetings were dominated by the executive, a reflection of an unstable power dynamic. To mitigate this, the committee resolved to have the executive attend meetings only by invitation.

Johnson and Hatter (2003) also recommended that Councils develop and ensure that chairpersons of committees had the skills to chair and keep the focus of the committee on the committee's objective. Councils must also develop the skills of committee members for cross-examination, so they can guide committee deliberations towards the committee's focus and avoid domination by the executive. They also recommended that Councils give committee members access to different forms of knowledge and information, also from the public space so they can use this information to counter balance executive information (Johnson & Hatter, 2003).

2.5.5. Levels of public participation in oversight processes

Yet another attribute of 'separation of powers' governance models is public participation, also referred to as civic participation, the extent to which the oversight process involves the direct or indirect involvement of stakeholders in decision-making about policies, plans or programs in which they have an interest. The ability of separation of powers governance model, as a democratic practice to promote public participation is a critical attribute.

It is suggested that the participation of local communities and individuals in either making decisions or controlling leaders who make decisions, is a necessity and therefore residents of local communities must be provided with information to enable them to participate meaningfully (Piotrowski & Van Ryzin, 2007). Therefore, an important attribute of separation of powers at local government is its ability to promote the

representative objective of legislatures by ensuring that legislatures increase the levels of public participation in government business particularly, to increase the level of public contributions to accountability, oversight and scrutiny (McAllister & Stirbu, 2007). Some mechanisms that are popular with legislatures include petitions, locally based evidence sessions and public hearings which collectively enhance the civic participation objective of legislatures (McAllister & Stirbu, 2007). The primary objective of these mechanisms is to ensure Council decision making processes are informed by the interests of communities and stakeholders.

2.5.6. Appropriate tools to effect oversight, accountability and public participation

The last attribute of concern to this study is the availability and use of appropriate tools of oversight and accountability. A successful implementation of a 'separation of powers' governance model requires particular tools to bring effect to accountability relationships required for accountability, oversight and public engagement. Such tools include oversight visits, performance monitoring methodologies, resolution tracking mechanisms, civic engagements, question time as well motions and debates among other tools.

The ability (processes and mechanisms) to track the implementation of resolutions of the committee and (legislature) Council is a critical success factor for a 'separation of powers' governance model As Sanford and Maer (2004) observe for the overview and scrutiny process to be fully effective it must be followed through past the production of a report, into pursuing whether the recommendations have been implemented. Not only does it help members know what transpired, it also allows for committees to track progress as tracking also aids the collective memory of the scrutiny committees. Therefore, a proper tracking and the evaluation of executive responses are pre-requisite for the accountability objectives of governance as it affects the quality of subsequent committee work and optimal impacts on service delivery through oversight.

A relationship has also been established that when recommendations of committees specific, measurable, attainable, realistic and time-bound (SMART), they are better implemented than recommendations that do not meet these SMART criteria. As a result, a resolution tracking capability must be complimented with capacity to produce

good resolutions whose implementations can be tracked (Makhado, Masehela, & Mokhari, 2012). For accountability, the tracking process can be significantly improved if the quality of recommendations improves to also.

The second oversight mechanism is the ability to undertake oversight visits on programmes of government. Oversight visits are a legislative tool that legislative committees can use to verify reported performance, to establish actual circumstances regarding a particular issue and to consult not only the local leadership but also ordinary citizens on issues of particular concern to the committee. Through oversight visits oversight committees can identify any problems within the area of oversight, investigate the identified problems, and establish what needs to be done. Based on this, oversight committees make recommendations to the legislature. There is evidence that the degree to which oversight visits are planned and informed by departmental budget implementation and service delivery plans and applied for purpose of scrutiny varies across legislatures. The general trend is for oversight visits to be ad-hoc as they give oversight committees the best opportunity to establish the true circumstances. Planned oversight visits are also useful to ensure the committee receives the complete support and cooperation of respondents, however, they also provide the administration to adequately prepare and disguise what the committee would be expected to establish. A third oversight mechanism is that of monitoring the performance of the executive on a regular basis. In most legislatures in South Africa, there is reliance on executive performance reports produced quarterly and annually to monitor the performance of the administration. As a result, in many legislatures there is a stipulation regarding the content required for quarterly performance reporting, the time frames as well as the processing of performance reports.

The fourth oversight mechanism required for as part of attributes of a 'separation of powers' governance model is the provision and usefulness of **question time**. It is one of the most common accountability tools of legislatures in parliamentary democracies is the mechanism of question time. This involves members of the legislature asking questions to the executive either in written or oral form. Question time is a regular period in a legislature's agenda that is set aside for members to consider written responses to questions and for oral questions to the executive and for the executive to provide answers to members of the legislature (Martin, 2011). The frequency of question is set in the standing

rules of each legislature and can differ from legislature to legislature, from every day when the legislature meets to once a month.

The benefits of question time are two-fold—democratic accountability and oversight—to obtain information from executive as well as to hold the executive to account on specific matters of members' interests. While there is evidence that question time is a useful mechanism to hold the executive accountable, there is also evidence of weaknesses in this mechanism (Cole, 1999; Hazama, Genckaya, & Genckaya, 2007). As a result, according to Salmond (2010) despite the widespread use of question time and the many questions being asked at question time in many legislatures, often the value and usefulness of question time is contested (Salmond, 2010). There is an inherent assumption and weakness however, that question time is useful only as a tool to hold the executive accountable, and not necessarily to build better relationships between members of legislatures and the communities they represent (Martin, 2011).

A legislature's influence over the budgetary process of the executive is the fifth important attribute of successful 'separation of powers' governance model. To illustrate the value of this attribute to oversight committees Ashworth (2003) suggests one of the reasons for the decline on parliamentary influence over time is that committees reduced their oversight over government expenditure. Therefore, according to Ashworth (2003), arguably the most important attribute and power available to scrutiny committees relates to finance, especially annual budgets. It is critical to assess to what extent committees assess in detail budget votes for the executive and how these assessments are current and influencing immediate financial performance.

Even though full Council meetings approve annual budget proposals, Councils driving accountability and oversight ensure that a separate scrutiny committee dedicated to finance is a fundamental attribute. The committee must have access to technical advice from internal and external audit bodies and have the capacity to influence annual budgetary allocations. This influence should also extend to individual oversight committees so that they also have specific powers in relation to annual budget plans for their respective policy areas and departments. Overall the extent to which oversight committees undertake credible financial scrutiny and influence expenditure decisions should form part of the criteria for assessing similar oversight models elsewhere.

The ability of legislatures and their committees to own their oversight programmes is the sixth critical success factor for successful ‘separation of powers’ governance models. There is evidence that when an oversight committee does not determine its oversight agenda and allows the executive to dominate the oversight agenda of committees, the oversight process becomes ineffective. This is because the executive can influence the oversight committee to focus on routine, post-facto matters that bear little to no influence on the current or ongoing work of government. This has potential to keep oversight extremely busy on matters that do not, despite the effort, bear significant influence in the work of government.

The last and seventh oversight and accountability mechanism is motions for debate, a parliamentary tool for accountability and information purposes. Most parliamentary proceedings involve debate, which may be about legislation, other aspects of government activity such as policy or implementation, or more general issues of public concern. Subjects for debate may be chosen by the government, opposition or backbenchers, with each group allocated time for this purpose. For government the purpose of debate is often to showcase the political argument or philosophy behind a policy or approach to an issue, or to test opinion on it. For the opposition and backbenchers, it provides an opportunity to demand an explanation of why a policy has been pursued, to identify weaknesses in the evidence base or formulation of a policy, or to provide new evidence or analysis. Sometimes they can be used to highlight alternative answers to the questions being posed by government or even argue that the questions being asked are the wrong ones, providing a form of check on the power of the executive. Those participating can marshal their arguments at relative length and in detail. Backbench and opposition participants have a captive audience with whichever minister has been selected to answer the debate. Some of the benefits of debates are that they expose policies and actions to the light, compelling or enabling the government to set out its view and its policy (or lack thereof) in public. In instances where the debate is not sponsored by the government, there is the opportunity to bring new subjects to its attention.

There are advantages and disadvantages to using debates as an oversight, accountability or public participation tool. Some of the benefits of parliamentary debates are that they allow individual members of the legislature to represent, in the legislature, the

views of groups of constituents, thereby contributing to increased engagement on matters that matter to the public. They can also force the executive to clarify the rationale and evidence backing some of the decisions, or to force the executive to change policy direction. Using debates as scrutiny and accountability mechanisms may lead to potentially unintended consequences. Debate can quite often be confrontational, performance driven occasions requiring members of the executive to respond rapidly to the evidence and argument offered by other participants. Yet they may not have the requisite information potentially creating a sense of incompetence. Often, in such a situation, members of the executive default to not agreeing with the arguments of political opponents even where they believe they have merit.

2.6. Establishing the theory of change of ‘separation of powers’ governance model – An interpretive framework

This section interrogates appropriate frameworks that are applicable to interpret and explain potential empirical research results, in particular, how the governance model was conceptualised, implemented, its challenges and the extent to which it is promoting oversight, accountability and public participation. To achieve this, below, the study theorises the relationships among the following, concepts described in section 2.4 of the literature review — governance, democracy, public accountability, separation of powers, legislative oversight and the key values of oversight and scrutiny. This theorisation is based on three theoretical and analytical frameworks — democratic governance theory (2.6.1), institutional theory (2.6.2), and principal-agent theory (2.6.3), Arnstein’s (1969) ladder of participation—collectively these four present an analytical and interpretive framework for the findings of the evaluation of the ‘separation of powers’ governance model. Together, they provided the theoretical underpinnings of the City of Johannesburg’s ‘separation of powers’ governance model and served as analytical frameworks to explain its form, nature and structure; its accountability relationships; and the extent to which contextual institutional dynamics influenced its establishment and implementation and the state of public participation in the governance model.

2.6.1. Democratic governance theory and the objectives of the governance model

Democratic theory of governance — emphasises the role of electoral or group accountability, eliminating direct control by a few (Becker & Raveloson, 2008). Democratic

governance is based on the enforcement of the fundamental values of democracy in the power exercise, values that include, among others: justice, equality, solidarity, tolerance, pluralism, the consideration of the minorities, non-violence, dialogue and negotiations, free community life. These values of democracy are also complemented by principles of governance which include participation, efficiency, efficacy, sense of responsibility and responsibility, the act of reporting, adaptation capacity, transparency and rule of law. Among other mechanisms, democratic governance is about mechanisms that governments put in place to respect and take into consideration the values and principles of democracy and governance. While this study did not discuss the concept of good governance, many of these principles and values have been associated with good governance.

Democratic governance theory emphasises governance roles that are clearly defined, well distinguished and balanced among different actors and groups of actors. It encourages that the interests of the different actor groups are articulated and considered in decision making and that leaders are characterized in the exercise of their power by a democratic behaviour and a democratic type of leadership, like the taking into consideration of the fundamental values of democracy. Within democratic governance citizens and groups of actors are encouraged to express themselves, to take part in the processes of decision making and to control the exercise of power by the leaders in place. Democratic governance encourages that between the state and stakeholders should be characterised by transparency with both informal and formal participation structures open to all stakeholders.

The theory of democratic governance therefore Democratic theory has four key dimensions all related to the values identified above which make it relevant to governance; (i) libertarian dimension — suggests that a democratic political order protects individual liberties against corrupt and tyrannical power of state; (ii) pluralist dimension — suggests that democracy provides for direct and formal accountability of government actors through elections and that regular elections and the weight of public opinion, make legislators responsible for their conduct in office; (iii) social dimension — suggests that political institutions have power to balance against the power of wealth and (iv) deliberative dimension — sees political institutions as a way to improve the political capacity of citizens through effective and meaningful public participation (Becker & Raveloson, 2008). Therefore, democratic theory of governance presents a basis for political order,

accountability, political 'fairness' and citizen capacitation, making it an ideal broad framework for the study on the separation of powers governance model. Democratic governance theory was useful in this study to understand the governance structures and values applicable in a particular governance model (Madumo, 2015).

While there is no single theory of governance, the various aspects of governance theories were used to build a holistic picture of the model. The study used some components of the theories of governance to understand how different actors, jurisdictions, levels and institutional arenas interact in making authoritative decisions that produce collective outcomes as well as to understand the role played by different public, private and civil society actors in governing processes. Some components were useful in analysing how governance is designed, organized and orchestrated. Others helped to understand how various kinds of governance contribute to more effective, democratic or innovative ways of solving societal problems, delivering public services or regulating social and economic life. While others analysed governance failure or how to improve governance to secure desirable outcomes. Collectively, together, theories of governance and their different components provide an analytical tool kit for reflecting on the City of Johannesburg separation of powers model.

Even as a democracy has all fundamental components in place and firmly established, it remains a process that must be maintained and consolidated on an on-going basis. Therefore, beyond the three separate State powers, regular elections and the presence of many political parties to have citizens ready to run for the legislative elections, that a head of State or a mayor be elected every four or five years and that there are several political parties, there will be constant reforms seeking to strengthen the practice of democratic governance and the continuous inculcation of democratic values.

While the study settled on democratic theory of governance as an important central theory in understanding the theoretical underpinning of the nature and form of Johannesburg's governance model, the study acknowledges the existence of other theories of governance such as global governance, new public management, governance as minimal state that present as important underpinnings of other forms of governance. Global governance — this theory is largely driven by globalisation and refers to institutions and organisations that operate on a global scale. It emphasises a shared understanding of

objectives and standards of conduct, agreed upon rules and a regulatory structure to monitor and enforce compliance. The theory emerged as an effect of the expansion of the world economy, which led to suggestions that transnational relations transcended the confines of the nation-state and constituted an increasingly important factor in global politics. The relationship between the government and non-governmental activities and their effects on each other became the focus of this theory, and global governance theory argues that the political power of the nation state is weakened as governance networks move. However, it is argued, this assumption is based on governance theory often underestimating power imbalances between actors in political networks. Global governance theory is a contested theory which is prominent in international finance but has been growing in other areas of global significance. It is not a contributor to the discussions undertaken in this study.

New public management theory — proposes that public sector efficiencies can be improved by introducing new management practices, primarily private sector practices being brought into public-sector organisations. Pursuing this would mean emphasising standards and measures of performance as well as focussing on the bottom line. There are key new public management paradigms that are relevant to the phenomenon being engaged through this study. These include, devolving authority, ensuring performance and accountability, reducing wastefulness in public expenditure, empowering citizens by pushing control out of the bureaucracy into the community as well as promoting participative management among others. These features have been adopted into public sector governance in various forms. Specific to this study, new public management theory responds to the failures and inadequacies of public sector performance. The theory locates the performance and accountability problem in the nature and process of public sector administration and public-sector activities

Governance as minimal state — this theory suggests that when government involvement is eliminated from the market place a particular organisational structure emerges to manage the space. The organisational structure would emerge from an aggregation of individual decisions, creating an organic framework that governs the behaviour of actors concerned. However, this is criticised for equating governance to the market place and the common objective, central to governance, does not exist in this theory. Governance as networks and systems outside government — this theory

emphasises the role of non-government actors in the state coming together (including the state) to solve shared problems and take collective actions to resolve shared concerns. The theory relies on the assumption that policy makers require each other as no single actor can resolve policy issues on their own. These are important theories in the broad governance field, however, the study settled on democratic theory of governance as close and relevant.

2.6.2. Institutional theory and the structure and practice of the governance

Having established the specific theoretical location of the city of Johannesburg's governance model within the broad field of governance, particularly democratic governance in the preceding section, the study sought to understand the institutional structure of and political behaviour within the City of Johannesburg governance model. For this, the study selected institutional theory as a critical analytical tool for as this because most political life occurs within institutions. This makes structure important in addressing the theoretical nature and role of political institutions in the practice of democratic governance (Ellman, 2002). Politics is a relevant theme in this study and to comprehensively explain politics, addressing the theoretical nature and role of political institutions within which the politics plays out was necessary (Peters, 1999). The study suggests that there is a relationship between institutions and how they interact with individuals towards decision-making produce results and thus institutions have a role in explaining behaviour especially in politics and government. This makes institutionalism an important theory and analytical framework for this study.

There are several institutional theories that help to explain the role of structures in government and in politics (Peters, 1999). These include old institutionalism and new institutionalism made up of normative institutionalism, rational choice institutionalism, historical institutionalism, empirical institutionalism, international institutionalism and societal institutionalism (Pelizzo & Staphenurst, 2012); (Peters, 1999). This study was particularly interested in old institutionalism, combined with some aspects of new institutionalism in the form of normative intuitionism and empirical institutionalism which collectively can serve as an analytical framework for how the conceptualisation and implementation of the City of Johannesburg governance model was influenced by the institution within which it was established.

In the context of this study, old institutionalism presents an explanation for how formal and informal institutions influence the public sector and how it functions, in particular, how political thinking is determined by the analysis and design of institutions (Peters, 1999). Old institutionalism has the following defining characteristics; it is concerned with law; structure; holism and historicism. Old institutionalism emphasises the central role of law in governing, that structure matters to the extent that it, that structure determines behaviour. This is used to explain why many institutions, particularly political institutions are structured the same way — because they ‘borrow’ from the existing world of institutional templates (Peters, 1999). It is suggested that the similarity of institutions is based on institutions being established through processes informed by historical development. Old institutionalism also explains institutional behaviour and the behaviour of institutional elites as a function of their collective history and of their understanding of the meaning of their politics influenced by history (Peters, 1999). Therefore, relevant to this study, old institutionalism suggests the political structure of institutions and political behaviour in and of institutions is informed by historical developments.

Old institutionalism was criticised in two main aspects. First, for example, it was criticised for not acknowledging in its analysis that remarkable individuals can make some impact to institutional structure and behaviour. Second, it also did not acknowledge the more informal aspects of politics, but rather focussed on the major institutional features of political systems such as whether a system was presidential or parliamentary, federal or unitary (Peters, 1999). There were other criticism too including that old institutionalism narrowed its focus on individuals to the behaviour of political elites. This led to assumptions that functions of government were only implementable in a formally designated organisation, hence parliament makes laws and the executive enforces those laws, reflecting a commonly applied structure of government. Despite these criticisms, old institutionalism and its interpretation of the role of law and history cannot be completely excluded from understanding institutional behaviour, instead this interpretation can be complemented with other analyses to provide a more comprehensive picture of institutional structure and behaviour (Peters, 1999).

Thus, this study benefitted from a widened form of institutional analysis, one that acknowledges old institutionalism and aspects of new institutionalism to account for

institutional structure of and political behaviour within the city of Johannesburg governance model. Critical components of new institutionalism have allowed institutional theory to transition from largely, comparisons of variations or differences and the performance of whole systems towards comparisons of components of systems, for example legislatures. This helped to further localise institutional analysis. This study therefore, made use of elements of both new and old institutionalism as it viewed 'old institutionalism' as emphasising the role of institutions in politics and governance and 'new institutionalism' extending the influence of institutionalism to individual behaviour of institutional stakeholders. This created a possibility for the study to combine both old and new institutionalism in a complimentary manner to explain political institutions and their behaviour in the City of Johannesburg governance model.

New institutionalism is composed of normative institutionalism, rational choice institutionalism and historical and empirical institutionalism. Normative institutionalism emphasises norms of institutions as a way of understanding how those institutions functioned and sharpened or determined individual behaviour (March & Olsen, 1984); (Peters, 1999). The 'logic of appropriateness' was identified as key way institutions shapes individual behaviour even as it emerged that while values were critical for shaping individuals, this could be reduced in an environment where individuals seek maximum benefit (March & Olsen, 1984).

March and Olsen (1984) suggested that institutional structure and behaviour is also influenced by the concepts of logic of appropriateness and logic of consequentiality, with the former being more influential in old institutionalism than the former. The former supposes that human action is driven more by rules of appropriate or exemplary behaviour, organized into institutions. Therefore, rules are followed because they are seen as natural, rightful, expected, and legitimate. This influences behaviour more than a 'logic of consequentiality' i.e. that individual action is shaped more by the implications of the consequences of particular action (March & Olsen, 1984).

This implies that if an institution is effective in influencing the behaviour of its members, those members will think more about whether an action conforms to the norms of the organization than about what the consequences will be for them. Therefore, it is assumed, while individuals will make conscious choices, those choices will remain within

the parameters established by the dominant institutional values. Those choices also will require that each individual make an interpretation of just what the dominant institutional values are; even the most thoroughly developed institutions will leave many areas of behaviour open to interpretation by individual members. This will, in turn, require some means of monitoring behaviours and reinforcing dominant views about appropriateness. March and Olsen, (1989) suggested that this implied that institutions come with an almost inherent legitimacy that commits their members to behave in ways that may even violate their own self-interest (March & Olsen, *Rediscovering Institutions: The organisational Basis of Politics*, 1989). This is critical at two levels in this study, first, to understand the values and behaviour of the governance model and second, to understand how these influenced the behaviour of councillors as political representatives and stakeholders in the governance model.

This conceptualization of institutions is not without criticisms, first, in the degree of uniformity assumed to exist within an institution. There is always a risk of different people understanding things like cultural signals differently and will define 'appropriate' in very different ways compounded with the existence of multiple cultures within a single organization. Other criticisms relate to the definitions of components such as rule and routines. For the routine, however it has been suggested by March and Olsen (1984) that focus must be placed on whether there is a stable pattern of behaviour, without the sense that it is unchangeable, dysfunctional, or even enforceable. Rules are seen as means of structuring the macro-level behaviour of political systems and formalisation of appropriateness, guiding newcomers to an organisation through uniform understanding of what those logics are. This does not preclude the risk that rules will also be interpreted differently and hence acted upon differently.

There are other institutional theories that attempt to explain individual behaviour in institutional contexts. Rational choice institutionalism argues that behaviour of individuals in political or other institutions is driven by their ambition to try and maximise their own advantage as they already have opinions prior to being subjected to institutional influence (Peters, 1999). They therefore, see institutional influence as insignificant, largely exogenous as behaviour is determined prior to participation. They view institutions as systems of rules and inducements that insignificantly influence individual behaviour

because social collectives such as political parties, interest groups, legislatures do not make decisions, rather it is individuals that make decisions (Weingast, 1996); (Peters, 1999).

Rational theorists argue that institutional rules and inducements are only important to getting various individuals to perform in an aligned way but do not necessarily determine how individuals behave as this is pre-determined before their participation. They see institutions as a little more than means to aggregate the preferences of the individuals but not sufficiently influential, through their rules, over individuals (Peters, 1999). The ultimate levels of influence that institutions have on individuals and vice versa, is an important criticism of rational theorists by old institutionalists as they believed that it is the institution and not the individual that is the most important unit of analysis of institutional behaviour. They suggest that the same people would make different choices depending upon the nature of the institution within which they were operating at the time (Weingast, 1996).

A fundamental difference between old and new institutionalists is that new institutionalism emphasises the need to concentrate on the inputs of society into the political system, a direct contrast to traditional institutionalists' focus on the formal institutions of government and the constitutions which produced those structures. This study recommends a complimentary understanding that would lead to both the individuals and the institutions they operate in becoming units of analysis (Peters, 1999). This study accepts that the individualistic assumptions contained in behaviourisms and rational theory can be used to explain individual and institutional behaviour. However, the study also acknowledges that as individuals attempt to act autonomously or on rational calculation outside of the influence of the political process, they are constrained or abated by formal or informal institutions within which collective decision making is encouraged.

There are other new institutionalism theories that are acknowledged here but had little significance on this study. First, historical institutionalism emphasises the role of history in decision making, i.e. the initial policy choices and the resultant institutionalised commitments emerging from the policy choice determine subsequent decisions. It then follows that if those initial decisions in the development of a policy are not well understood the logic of the development of that policy may also be lost. The theory advances the view that policies are path dependant and once launched on a path, they continue on that path until a stronger political force deflects them from it (Peters, 1999). Second, is empirical

institutionalism argues that the structure of government influences the way in which policies are processed and the choices made by governments. A common example is the difference between presidential and parliamentary government and their different structures. Third and fourth, international institutionalism and societal institutionalism — the former refers to a theoretical space assigned to structure in explaining behaviour of states and individuals, with the key assumption that there exists in the international space, structured interactions just as would be expected in state level institutions (Peters, 1999). The latter describes the structuring of relationships between state and society. The study acknowledges the existence of these institutional theories; however, they were not central to the study objectives.

The support for combining elements of new intuitionism with old intuitionism is supported by an analogy of institutionalism that was applied to analyse new Council constitutions in the United Kingdom (Coulson, 2011). Lowndes and Leach (2007) also demonstrated the importance of understanding institutions as critical factors in governance models when they traced the development of local political leadership through the lens of new institutionalism with a primary interest to ‘unearth the real rules in use’, rather than the formal structures prescribed in legislation (Leach & Lowndes, 2007). They analysed political leadership in case study authorities and examined the ways in which interactions have ‘interpreted, mediated and (in some cases) neutralised’ the government’s ‘ideal type’ political leadership role. They report that, despite a clear vision from central government, the development of local political leadership has been limited and diverse. The authors conclude by arguing that the introduction of new structures can only ever provide a limited degree of success (Leach & Lowndes, 2007). They recommend reflection on the likelihood that ‘new institutions in local governance are likely to be resisted or hijacked by those who benefit from existing arrangements or seen new rules as hostile to their interests’ and advocate a greater emphasis on local processes and context.

2.6.3. Principal-agent theory as a driver of accountability in legislative-executive relations

This section theorises the public accountability concept discussed in Section 2.1. This study suggests public accountability is realised through the principal-agent relationships as explained by the principal-agent theory. This theory presents an appropriate analytical framework to analyse the accountability arrangements in legislative-executive relationships as applicable to the City of Johannesburg model. It emphasises

institutional mechanisms through which principals can monitor and enforce compliance on their agent, and the challenges thereof, a critical component of the concept of legislative oversight envisaged in the City's governance model (Kinyondo, Pelizzo, & Umar, 2015). The theory is particularly relevant for explaining accountability relationships between citizens (principals) and executive (agents) on one hand and between the legislature (acting as principal) on behalf of citizens and the executive and bureaucracy on the other as illustrated below.

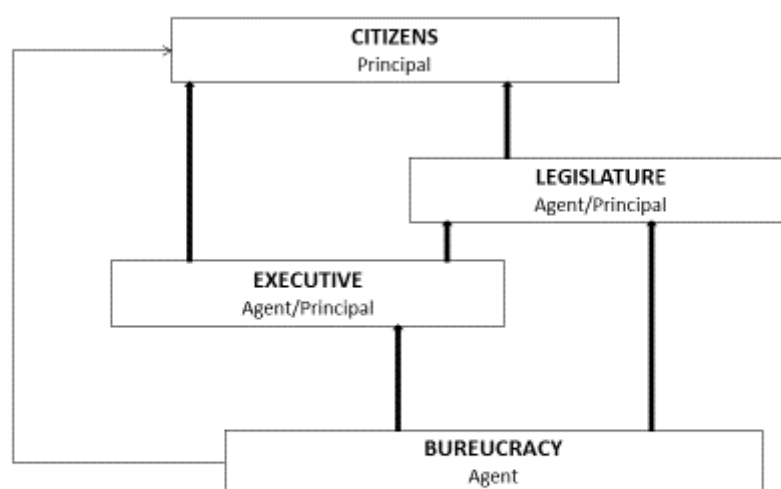


Figure 2.5: An illustration of accountability relations agency in legislative-executive relations adapted from (Kinyondo, et al. 2015)

Figure 7 above implies that the principal-agent theory applies to legislative oversight, a fundamental concept in this study. The figure suggests the ultimate principals are citizens, and ultimate agents are civil servants (the bureaucracy) with the executive and legislature both being classified as principals and agents. The executive as agent is accountable directly to citizens through the electoral process and to the legislature which acts on behalf of citizens and exercises an oversight function over the executive (Kinyondo, Pelizzo, & Umar, 2015). This principal-agent relationship was applied by Fukuyama (2004) to explain public behaviour by suggesting that in the public sector, the public represented the principals, and within a democracy, their first level agents are their elected representatives (legislators). These legislators, in turn, are principals of executive bureaucrats delegated to carry-out the policies and programmes legislated by the elected

representatives. However, the practical principal-agent interaction is not as straightforward as implied in figure seven above as problems occur when individual agents (officials) advance their own interests against those of their principals (Fukuyama, 2004). The application of principal agent relationships in the private and public sectors has shown that it is possible for agents to face other individual incentives, different from those of principals leading to principals having to ensure that they monitor their agent.

Once this happens the theory recommends the development of greater transparency in the functioning of agents as well as the holding to account of the agents by the principals. It is also suggested that this is further complicated because within the public-sector space, the goals of public-sector organisations are often vague, broad and not too specific and clear as they would be in the private sector which reduces the ability of agents to carry out what principals want. As a result, the theory recommends formal systems of monitoring and accountability leading to very high transactional costs. (Kinyondo, Pelizzo, & Umar, 2015).

The criticisms of the principal agent theory can also be extended to legislative-executive relations in the public sector as described below. Due to the multiplicity (broad) needs of citizens, it is not always clear or narrowed down what citizens would like their agents (executive and legislature) to do or prioritise. This leaves room for agents to develop their own, self-serving goals. Fundamentally, the transaction costs for citizens to oversee executive government or the bureaucracy may also be too high leading to a plagiaristic or imitative oversight function of the legislature to hold the government and bureaucracy to account. This is further complicated by the huge information unevenness between principal and agent, leading to the bureaucracy (as agent) having a lot more knowledge (information) than the executive, the legislature or the citizens as principals. In many circumstances, the bureaucracy and the executive (as agents) have a lot more information than the legislature and citizens (as principals). While the legislature acting as principal to agent has less knowledge or information than the executive, it has relatively more information/knowledge than citizens (as ultimate principal). These criticisms however, do not negate the existence of the principal-agent relationship in public sector legislative-executive relations as a broad framework for achieving public accountability in the public sector. Instead these weaknesses point to a need to improve mechanisms that can help legislative-executive relations achieve public accountability objectives.

Governance models have developed specific tools and mechanisms to manage legislative-executive relations that principals use to hold agents to account. These legislative oversight tools and mechanisms are both external such as independent audit committees and internal such as oversight committee, which secure accountability relationships in legislative-executive interactions. Ombudsman's offices are also similar external critical structures used by citizens to enforce bureaucratic accountability. Internally, there is a direct accountability objective to legislative committees and their processes, commissions, questions and question time, legislative debates which collectively enforce bureaucratic and executive accountability. This is illustrated in the diagram below, which has been adapted to suit the circumstances of the study.

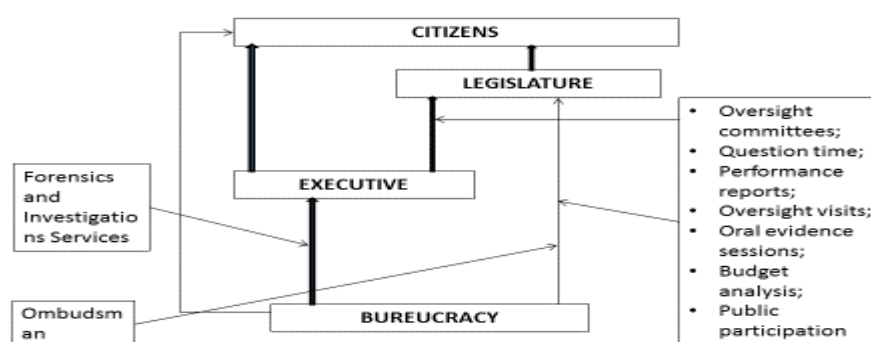


Figure 2.6: An illustration of accountability relationships and oversight tools in principal-agent relationships (Kinyondo, et al. 2015)

Within the principal-agent theoretical understanding, oversight tools are a direct response to agency problems, created by power and information unevenness between the executive (and bureaucracy). Legislatures have developed a set of tools and mechanisms to help them hold governments to account. However, as this study shows the more oversight tools available to the legislature do not always translate to greater legislative oversight and real accountability as would have been expected. This study suggests that this can be explained through the institutional context as explained by institutional theory (2.6.2).

2.6.4. Public participation theories of governance

There are several theories of public participation that are useful in this study for exploring what constitutes legitimate and useful public participation as well as the threats and opportunities for participation posed by adoption of democratic systems of

governance (Quick & Bryson, 2016). As indicated in Chapter 2, in democracies, citizens are presumed to be important stakeholders, able to participate either directly or indirectly through elected representatives in the formation, adoption and implementation of the laws and policies that affect them. Public participation thus is a fundamental part of the public–government relationship in democracies. The participatory theory of democracy assumes that people’s participation is the most important quality of a democracy. According to this view, the power of the people is exercised when they participate and therefore when there is apathy and non-participation democracy is threatened. According to Habermas (1996), citizens’ participation serves to constitute society as a democratic community. Applied to the context of public policy, citizens are encouraged to participate in the policy process before a policy is decided or launched, and thus primarily in the planning process. Another case of participatory democracy, already mentioned, is when freedom of choice and responsibility have been delegated to communities. Participation, however there are different levels of participation.

One of the leading frameworks for understanding public participation is by Arnstein, (1969) who suggests there is a critical difference between going through the empty ritual of participation and having the real power needed to affect the outcome of the process. This framework highlights the fundamental point that participation without redistribution of power is an empty and frustrating process for the powerless only allowing power holders to claim that all sides were considered but permitting for only some of those sides to benefit. Such participation will often maintain a status quo. **The framework applies** a typology of eight levels of participation arranged a ladder pattern with each rung corresponding to the extent of citizens' power in determining the end product. The description below is adapted from Arnstein, (1969).

Briefly described, the lowest rungs of the ladder are manipulation (1) and therapy (2) are classified as non-participation as they do not enable people to participate in planning or conducting programs. These levels involve power holders educating. The next level, the level of placation includes processes such as informing (3) and consultation (4) and placation (5). These provide token public participation, in which citizens can hear or be heard but lack the power to ensure that their views will be heeded by the decision makers. Where public participation does not go beyond these levels it will not change the status quo as there are no mechanisms for follow through, where decision makers can be advised

but retain the right to decide. Up to this point, public participation does not lead to participants having any decision-making influence (Arnstein, 1969).

However, from level six upwards, public participation is expected to provide some decision-making clout for participants as these are levels described as citizen control levels. Level 6 allows citizens (participants) to enter into partnerships that can lead to trade-offs based on negotiations with power holders and decision makers. Beyond this level, rungs 7 and 8 on this 'ladder' provide for public participation to lead to delegated power (7) and citizen control (8) allowing participants to obtain majority of decision-making authority. This framework can be applied to assess where particular public participation processes sit and what benefits they present to participants. The figure below illustrates Arnstein's conceptualisation of participation.

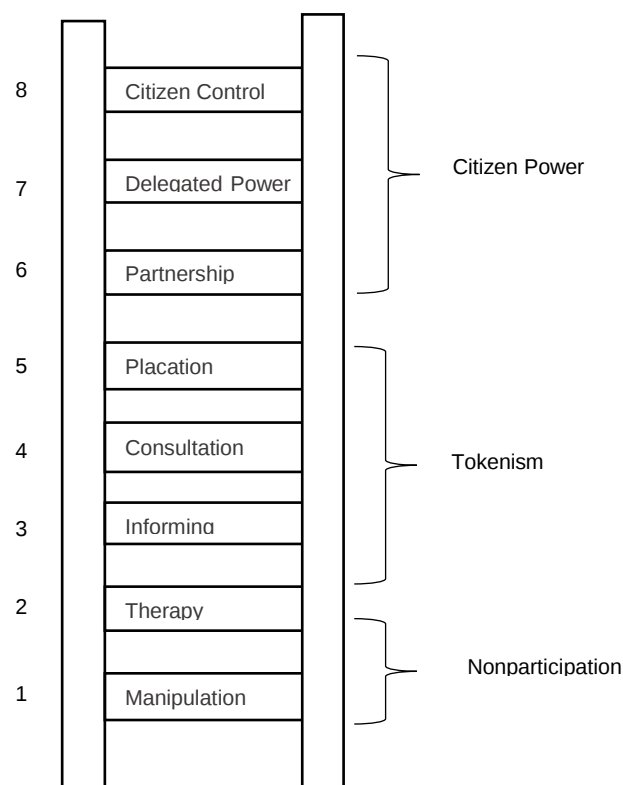


Figure 2.7: Eight rungs of the Ladder of Participation¹

¹ Adapted from Arnstein (1969)

There have been other tools and methods available to analyse, describe and evaluate participatory activities, such as attempts to conceptualise participation in the environmental sense and context (Collins & Ison, 2006) . However, the appeal of Arnstein's Ladder of Citizen Participation lies in its simplicity and "ability to reveal, in pictorial form, the power agendas implicit in many institutionalized narratives and the differences in the forms and strategies of participation that are desired or result" (Collins & Ison, 2006). However, Arnstein's Ladder of Citizen Participation is criticised for conceptualising participation as power and for assuming that participation is hierarchical, limiting its ability to inform participation at a conceptual or practice levels, (Collins & Ison, 2006). Despite these criticisms, for this study the implicit power agenda as described by Arnstein (1969) still remains appropriate for this study.

2.7. Conceptual framework for evaluating the City of Johannesburg 'separation of powers' governance model

An important objective of this literature review was to derive a conceptual framework for formatively assessing the City of Johannesburg's 'separation of powers' pilot project. Kumar (2014), suggested that a conceptual framework is an advanced outline of how a research should advance after interrogating key literature on the research under study (Kumar, 2014). Maxwell (2013) describes a conceptual framework as a collection of systematically discussed concepts, assumptions, and theories supporting and informing ones research strategy, design, procedure and methods (Maxwell, 2013). Having defined the research context and problem and having established the knowledge gap through literature review, the conceptual framework articulated in this section guided the study through the process of collecting, processing, analysing and as interpreting the empirical findings.

Figure 9 bellow illustrates the roadmap and research process the study undertook. It describes the process and the relationships among the different components of this literature review, i.e. — (i.) the research setting or context (ii.) the research problem (iii.) the relevant past and current studies to establish an informed research strategy, design, procedure and methods (iv.) the academic field of study (v.) the key attributes pursued to answer the research questions and (vi.) the methodological approach applied in the study (vii.) the frameworks used to interpret the empirical results of the study and (viii.) the results, findings and their interpretation.

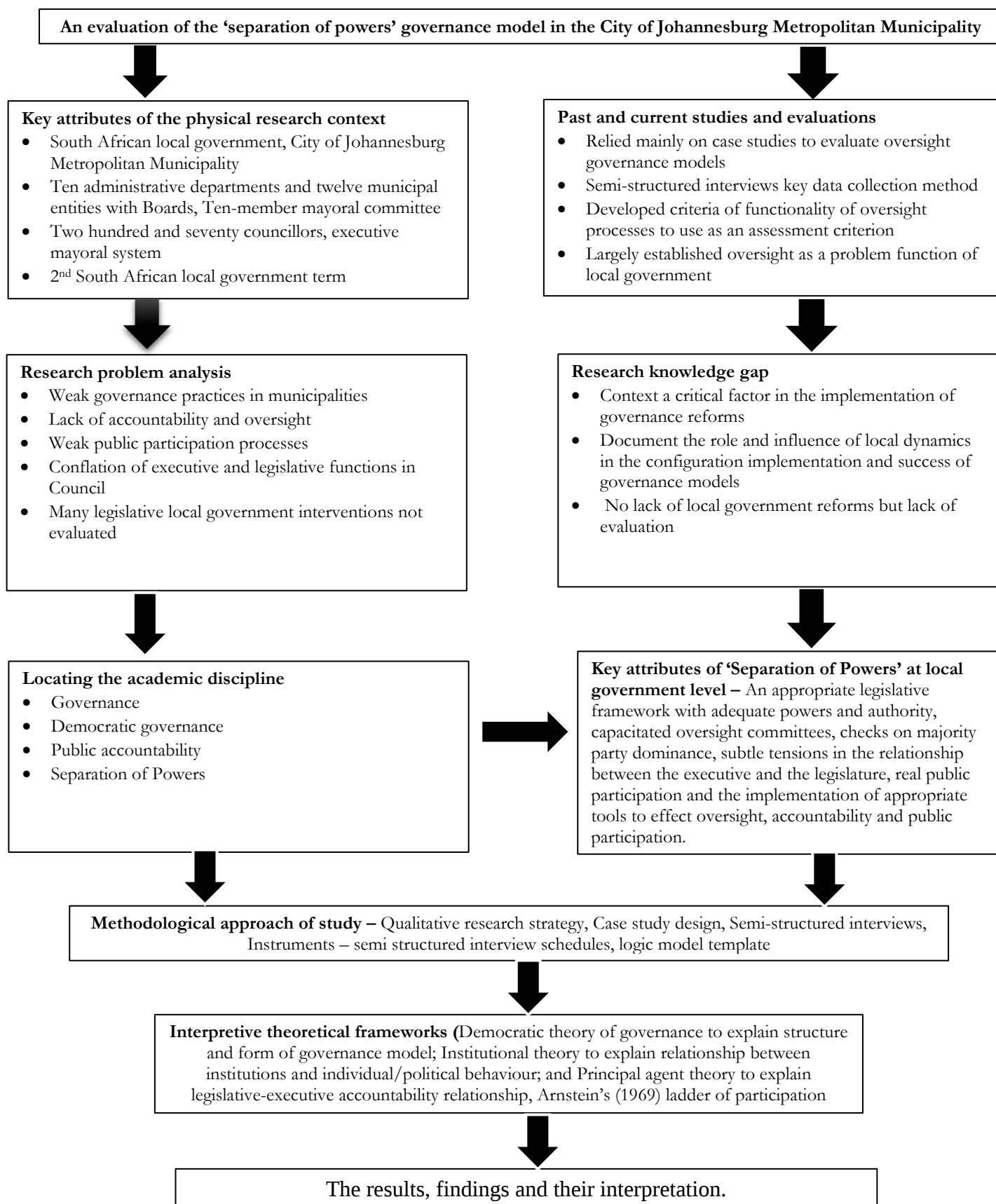


Figure 2.8: Conceptual framework for a formative evaluation of City of Johannesburg 'separation of powers' governance model

The illustration, adapted from Wotela, (2016) was customised for use in this study. First, the framework identifies the overall direction of the study, which is to undertake a formative evaluation of the City of Johannesburg's 'separation of powers' governance model. To achieve this, the study describes the research context and presents critical physical attributes that connect the context to research study (Kambidima, 2016). Therefore, the study describes the City of Johannesburg, highlighting the early establishment of local government which created an explanation for why governance reforms were considered after the first term of local government.

The study further established the research problem in local government in general and City of Johannesburg in particular. The study diagnosed the problem as weak accountability arrangements in municipalities, non-existent oversight processes as well as public participation processes that are compliance driven and presenting little influence on the decision-making processes in municipalities. It emerged that these problems arise, in part, from conflating executive and legislative functions in the Council. There was recognition that while the independence of the judiciary is entrenched in separation of powers models, there constant attempts to introduce legislative interventions to enhance legislature independence from the executive. One such intervention was the City of Johannesburg governance model.

The review of literature identified several studies that have engaged with governance models at local government level particularly in jurisdictions that implemented models similar to the one piloted in the City of Johannesburg. Through these studies, it emerged that several studies used qualitative research strategy and relied on case study designs of one or more cases to establish how governance models were implemented in specific cases. Two key factors emerged from this assessment of past studies. First, one of the important variables in the establishment and implement as well as performance of governance models is the environment within which a particular model was implemented. The influence of local dynamics in configuring implementation and success of governance models is hardly accounted for, yet it is presented as a critical factor leading to most public declarations supporting robust oversight and scrutiny not being backed by actual practice and a subsequent change in values and culture of institution. Second, it also emerged that while there have been many innovations and reforms in local governance models, there had little or few evaluations of these innovations and reforms eliminating the possibility of

learning from the evaluation lessons. As a result, local governance innovations were influenced by other structural considerations than evaluation lessons.

From the review of past studies, the study identified a knowledge gap relating to the influence of the context of where a particular governance model is applied being a critical determinant of its conceptualisation and implementation. Therefore, notable in this knowledge gap is the lack of understanding of local dynamics that influence effectiveness of governance models. It is these two gaps that the knowledge outcomes of this study will occupy — the effect of the specific circumstances of the City of Johannesburg on the conceptualisation and implementation of the governance model, and the lessons emerging from the City of Johannesburg's experiment with this governance model.

On the basis of the past studies this study is located the study within the governance academic discipline. The study identified several relevant components linked to the governance discipline and so the study explored governance, democratic governance, public accountability and separation of powers as critical components of the broad governance discipline. The study also defined critical attributes of separation of powers and established the following critical characteristics of a separation of powers governance model — an appropriate legislative framework with adequate powers and authority, capacitated oversight committees, checks on majority party dominance, subtle tensions in the relationship between the executive and the legislature, real public participation and the implementation of appropriate tools to effect oversight, accountability and public participation. The study used these broad concepts and attributes to identify central theories that helped explain specific aspects of these components. The study settled for democratic governance theory, institutional theory and principal agent theory to understand governance, role of institutions in governance processes and public accountability in legislative-executive relations respectively.

Using the variables identified above as a functionality criterion for assessing the governance model, the study adopted a qualitative research strategy and a case study design to evaluate the City of Johannesburg governance model. Semi-structured interviews were deployed to obtain stakeholder perceptions on these attributes. A logic modelling template developed was applied to obtain an understanding of the conceptualisation of the governance model. The findings of the study were explained through the use of four key

analytical frameworks, — democratic governance theory, institutional theory, principal agent theory and Arnstein's (1969) ladder of participation identified above. The choice of these four theoretical frameworks was informed by the need to explain the following key concepts—governance and public accountability as well as how these were influenced by the physical context of the City of Johannesburg. Figure 7 above illustrates how the study went about attempting to create useful knowledge and information from available data. Using Wotela's (2016) suggestion of applying systems thinking to resolve complexities of researching and research reporting, this conceptual framework served to combine different components of the research towards establishing a complete study (Wotela, 2016). The following chapter deals with the research methodology applied in this study.

3. RESEARCH METHODOLOGY

This chapter identifies and describes the methodology applied in this study — defined broadly, as a procedure of conducting research and scientific investigation (Bryman, 2012). The methodology adopted in this study was informed primarily, by the aims and objectives of the study, the underlying theoretical assumptions and expectations of the study as well as the ethical issues related to this study as well as methods applied to past studies of a similar nature as established in Chapter 2 (Barbie, 2011); (Bryman, 2012). This chapter covers five methodological objectives pertaining to this study – i.) it identifies and describes the research strategy (Section 3.1); and ii.) the research design (Section 3.2) as well as iii.) the procedure and methods (Section 3.3) of the methodology applied in this study. In section 3.4 the chapter iv.) describes the reliability and validity measures that enhanced the credibility of this study; v.) the technical and administrative limitations of the research procedure and methods are discussed in Section 3.5.

3.1. Research strategy

The research strategy, also known as a research paradigm or research approach is defined as the generic process applied when undertaking research. According to Bryman (2012) a research strategy is informed, broadly, by three factors i.) The positioning of theory in the research being undertaken – this relates to whether a study considers the relationship between theory and research as one of testing existing theories to make deductions (quantitative) or whether, using information available to it, the study is generating or informing theory (qualitative, ii.) The understanding of how knowledge is generated (its validity, methods and scope) – this relates to whether the study applies a natural science model (quantitative) or relies on how individuals interpret their surroundings to generate knowledge (qualitative); and iii) The third understanding of how reality is constructed – this relates to whether the study views reality as a result of an objective assessment of existing variables (quantitative) or rather reality is constructed based on a constantly shifting social reality (qualitative) (Bryman, 2012).

Beyond these three factors, the differences identified above are not always distinct and independent, leading to a third possible research strategy, the mixed methods approach, which emphasises a combination of these two strategies can be combined within a single research. Despite the primary distinction between the two being whether a study emphasises quantification or words in the collection and analysis of data, insignificant use

of numbers in a study does not qualify that study to be a mixed methods study. Therefore, a research strategy can be qualitative, quantitative or mixed methods, i.e. a mixture of both.

Informed by the factors identified above, this study adopted a qualitative research strategy, largely for its exploratory capabilities. A qualitative research strategy is relevant for studies that seek to understand underlying reasons, opinions, and motivations in research subjects as well as to uncover trends in thought and opinions. Qualitative research is also useful for establishing perceptions and can be used to describe and explain subjects of research interest. The qualitative research strategy informs the research design and data collection methods which can include focus groups, interviews and participation /observations. These are discussed in sections 3.2 and 3.3 below.

The majority of studies on oversight and scrutiny have been qualitative in nature seeking much like this study, to generate and inform theories on governance or scrutiny among other theories as well as to interpret existing phenomena such as the operations of legislatures. One such study is by Cole and McAllister (2015) who utilised the qualitative research strategy to evaluate and theorise committee scrutiny. Their qualitative study undertook a comparison of the Scottish Parliament, the National Assembly of Wales and Northern Ireland Assembly, in the United Kingdom, and assessed committee scrutiny in relation to selection, evaluative and output elements (Cole & McAllister, 2015). Using a qualitative research strategy their study was able to make qualitative comparisons between the three institutions and using institutional path dependency theory, established the existence of transferrable and testable propositions for scrutiny in the three legislatures.

In yet another study, McAllister and Stirbu (2007) adopted a qualitative research strategy to examine the scrutiny capacity of committees in the Wales National Assembly. Their study explored both their statutory framework and their formal and informal operation (McAllister & Stirbu, 2007). The objective of the study was two-fold, to suggest improvements to the committees' scrutiny functions and to infer some lessons for modernising and improving democratic scrutiny within other legislatures and this influenced the selection of a qualitative strategy for the study. The qualitative strategy assisted the study to establish the critical combination of systemic and cultural factors that affect the impact of the effectiveness of committees of the assembly.

Last, a study by Cole (2010), examined the role(s) of county councillors in the context of the contemporary reform agenda, focusing on the traditional role of a councillor as compared to a community focussed councillor as required by the local government reform agenda (Cole, 2010). The study sought to establish the extent to which councillor behaviour matched the government's notion of the model councillor under the reformed political management structures. A qualitative strategy presented the study with an opportunity to track the actual activities within a councillor's work space, and time commitment of councillors to their roles and established that the time commitment of councillors was substantially in excess of anything recorded in previous studies.

This study benefitted from using the qualitative research strategy primarily from its ability to support narration and interpretation of the social world. This appealed to the study because one of the critical objectives of this study is to examine how stakeholders in the City of Johannesburg, narrated, interpreted and understood the key governance concepts, their application and their meaning, that they brought to these concepts (Bryman, 2012); (Barbie, 2011). So, the qualitative research strategy helped this study to explain, interpret, and describe characteristics of the governance model of the City of Johannesburg, its strength, weaknesses and logic (Barbie, 2011).

The qualitative research strategy also allowed for the application of theory in interpreting the governance model and its application. Using a qualitative approach, the study focused on discovering how the 'separation of powers' principle was applied while also confirming whether the practice confirmed the principle (Barbie, 2011). Qualitative research design also supported the objective of critically analysing and interpreting the practice, opinions and perceptions that stakeholders created and associated with the governance model (Wagner, 2012). The study used interpretation to develop a logic model of the governance model, establish experiences and to draw conclusions on the City of Johannesburg's governance model.

The study required a research strategy that supports methods of data collection and analysis that facilitate understanding of an intervention's implementation. This was important given the socio-political context of programme evaluation (Viadro, Earp, & Altpeter, 1997) (Bouffard, Taxman, & Silverman, 2003). Therefore, a qualitative research design made it possible to explore the conceptualisation and implementation of the

intervention without necessarily conducting an impact assessment. This was possible due to the flexibility of the qualitative research paradigm (Bouffard, Taxman, & Silverman, 2003).

The study relied significantly on drawing on the different stakeholders' views, perceptions understanding and meanings they attached to the practice and the implementation of the governance model in the city of Johannesburg. A qualitative process permitted stakeholders to recall their experiences and understanding of implementation of the model (Neuman, 2012). Using the stakeholders' perceptions, the study sheds light on four key research questions that focus on a logic model of the programme, the strengths, challenges and recommendations emerging from the implementation of the model. The qualitative research strategy allowed the study flexibility to move as research circumstances changed and as the situation required (Barbie, 2011). Overall, the qualitative research strategy provided sufficient flexibility, processes and guidelines to support the study's objective of exploring, describing, explaining and critically examining the governance intervention (Barbie, 2011); (Wagner, 2012).

3.2. Research design

A research design provides a framework for the collection and analysis of data, informed primarily by the intentions of the research (Bryman, 2012). . Broadly, there are five possible intentions of research; either to demonstrate connection between variables; to generalise findings beyond a specific sample; express an understanding of particular behaviour in a particular social context; or to establish a temporal appreciation of social phenomena and their interconnections (Bryman, 2012). There are five possible designs that can achieve these intentions; experimental design; cross-sectional or survey design; longitudinal design; case study design; and comparative design (Barbie, 2011). This study sought to express an understanding of particular behaviour in a particular social context and therefore adopted a case study design.

Broadly defined, a case study design is a detailed and intensive analysis of the complexity and particular nature of a single case (community, organisation, individual, event, etc.). Case study designs are applicable in both qualitative and quantitative research strategies but evidence exists that they are largely preferred in qualitative research designs due to the ability of methods in qualitative strategy permitting intense focus on a single case

(Bryman, 2012). Despite its widespread use, case studies are criticised for the inability to generalise case study findings. Despite these criticisms, there is evidence that the strength of a case study design is in its ability engage in theoretical analysis that is supported by an intense examination of a single relevant case (Bryman, 2012). As a result good case studies require good quality data that can lead to meaningful connections to theory being generated.

There are several past studies relevant to this study that have applied case study designs. Citizen participation, an important feature of this study, has typically been examined through case studies focusing on specific participatory methods in different fields of governance. One such assessment was conducted by Michels and De Graaf (2010) who assessed the relationship between citizens and government using the case study design. The case studies were of two municipalities in the Netherlands, the cities of Eindhoven and Groningen. There were two objectives to their study. First, they wanted a better understanding of the role of citizens vis-à-vis government in local participatory policy making, in particular whether citizen participation in policy making implied a new division of roles and power between citizens and politicians. Second, they assessed the contribution of citizen involvement in policy making to democracy (Michels & De Graaf, 2010). Their findings showed that the role of citizens was limited primarily to providing information which government uses to make decisions. They concluded that for a local level healthy democracy to emerge, there was a need for democratic citizenship that promoted key aspects of collective responsibility, increased public engagement, and improved legitimacy of decisions (Michels & De Graaf, 2010). The rationale for using the case study design for their study was to produce specific findings that which was possible through an intense focus on just two cases.

Yet another study that applied the case study design was by Geurtz and van de Wijdeven's (2010), who used the case study design to describe direct participatory democracy experiences of a medium sized municipality in the Netherlands. Their study concluded that there are two main reasons a government involved the public in its programmes; first, because of the assumption that citizen participation leads to people-informed outputs; and second, the assumption that citizen participation makes decision-making processes democratic. They concluded that strong citizen participation at local government was useful because it connected the citizens to its government and also tested

a system's ability to accommodate scrutiny. The study found that legislative scrutiny would be enhanced if it disallowed or vetoed executive regulations when they do not conform to specific standards or legal form. The rationale for using the case study approach in this study was to use experiences of particular cases to interrogate the theoretical relationship between citizen participation and the perception of democracy.

Piper and Deacon's (2009) study used the case study design to establish the levels of functionality of local government public participation in South Africa based on performance of ward committees in one municipality, Msunduzi municipality. They concluded, based on their assessment of ward committees in the Msunduzi municipality that despite ward committees operating for seven years, they had been not fully functional because committee members depended on ward councillors, political parties, and the municipality for basic functionality (Piper & Deacon, 2009). This compromised their independence. They found that this dependence syndrome undermined democratic benefits, and compromised effectiveness of ward committees. The rationale of using the case study design in this study was to establish the unique circumstances of the theoretical relationship between ward committees and public participation in a specific municipality.

This study benefitted from the application of a case study design in that it allowed the research to focus on a single case, the governance model in the City of Johannesburg and to define, explain, explore and critically analyse the conceptualisation and implementation of the City of Johannesburg's 'Separation of Powers' model. The design allowed the study to localise the study and to present concrete, context-dependent knowledge on the conceptualisation and implementation of separating executive and legislative roles at local government level in South Africa. This was possible because of the focus on a single case where this separation has taken place.

3.3. Research procedure and methods

The research procedure and methods applied in this study were informed by the qualitative strategy (research of a social concept) and the strengths of the case study design which can demonstrate the differences in people (distinctiveness of humans) as suggested by Bryman, (2012). Below, the study demonstrates how it identified, selected, collected and analysed information used to understand and answer the research questions of this study. The section below therefore, i.) identifies and describes the data collection instrument used

in the study (3.3.1); identifies and describes the target population and sample used in the study 3.3.2; reveals all ethical considerations applied during data collection (3.3.3); describes data collection and storage (3.3.4); describes data processing and analysis (3.3.5); and describes respondents in the data collection process(3.3.6).

3.3.1. Data collection instrument

Data collection instruments are tools specifically designed to collect data to facilitate analysis and measurement in a study (Barbie, 2011). The data collection instruments used in this study were determined by the questions to be answered by the research and the qualitative research strategy adopted by the study. The dominant data collection methods in the qualitative research paradigm include interviews, observation, questionnaires, content analysis and secondary analysis particularly in studies that require significant document analysis (Bryman, 2012). This study did all three, it observed, interviewed and analysed documents as part of the data collection process.

Semi-structured interviews

While the study recognises the existence of structured, semi-structured and unstructured interviews as tools in the interview data collection method, this study used semi-structured interviews as the main data collection tool. The semi-structured interviews basically involved a semi-structured verbal communication between the researcher and stakeholder during which information was obtained (Neuman, 2012). The semi-structured interviews were particularly useful for getting the story behind a participant's experiences and enabled the interviewer to pursue in-depth information relevant to the study, because, as the name suggests, such interviews are not firmly structured or standardised. They allowed questions that are more general in their frame of reference than those typically found in a structured interview schedule. This allowed the interviewer to ask further questions in response to responses because of the general form of questions whose sequence can be varied based on the circumstances (Neuman, 2012).

There are recent studies that have used semi-structured interviews as an effective data collection tool. First, the study by Cole and McAllister seeking to compare scrutiny mechanisms in three legislatures in the United Kingdom used data from fifty-nine semi-structured interviews conducted with members and staff of the three legislatures to establish stakeholder perceptions on critical aspects such as determination of committee

agendas, support for inquiries, the influence of political constraints on scrutiny as well as the aptitude of committee members (Cole & McAllister, 2015). The main objective of using this data collection tool was to establish the perception of stakeholders to various aspects of the scrutiny process as well as to obtain the experience of staff such as committee clerks of the parliament or assembly as applied. Second Sanford and Maer (2004), undertook a study and produced a report on overview and scrutiny in English local authorities. They conducted semi-structured interviews with members and officers from the different authorities with between eight and seventeen individuals from each authority, making a total of some 60 interviews. The study found that semi-structured interviews were useful for their flexibility as at times the study deviated from the 'set' interview template of the differences between issues in local authorities and devolved bodies as well as the varying importance that issues had in different authorities (Sandford & Maer, 2004).

Third and last, another study that used semi-structured interviews was a study that sought to characterise farmer irrigation practices (O'Keeffe, Buytaert, Mijic, Brozovi, & Sinha, 2016). The study presented a methodology for collecting qualitative data on water use practices through semi-structured interviews. This approach facilitated the collection of detailed information on actors' decisions in a convenient and cost-effective manner and organised semi-structured interviews around a topic guide, which helped lead the conversation in a standardised way while allowing sufficient opportunity for relevant issues to emerge (O'Keeffe, Buytaert, Mijic, Brozovi, & Sinha, 2016). The study concluded that semi-structured interviews were an effective and efficient method of collecting qualitative information to enable an assessment of perceptions on the various attributes.

By conducting the interviews, the study was exposed to the meanings that stakeholders attached to the adoption and implementation of the Separation of Powers' programme. The interviews covered certain key themes that guided the structure of the schedule lasting anywhere between 45 minutes to one-and-a-half hours each, at a place and time chosen by the interviewees, which varied from city Council offices to their wards or their alternative work space. Confidentiality and anonymity were as far as possible, guaranteed. The interviews were preceded by telephone calls and emails to stakeholders and by formal letters (see Appendix B), depending on my relationship with the respondent. The interviews were recorded, transcribed verbatim and analysed as discussed in section 3.3.5.

Logic modelling

The study did not rely only on interviews as a data collection method but used document analysis and unstructured observation as data collection methods. The study also used document analysis to unpack the programme theory and to develop a logic model of the 'separation of powers' governance model. While there is considerable variation in the way logic models are used by evaluators, including the degree of complexity in the logic model, Clapham et al suggest that the primary purpose of a logic model is to articulate the underlying assumptions about how the expected outcomes of a program will be reached (Clapham, et al., 2016). The underlying theory or 'program theory' explains how the program works and how the components of the program work together, rather than what it is expected to achieve.

This study placed significant value on document analysis for purposes of understanding the governance model's program theory and therefore used a logic model as a tool to explain and present the theory of the governance model. It made it possible for the study to describe and articulate the programme theory. Thus, for this study, a good understanding of the program's theory was essential for this formative assessment as well as any subsequent evaluative tasks that would seek a programme theory.

There are several studies that have used the logic model as a tool to unpack the theory of an intervention for purposes of undertaking evaluations. Clapman et al (2016) writing on the underrepresentation of how Aboriginal people in New South Wales, Australia, outlined the formative evaluation of a program applied logic model construction to demonstrate and explore the influence of contextual factors in the programme. The study used data that emerged from programme information and semi-structured interviews to develop a logic model of the programme on licensing of Aboriginal people. The study benefitted from using the logic model because the study concluded that the program context showed systemic barriers to licensing that were correspondingly targeted by specific program outputs in the logic model. It concluded that addressing underlying assumptions of the program required managing local capacity and support to strengthen implementation.

The study also revealed that a formative evaluation can highlight the importance of exploring program context as a crucial first step in logic model construction (Clapham,

et al., 2016). The consultation process, just as in this study, assisted in clarifying program goals and ensuring that the program was responding to underlying systemic factors that contributed to inequitable licensing access for Aboriginal people. Another study that demonstrated the use of logic models is the study by McLaughlin and Gretchen (1999), who presented a logical argument for how and why the program was expected to achieve its objectives. Their study described the logic model process as a tool used by program evaluators to tell the performance story of their program. The model describes the logical linkages among program resources, activities, outputs reached, and short, intermediate, and longer-term outcomes (McLaughlin & Gretchen, 1999).

I obtained a rich database of relevant documentation, enough to develop an understanding of the 'Separation of Powers' governance model, its objectives, intended implementation and actual implementation. From these documents, I was able to establish a theory of change and logic model for the programme and theory of change of the 'Separation of powers programme. I used the following Council documents largely produced by City itself (as there is very little external work on this pilot) on the programme from the time of its conceptualisation to its approval for implementation as well as documents about its implementation post. These included the inception report for the programme, titled *Report on the Proposed High-Level Legislative Structure of the City of Johannesburg*, authored and approved by the Mayoral Committee of the City of Johannesburg in June 2006. The study also analysed the *Oversight and Scrutiny Framework for the City of Johannesburg Legislature*. The framework was authored by the legislative structure of Council in 2008. The study also accessed key organisational documents including *Oversight visit reports* of committees, *Terms of Reference of Committees* of all Committees of Council, *Oversight Reports of Committees* of Council, and *quarterly performance reports* of executive departments and those of the legislature among other documents. I also accessed the *minutes* of all Section 79 Committees of Council, a key accountability structure and critical part in implementing the City's 'separation of powers' programme.

Unstructured Observation

Last, unstructured observation required the researcher to observe in as much detail as possible the behaviour of stakeholders in the governance model. The objective of this observation was to develop a narrative account of how these stakeholders behaved in the governance model environment. Even though the unstructured observation did not

necessarily require an observation schedule (Bryman, 2012), the study still kept a record of observations made in various circumstances.

Through-out the research process I moved between being both a participant and non-participant observer within the unstructured observation framework. As an employee of the City, working within the legislature (2007 to 2012) involved in implementing the governance model I was always a participant and observer in the process I was researching. I was involved in the internal processes supporting those who were mandated with the oversight responsibilities of Council. As an employee in the executive administration of the City (2012 to current), attending Section 79 committee meetings, I was exposed to how the model worked for those being held to account as well as an observer.

I observed numerous Council and oversight committee meetings, Integrated Development Planning summits which are public events that take place monthly and annually within the city. I took notes of these meetings and recorded my feelings as well as the audience's reaction to what was going on. I was also able to obtain records of such meetings. My role in this unstructured observer process allowed me to constantly deal with perceptions that I had which were tested by what I observed as happening or what was contained in official documentation. It was critical to do all this without offering opinions, noting where there was evidence of programme logic and where there wasn't. I attempted to record in specific detail the entirety of my observations however, this was not possible considering I was part and parcel of the process on a regular basis.

I tried in as far as possible to record notes during the meetings I attended, with the date of the meeting recorded to distinguish the different observations made. Most of the observations were made in committee meetings and in a few circumstances in other platforms such as the Integrated Development Planning (IDP) consultative sessions. Section 79 committee meetings are sometimes all-day events, so I recorded the key events and avoided taking minutes of the meetings. Where an inconsistent practice happened, I would also note this down with the corresponding recommended practice. This helped me generate instances of specific incidents that proved critical in illustrating the actual practice of the model.

Structure of the collection instruments

Semi-structured interview

The interview schedule was organised into an introductory section and five other broad sections. The introductory section contained information fields that were populated by the researcher based on information provided by the respondent. The five broad sections covered; i.) the objectives of the governance model; ii.) the effect of the governance model on governance processes in the City; iii.) the challenges/functionality of the governance model; iv.) public participation in the governance model and v.) recommendations for the governance model

- Therefore, in the introductory section, the schedule required some information to improve the description profile of respondents, such as designation, function, and experience in Council, which was aimed at establishing the amount of experience the stakeholder had in Council as well as to establish rapport and to establish the interviewee's role in the Council set up. This section included requests for respondents to provide information related to their name, the department or function they worked in, their designation or position, number of years in that position and the date of the interview.
- Section one (Q1 to Q5) of the semi-structured interview schedule focused on the objectives of the 'Separation of Powers' governance model, particularly respondents' understanding of the objectives of the model, how they perceived the role of the legislature to have been affected by the model, whether there had been specific improvements as a result of the model among other questions. The first set aimed at eliciting the interviewee's knowledge and understanding of the governance model, its objectives;
- Section two of the interview schedule (Q6 to Q8) and its sub-questions) focused on the effects of the 'separation of powers' governance model on the governance processes in the city. The second set sought to establish what the stakeholder thought had improved because of the model, including rating performance of the model as far as particular aspects were concerned;
- Section three (Q 9 to Q21) of the interview schedule focused on the functionality of 'separation of powers' governance model in the City of Johannesburg. This section sought to establish perceptions of respondents on the functionality or otherwise of the governance model, mechanisms in place to enhance functionality and the performance of those mechanisms, systems developed, and challenges faced in the functionality of the model. This section also sought to establish the activities and the challenges faced in implementing the model. This also focussed on the establishment of core systems and processes like the resourcing of the governance model, availability of appropriate committee systems, the tracking of Council resolutions, Council debates, executive

question time among others that are required for a functional oversight and scrutiny governance model.

- It also focussed on the public participation mandate of the model, particularly levels of participation in Council after the implementation of 'separation of powers. This question was complimented with document analysis of reports to establish levels of participation in Council committees and processes; and,
- The section also sought to establish the views/recommendations of respondents for the establishment of a similar model in other municipalities.

Data collection instrument – Source of Questions

The interview schedule was made up of twenty open-ended questions, scheduled for an hour's interview and organised into the following six broad thematic sections. The rationale for the questions largely emerged from the literature review which established relationships among concepts that the study tracked, as follows;

- The introductory section (introductory information fields) contained screening questions to establish whether respondents qualified to participate in the research and in the final analysis, establish whether their perceptions could in any way be explained by the time they had spent in the organisation given that the governance reforms were over two political terms. These questions were created by the researcher. It also allowed the study a description profile of respondents.
- Section one (Q1 to Q5) were adopted from prior research and from the evaluation theory understanding that in some instances the way programme objectives are defined in official programme documents may not always be the way they are understood by respondents. Some of the questions also originated in the literature review particularly the respondents' understanding of key governance processes in Council.
- Section two (Q6 to Q8) was also adopted from prior research and literature review which established a relationship between the separation of powers doctrine and its accountability objectives.
- Section three (Q9-Q18) originated in the literature review particularly the criteria that was recommended that established the core systems and processes like appropriate committee systems, the tracking of Council resolutions, Council debates, executive question time among others that are required for a functional oversight and scrutiny governance model.
- The questions on public participation originated from the literature review (mandate of local government), programme documentation on the objectives of the model as well as from prior research by the likes of Deacon and Piper who suggest that improved public participation in Council activities can be achieved by increasing accountability mechanisms in Council.

- The recommendations question was informed by circumstances of the City of Johannesburg's governance model being a pilot, and the first in local government in South Africa, and expected to make recommendations for the rolled out of a similar governance model to other municipalities. The question sought the recommendations of programme stakeholders to this expectation.

While the consistency in questions was designed to ensure accuracy and precision during the analysis of the responses, it was not always possible to follow the same structure and sequence in each interview because as in one instance, the interviewee was discussing a particular issue in the informal phase of the discussion which was quite relevant to the study. I decided to use that informal discussion to lead into the interview, meaning I could not start from my pre-conceived position. I consequently altered the structure and questions to suit the circumstances without losing the interview objectives. I also took the opportunity of altering nature and structure of my questions after the first few interviews and as I went along as it became clear that questions such as the two below seemed to elicit a similar type of response from participants leading me to restructure the questions and asking about definite examples that emphasised areas of improvement in the respondent's view;

- Question number 2: In what way has the role of Council as a Legislature has been strengthened because of implementing the Governance Model?

And;

- Question number 3: What improvements have you observed in the governance of the City? To what extent can these improvements be attributed to the separation of powers governance model?

There were benefits to the study in using semi-structured interviews. Towards the end of the process, I omitted some questions and included new ones such as to accommodate what was emerging from the interview process, such as the emphasis on the part-time nature of councillor appointments and how that influenced the implementation of the model. I also took the opportunity to ask follow-up questions in instances where I lacked clarity in the response or where I sought to confirm my understanding of a response, which is the technique of probing as provided for within the qualitative research design. In the interviews, I also sought to establish whether the reflections contained in interviews conducted in the early years of the governance model were still relevant or they had

changed and in which direction. One of the critical areas relevant to this was the chairpersonship of Section 79 committees as illustrated in the next chapter.

I also realised, especially when interviewing politicians that it was necessary to use prompts in some instances to guide the conversation. It was sometimes quite easy to be distracted towards an entirely political discussion as compared to exhausting interview objectives. What emerged from the personal observation accounts proved there were apparent gaps between what people “do” and what people “say” especially when it came to unpacking oversight roles of individual councillors as well as the responsibilities of scrutiny officers, the researchers (Neuman, 2000).

This presented a limitation of interviews which required that there be corroboration of the interview data with other means. Barbie (2011), maintains that much is still concealed in interviews since one always tries to put one’s best foot forward or the worst foot of the opposing political party (in this case), creating additional need for corroboration. This was more apparent in an environment in which some participants viewed their opinion in relation to their political affiliation. Therefore, it is possible that some of the opinions I received in the interviews were largely driven by the participants’ political thinking, or how their party was treated by the legislature, as compared to an objective assessment of the model. However, I attempted to test this through-out the study. Annexure A attached at the end of this study illustrates the interview schedule structure and questions used in the study.

3.3.2. Research participants and selection

My research participants consisted of various stakeholders close to the governance model in the City of Johannesburg. These stakeholders can be classified into two main stakeholder groups of councillors and officials closely involved with the governance model. Within the two groups were several subcategories. The table below describes the critical stakeholders and their key characteristics.

Stakeholder Group	Members	Characteristics of Stakeholder Group
Councillors	All members of the Council Legislature directly elected to represent a ward or appointed by proportional representation;	Different political party representatives

Stakeholder Group	Members	Characteristics of Stakeholder Group
The Executive Mayor of the City of Johannesburg (x1)	A councillor appointed by Council as Executive Mayor of Council	From the majority party
The Speaker of Council in the City of Johannesburg Metropolitan Municipality (x1)	A councillor elected by Council as Speaker of Council	From the majority party
The Council Chief Whip in the Municipality (x1)	A Councillor elected by Council as Chief Whip of Council	From the majority party
The Whippery of the Council in the Municipality (x11)	A councillor appointed by a political party to be Chief Whip of that party in Council	A representative from each political party in Council
Members of the Mayoral Committee (MMC) in the Municipality (x10)	Councillors appointed by the Executive Mayors as members of the Executive	From the majority party
The Leader of Executive Business (x1)	A Councillor appointed by the Executive Mayor to lead government business in Council	From the majority party
Chair of Chairs (x1)	A Councillor appointed by Council to be Chairperson of the Committee of Chairpersons of Section 79 Committees	From the majority party
Chairpersons of Committees (x10)	Councillors appointed as Chairpersons of Committees of Council established under Section 79 of the Municipal Structures Act	From the majority party
Leader of Official Opposition in the Municipality (x1)	A Member of the Mayoral Committee also appointed by the Executive Mayor as the leader of government business in Council	From the majority party
Officials	All other stakeholders employed by Council in an administrative capacity but not elected representatives	Officials
Secretary to Council (x1)	An official appointed as administrative head of the legislature	Administration
Researchers (x8)	All officials appointed to provide research support to Section 79 committees of Council	Administration – Scrutiny Officer

Stakeholder Group	Members	Characteristics of Stakeholder Group
Committee Coordinators (x8)	All officials appointed to provide administrative support to Section 79 Committees	Administration Coordinator

Table 3.1: Description of key stakeholders

The way Council is structured influenced the selection of whom the study could approach for data collection purposes. This was largely driven by purposive or judgemental sampling which in the qualitative research design, allowed this study to have a small sample that facilitated intense, in-depth engagements in a particular context over time (Wagner, 2012). At the time of the study, Council was made up of various (11) political parties confirming it as a political institution and in which political thinking plays an influential role in the institution. To deal with potential issues of bias, I went with the assumption that it was difficult if not impossible to expect the opinions of political participants to be divorced from any political thinking informed by the political party they belonged to.

Therefore, my selection procedure ensured the sample included opinions of people of diverse political opinions and to avoid domination by a group of similar political persuasion. Given that council is a political environment it was critical to ensure such a balance as it would be easy for one set of political opinions to dominate over the other. Over and above the political party representation I also ensured that the opinions and perceptions of different categories of political stakeholders were obtained, including the chairpersons of committees, members of the Whippers and Members of the Mayoral Committee. This allowed the study to establish a sample that would provide sufficient research data to reach meaningful conclusions and ensure that the chances of repetition if the sample were widened would most likely be high (Wagner, 2012).

I obtained comprehensive lists of the different subcategories of stakeholders based on which I selected representatives of the different political parties, some of which were one-member parties. The initial list of interviewees was fifty-three, however, thirty-five interviews were conducted with participants distributed among the various sub-stakeholder groups. The thirty-five interviews were distributed as follows;

- The Whippers of the Council in the Municipality selected from the different political parties represented in Council (x11);

- The Executive selected from Members of the Mayoral Committee (MMC) as well as members of Executive Management Team (EMT) (x7);
- Chairpersons of Committees selected from the legislature of the City of Johannesburg (x5);
- Committee researchers (x8) selected from employees that provide research support to oversight Committees of Council; and,
- Committee Coordinators (x4) selected from employees that provide secretariat support to oversight Committees of Council.

Consequently, while the study attempts to give voice to diverse stakeholders in the study, a few perspectives are missing, largely due to unavailability of other key stakeholders because of busy schedules and because the data collection exercise coincided in the latter parts with election campaign periods leading to busy schedules for political stakeholders. This latter fact also resulted in no repeated interviews being conducted.

Given that political stakeholders are almost always identified by their designation, deliberately, for confidentiality, when quoting a stakeholder, I excluded attributes such as designation largely because where there is only one such designation in Council, it would be easy to identify the specific individual and thus expose the identity of the stakeholder. I also excluded attributes such as character description, religious affiliation, age or sex as it would be presumptuous to assume that selected biographical details can explain behaviour or perceptions towards the model. However, where a respondent was comfortable with being identified, the designation is mentioned because in many instances it is certain that one's opinion is related to the fact that they hold a position in the Council.

3.3.3. Ethical considerations when collecting data

There were ethical considerations for this study relating to the researcher's intentions in assessing the separation of powers programme, the researcher's position in the City of Johannesburg and ensuring the image of the City is protected from exploitation based on the divergent political views existing in the city. To address these ethical considerations, the informed consent of the institution was critical. Although I was employed by the City, I still undertook to obtain formal authorisation (Appendix 2.1) and consent of the Speaker of the Council to undertake the study and obtain required documentation as well as access to the relevant individuals. I also committed that I would provide the City of Johannesburg with a copy of the final research report which they indicated they required for their learning purposes.

There was reasonable expectation of bias given the political environment within which this intervention was implemented. I realised that being a political environment, it was possible that this study could be used to communicate partisan positions linked to political party beliefs. I could not avoid this but sought to ensure the views were corroborated through documents and other interviews. According to Sarantakos, (2004), complete objectivity in qualitative research is not always possible, particularly in the environment that characterises this study and so this study does not claim total objectivity of participants, it however attempts to present different perceptions including those of the researcher (Sarantakos, 2004). As Wagner, (2012) pointed out, being both an insider and an outsider presents the researcher with an ethical dilemma and makes this point very clear when she argues that the researcher as an insider draws on the normal ground rules of reciprocity and trust that characterise social interactions (Wagner, 2012).

My relationship with the City of Johannesburg was influential when it came to collecting data for this study. I began my PhD working in the CoJ Legislature and was a direct participant in the establishment of the new governance model. I was one of the pioneering officials, serving as a Researcher for Municipal Public Accounts Committee and Finance and Economic Development Committees, and then Deputy Director Research in the legislature. I had always had a major interest in the work of legislative oversight committees and whether they contribute to improved governance practices. The opportunity to work in such an environment in which oversight committees were being introduced for the first time presented a great opportunity to further this research interest. The Speaker of Council and Secretary to Council supported when approached for authorisation to access data and the legislature. This culminated in a letter to all key stakeholders informing them that access had been granted and that they were encouraged to support the data collection process. It was an advantage that I did not have to approach stakeholders on an individual basis but that I had the authorisation to pursue this study which made the data approach easier when it was done.

However, not long after starting the PhD journey (2012), I left the employ of the legislature and went to work for the executive within the City of Johannesburg. This presented me with an opportunity to view the governance model from a different ‘external’ angle, presenting new and interesting insight into the other arm of the Council and how it

related to the legislature. This presented interesting dimensions to the study as I was part of the executive arm being held to account by the legislature. This meant I had been exposed to a unique opportunity of observing the governance model from the ‘inside’ and the ‘outside.’

As an employee of the City, I had personal and official relationships with many stakeholders, either through my association with the legislature, the Section 79 Committees or as an official responsible for monitoring and evaluation in the City. This undoubtedly facilitated my access to information and to stakeholders. I, therefore, found it easy to communicate my request for interviews, outside hectic diaries sometimes denying me the opportunity. Most of the councillors that I approached or indicated an intention to interview were generous with their time, supposedly to also take the time to illustrate how well they and their political party had done. This supports the finding that researching the powerful is sometimes easier than expected, especially in local communities (Walford, 2012; Williams, 1989). The time of some interviews was also determined by the political environment if one specific meeting is anything to go by. Given my role as an employee, a researcher for a Council committee and subsequently a member of the executive my role as a Ph.D. researcher was not a prominent factor and did not draw attention. I could observe model practices that were not altered to suit my presence. My presence and sometimes participation in any of the Section 79 Committee meetings or other Council processes was linked more with my work rather than with my studies. I also did not push my study agenda through my presence or participation in Council processes. This allowed me to have total access to the governance model and its processes.

The study also concluded that because it was a time of heightened political consciousness, access was also possible because political representatives saw the interview opportunity as a platform to speak about their political work and to score political points. In one meeting where I went to interview a member (whip) of one the smaller political parties in Council, the councillor did not hesitate to express that he had hoped some study would be done on the model just to demonstrate how it had failed to change things in the City. He saw this study and the interview as an opportunity to get what he defined as ‘truths’ out there which oversight committees and the governance model were not telling. He was eager to be interviewed and indicated I was welcome to use his personal details as he was ‘telling the truth’. I sought to indicate to the councillors that the study was seeking

to get the views of stakeholders on the political divide and that they were free to share their opinions on the governance model. In many instances, I could meet councillors at the City Council offices in Braamfontein, however, in some instances it was not possible, and I had to drive to meet councillors in the wards they represented, worked or lived.

Yet another example of a political dimension to the access provided is that there was a strong expectation for political interviewees to state their political stance and I suspect this was influenced by the political term coming to an end and the campaign period in full swing. Towards the election period, I undertook an interview with one Chairperson soon after a Council meeting. The Council meeting had been disrupted with councillors walking out amid political chanting. Much of the early part of the interview was about how the politics was changing in Council and that attention seeking through extreme measures had become a political strategy in Council. The Chairperson predicted that the next Council would present new challenges never seen before, and indicated he was not necessarily happy with the new politics which would render governance processes ineffective.

3.3.4. Data collection and storage

The study adopted a phased approach to managing the research process. The table below illustrates the key phases of the process. Some of the phases ran concurrently and sometimes overlapped:

Phase	Research Activity
Pre-research phase	Research proposal development, literature review, establishing a theoretical and conceptual framework for the study.
Phase 1	Documentation analysis
Phase 2	Observation
Phase 3	Interviews
Phase 4	Coding and analysing data
Phase 5	Writing the research report
Phase 6	Submission of Draft and Attending to amendments

Table 3.2: Research schedule

Pre-research phase – This phase involved the development of the research proposal, establishing the knowledge gap, theoretical and conceptual framework, identifying relevant methodological approaches from similar studies and refining the theoretical and explanatory frameworks for the study. Some of the processes continued to

be refined even at later stages of the process as the study moved towards completion of the study, stages of analysis, findings and writing up the research report.

Phase 1 – This phase involved collecting and engaging with programme documentation. This was important to understand the conceptualisation of the governance model. The phase involved unpacking project documentation and reports to draw up the programme's theory of change and to draw-up the logic model of the programme. This phase also involved obtaining all programme information (oversight reports, site visit reports, performance reports, among others including recordings of interviews conducted in the first political term of the model. Through these documents and the observation phase outlined below, the study established a basis for the interview process.

Phase 2 – Observation was an on-going process throughout the life of the study, whether as a participant working in the legislature as a researcher to oversight committees or as a member of the administration subjected to oversight and accountability processes. My observations were a constant tool to verify practices as well as a constant check against some interview and programme document outcomes.

Phase 3 – Using the two phases above I developed interview schedules and discussion points used to elicit interviewees' perceptions regarding their roles, as well as their perception of the model. This involved establishing their understanding of the objectives of the model as they understood them, the effects of the model on key governance processes, the strengths and challenges the model was facing as well as recommendations based on their perception of the model. While the literature recommends an on-going analysis of the data to inform subsequent interviews, this was often impractical for two reasons; the number of interviews and length of some of the interviews delayed the transcription process and subsequently the analysis. I also wanted to be non-judgemental and detached from the data to allow for objective analysis that is not influenced by being too involved to the extent of failing to understand the perspective of the participant which is possible as Ritchie (2003) suggested, (Ritchie, 2003).

Phase 4 – This phase constituted a comprehensive analysis of data generated from the phases above, i.e. programme documents, interviews, and to some extent, my personal observations. Below the study describes the process of data gathering, transcription,

fragmentation, and coding with the help of Excel which allowed me to confirm the existence of themes that had emerged from literature while also accommodating themes that were emerging from the data being analysed. This phase was challenging and longer than I had imagined.

Phase 5 – This involved writing the research report a phase in which I dialogued with the document and data analysis as well as the explanatory frameworks that the study had identified in the initial phases. It involved continuously re-visiting components of the study based on what was emerging from the findings, determining models and frameworks used to explain the findings.

The study used two main data collection techniques in combination to answer the four research questions. The study employed document analysis of relevant programme information and semi-structured in-depth interviews (largely), and personal observations (to a limited extent) as techniques in this process. By using different sources and methods at various points in the evaluation process, the study built on the strength of each data collection technique and lessens the weaknesses of any single approach. This improved both the validity and the reliability of evaluation data.

3.3.5. Data processing and analysis

The interview recordings were transcribed by a third party and transcripts of interviews produced from observations produced a significant amount of useful data.

Organising interview transcripts

After transcription, the next step was to ensure that all gaps (inaudible areas) in the transcripts were closed through reading through the interview transcripts and listening to areas that were not audible for the transcriber. I also subsequently created an identity for each interview, so I organised all interviews by category of respondents and then labelled each of the interview schedules using numbers, and so I had interviews number 1 to 35. This helped to establish similarities and differences in the responses of people of a similar category as well as between categories.

Developing themes used to organise responses

The study adopted qualitative content analysis as the dominant process to develop themes from the interview transcripts. This process comprises a searching out of underlying themes in the materials being analysed allowing categories to emerge out of data and on recognizing the significance for understanding meaning in the context in which an item being analysed (and the categories derived from it) appeared. (Bryman, 2012). While the process of extracting themes is not prescriptive, the study was able to develop a basic specifically defined excel spreadsheet for this purpose containing as an example, brief quotations from documents analysed.

To better organise this information electronically, the study used Microsoft Excel and organised data along the respective research questions and therefore created four worksheets, one for each of the four primary research questions. For each research question, the study identified key themes to look-out for. The process of conceptualising themes was not a random exercise but it was driven by the key issues that emerged in the literature review related to each issue the study was interrogating in the research questions. So, the study unpacked each research question, to pick up the key issues that it was focusing on. Having identified these key issues, the study went back into the literature review to establish what literature said about these issues. Using this assessment, the study was able to identify key requirements from the literature which were elevated to be a theme.

To illustrate the process described above, for example, one of the study's research questions was:

'What challenges did the City of Johannesburg face in the implementation of the 'Separation of Powers' governance model?' The critical words I focused on to determine literature driven themes were; *challenges, implementation, 'separation of powers' 'governance model'*. Having established these areas of focus based on the research question, the study went back to the literature review to establish the common challenges for governance models in local government a process that yielded the following themes; *'weak accountability'; 'poor quality of oversight committee support'; 'inadequate public participation'; 'weak tracking of resolutions'; 'insufficient councilor capacitation and poor resourcing'*. I understood these to be critical success factors for governance models that have been established, in literature to be common problems for governance models. Beyond the literature backed themes, I also realised that there were other themes (relevant key issues) that were emerging in the data as I read the interviews that I also added to the list of theory-based themes and classified them as data-driven themes. For example, relating to the same research question on the challenges faced, it that the *'part-time nature of*

councilors' was prominent in many of the interviews as a key challenge. I consequently elevated such issues to be a theme that the study would focus on.

Thus, in the first column of the excel worksheet, I inserted all the relevant themes that were emerging from the literature and the interviews. In each subsequent column, I numbered each column in accordance with the corresponding interview number. I then proceeded to read each interview, looking for interviewees respondents that were relevant to a theme. My initial attempts to read one interview once and to try and deal with all themes relevant to all four questions and their themes proved impractical. I ended up reading some interviews, especially the larger transcripts more than once to address the research questions and themes sufficiently. So, where I found relevance, I paraphrased the respondent's opinion under a relevant worksheet and along a relevant theme. This helped me disaggregate the information, clearly establishing what was relevant to each question and identifying what was not directly relevant. This helped to establish what each respondent said about a theme, or whether they said anything at all about a theme. Appendix 2.1 illustrates how the excel spreadsheet looked after organizing my information.

Research Question: What challenges did the City of Johannesburg face in implementing the ‘Separation of Powers’ Governance Model’

Theme	Interview 1	Interview 2	Interview 3	Interview 4	Interview 5	Interview 6	Interview 7	Interview 8 006
Executive Accountability		Requested information not always received on time or at all. Sometimes MMCs do not pitch.	Initially, there was resistance and disregard for the authority of oversight structures.		With the maturing of the governance model, there has greater respect and recognition of the role and function of Section 79 Committees.	Long lists of outstanding information requests.	A lot is dependent on the individual relationships, a good relationship with a particular official or particular MD gets things done but for those who do not have that relationship there are difficulties.	reports resubmitted but authors do not come to account, sometimes MMCs do not come; technically complicated reports
Oversight Committee Support	We have limited research support, with researchers spread among many committees. My researcher is serving three committees.	We also do not have researchers as minority parties. If political parties had independent researchers, it would be helpful. The DA have but they pay for them.			By ensuring that committees remain free of any political party bias goes far in ensuring that oversight committees can function as a collective in discharging their mandate.		too few researchers; limited cooperation with ward committees	Even though we have researchers, often it is not possible to verify what has been reported by City officials.
Public Participation		Public participation is weak, we have not managed to manage our stakeholders.	The systems that is supposed to support councillors to promote public participation is not functional and this makes councillors unable to support their constituents.			Public participation has not worked all the time. Who is the entities accountable to in terms of the business model?	Participation is weak due to short timeframes quality of consultation is compromised as public ant change draft IDP. Public suggestions do not always change Executive decisions or plans	When we did the GDS we made sure to attend every consultative session but when the final document was produced nothing that was discussed in the community sessions ended up in the GDS.

Table 3.3: Illustration of data capturing spreadsheet

I found the approach of using these excel spreadsheets extremely useful for purposes of organizing and processing information given the ability to dedicate a worksheet to a research question and the relevant themes for each respective research question. It allowed me to isolate themes and to be able to develop a research story per theme and to compare contrasting views per theme, all in one worksheet. The worksheet also contained the respective interview identity number such that it was possible to go back to the interview and derive a direct quote or clarity where this was required. This also reduced the chances of me taking sentences out of context.

Having organised my data, the next step was to analyse what was contained in the worksheets to establish the general perception as well as different but stand-out perceptions. To determine the research story for each theme, I read across each of the lines, one theme at a time. This helped me to establish the different opinions and importantly the dominant ones and those in complete contrast. It allowed me to establish the opinions that consistently appeared across the line. I could tell a theme-based-story related to a research question using this approach.

3.4. Research reliability and validity measures

There are several concepts of validity, and, this study, takes validity to mean the trustworthiness of the reported observations, interpretations and inferences, as well as the research applicability to readers. This is brought about by ensuring that the research questions and the data collected consistently answered the research questions posed (Wagner, 2012). To increase the validity of the study, the study introduced a few checks, the most obvious of which is triangulation, that is, the idea that when something is looked at from several perspectives, its accuracy is improved (Neuman, 2012). To bring this to life, this study triangulated between sources and methods of collection, i.e. interviews, document analysis and personal observations.

The study witnessed, in the interview process, a high interconnectedness between the respondents and how their perceptions could have been informed by hearsay, largely based on their political party membership. This could have resulted in information used in the study originating from one dominant source. The study ensured the information used in the study did not originate from the same source and used the researcher's position in the City of Johannesburg to obtain a participant observer's account of

processes and practices to collaborate interview outcomes with observed practices. Therefore, the study relied in many instances on what interviewees said but also strengthened this with the researcher's own observations while cross cross-checking these accounts of the same situation by referring to documentary evidence in the form of programme reports and other information.

Given my work experience in the City of Johannesburg and previous work in a national legislature, I approached this research with a certain view of governance and accountability tools which translated into personal views on governance in general and 'separation of powers' and accountability and oversight mechanisms in local government in particular. To ensure a valid study, I disclosed my personal view, observations, assumptions, and beliefs wherever possible in this research report. According to Neuman (2012) validity is about truthfulness that comes about because of interaction between the researcher, the topic, and the sense-making process. It is recommended that researchers confirm their interpretations and findings with a reflexive account of themselves and the process of their research (Mruck, 2003). I obtained the stakeholders' perspectives on the model and tried to give the reader a clear understanding of where I was coming from because all knowledge is based on a perception and in this study, also influenced by my personal opinions (Shacklock, 1998).

3.5. Research limitations

There are several limitations with the study. First, one of the weaknesses of interviews as a data collection tool. It is assumed that some information may have remained disguised as respondents tried to put positions intensely at the expense of other information. To mitigate this assumption, the research corroborated the data obtained in interviews with document analysis and analysis of programme information.

The study does not present a generalised picture of the conceptualisation and implementation of separation of powers governance model in municipalities. Being a qualitative case study, the extent to which the findings can be generalised outside the case study environment or even within the case study stakeholders is uncertain. To mitigate this limitation and improve the relevance of the study, it intensely engaged a single case and its specific circumstances and demonstrated its relevance to theory — in the form of governance theory, principal-agent theory, and institutionalism.

Third, linked to the first limitation, the perceptions of the ‘separation of powers’ programme obtained in the study are possibly strongly influenced by experiences of participants of the old governance model. Some stakeholders idealised the past while trying to understand the change that was happening before them. Conversely, stakeholders could have over-emphasised the present based on their experiences with the previous governance model.

The fourth limitation relates to the use of document analysis as a data collection tool. According to Caulley (1983) document analysis as a data collection tool does not always account for programme information that is not documented but is implied in the thinking and operation of programme staff and other critical stakeholders (Caulley, 1983). There were instances where certain project documentation was not available for the study. The study countered this by using interviews to further obtain programme information from programme stakeholders and aligned this with the documented information.

According to Weiss (1998), the way official policies and programmes are written presents limitations. They are sometimes complex and not always laid out in rational terms, with clear-cut statements of why certain activities are selected. Sometimes such documents can be misleading because they are written to portray programmes as good. Documents may also be compromised by clerical lapses, typing mistakes and general mistakes (Caulley, 1983). Another limitation is, documents may not be written for the same purposes as the evaluation and therefore conclusions were not possible from document analysis alone (Caulley, 1983). To mitigate this, other methods, particularly interviews, were used to complement information obtained from document analysis.

Yet another limitation of the study related to document analysis is that there were instances when key programme documentation, like reports that assist in the development of a perception of programme process, were not available for several reasons. This was a key limitation of the document analysis process because it was dependant on the accuracy of programme staff to record data. When the recording was not done religiously, it presented limitations. This was also taken as an indication of programme process functionality. This was evidenced when some reports that were expected under the programme logic were not developed and therefore were not existent.

Another limitation emerged from the political nature of the City of Johannesburg Council. Not all interviewees were available due to other political commitments and access challenges. In the case of this study, I failed to interview the Executive Mayor of the city. To mitigate, document analysis became a dependable and safer data collection tool compared to interviews. This ensured that the study still had access to the perceptions of important stakeholders. I also mitigated through the analysis of already available official data such as previously recorded interviews on the introduction of the 'separation of powers governance model in which many key stakeholders had been involved.

Another limitation of the research relates to the researcher's "insider" position within the City of Johannesburg Metropolitan Municipality, yet it also gave me an advantage. As a monitoring and evaluation specialist, a researcher, and an employee of the City a past employee of the City's Legislature, the researcher had an intimate knowledge and interest in the 'separation of powers' programme. The researcher was a pioneering researcher supporting the implementation of the model and was also the first research manager supporting oversight and accountability structures. At the time of writing the researcher was working in monitoring and evaluation in the City. Cumulatively the researcher had strong and intimate understanding of the workings of both the institution and the programme being evaluated. This knowledge placed the researcher in a unique position of knowing the system and participants intimately. It also made it difficult, despite the effort, for the researcher to observe the programme process entirely from a position of detachment given the involvement at various levels: intellectually, professionally and socially with the organisation, the programme, and its participants.

This raised the strong potential for bias which was neutralised through self-questioning, by reflecting on and disclosing motives and assumptions in the process of undertaking the study. This was also countered by constantly being on the lookout for disconfirming evidence. It has been suggested the personal and professional identity of researchers has some significance on the way people respond to them (Cooper & Schindler, 2001). It was important to encourage participants to relate to me as a researcher and not as an employee or colleague. On the other hand, however, it placed the researcher, in a position of trust with many of the stakeholders who viewed past and current interactions with them as a basis on which to trust the researcher. Because of the City being a political environment there was a need for awareness of political party dynamics

to avoid the study being used or interpreted as an opportunity to attack personalities or political groupings.

4. THE CAUSAL LOGIC DESIGN AND IMPLEMENTATION COMPLIANCE OF THE ‘SEPARATION OF POWERS GOVERNANCE MODEL’ AT LOCAL LEVEL: THE CASE OF THE CITY OF JOHANNESBURG MUNICIPALITY

In view of the three research questions presented in Chapter 1, generally, the study has provided for a research framework in Chapter 2 (Section 2.7) that articulates in more detail the research problem in the physical context (Sections 2.1 and 2.2), the research knowledge gap (Section 2.3), the attributes of interest in the academic context (Sections 2.4 and 2.5), and the appropriate frameworks that can be used to interpret the empirical research results (Section 2.6). Following on the proposals in the research framework, I have detailed the research strategy, design, procedure, and methods (Chapter 3) implemented to collect, collate, process, and analyse the empirical research information whose results I present before summoning the frameworks to discuss the research findings in Chapters 4 through 6.

In this chapter the study pursues the first of the three research questions—what is the causal logic of the ‘separation of powers governance model’ and to what extent did its implementation comply with this causal link? —as part of realising the research purpose and thus address the research problem articulated in Chapter 1. This question required the study to present an overview of the ‘separation of powers’ governance model through establishing basic contextual details of the ‘separation of powers’ governance model. This chapter establishes the objectives and rationale of the governance model, the problem it addresses, its structure, number and membership of oversight structures, powers and functions of oversight committees, resources and capacity available for oversight, as well as activities, processes, and procedures of the governance model— attributes already identified in Chapter 2. To establish this contextual understanding, the study interrogates official programme documentation of the model (inception report, performance reports, committee establishment and membership reports, oversight committee reports, committee terms of reference among other documentation).

The study uses responses to question 1, on objectives of the governance model; Question 10 and 11 on systems and support functions in the implementation of the model; Question 14 on the activities and outputs of the ‘separation of powers’ governance model oversight model to compliment the results of the analysis of programme documentation.

Using the results of this process the study deducts the causal logic and outlines a logic model of the ‘separation of powers’ governance model. It uses the perceptions of stakeholders on key attributes, to assess whether the establishment and activities of the governance model followed this causal logic.

4.1. Presentation of results

4.1.1 Objectives and rationale of the ‘separation of powers’ governance model

Regarding Question 1, descriptions of the objectives of the governance model revealed almost all the respondents have some understanding of the problem the ‘separation of powers’ governance model, seeks to address. The majority who responded to this question are of the view that the primary problem that the ‘separation of powers governance model’ seeks to address is the need to maintain and enhance sound governance through strengthening the role of the Council as a legislature, by enhancing its role in oversight, ensuring participation and ensuring Council debates local issues that affect the City of Johannesburg. For example, Respondent 7 thinks that “...the aim of the governance model is to enhance oversight and make the executive arm of the Council accountable to the people or communities through their elected representatives...” Similarly, Respondent 10 suggests that “...the committees must hold the executive accountable. Members of the Mayoral Committee must appear before committees to answer on the performance of their departments”.

However, there are divergent views as well, regarding this definition of the problem that the governance model seeks to address. One camp seems to suggest that the primary problem the ‘separation of powers governance model’ seeks to address is poor service delivery, specifically, the governance model seeks to improve service delivery performance through consideration of performance reports of municipal departments and entities. This view is much more apparent in respondent 5 who elaborates that the objective of the ‘separation of powers governance model’ is to “...analyse quarterly reports on the functioning of the departments, to see whether they are meeting the key performance indicators and their business plans, to make sure that everything that is sent out in those two documents is actually met”.

The second camp is of the view that the main problem the ‘separation of powers governance model’ seeks to address is linked to policy and strategy development in the

municipality, specifically, improving strategy and policy development through implementation of governance model activities in strategy and policy development. This view is much more apparent in respondent 7 who states that the governance model “...monitors and evaluates... the department’s strategy, objectives and policies, evaluation of the critical success factors and ensuring that specific investigations are conducted as required in both proactive and reactive circumstances.”

The third camp, however, narrows their definition of the problem the ‘separation of powers’ governance seeks to address to specific actions and activities designed to achieve particular effects such as financial oversight, the specific act of conducting of oversight, establishment of committees or participation of the public. These perspectives are apparent in respondents 9, 5 and 6 among others. Respondent 9 for example, perceives the conduct of oversight as a critical tool to addressing the problem of attainment of the objectives of democracy and accountability. Respondent 9 states “...the purpose of the model is mainly for committees to conduct oversight visits to verify actual performance on the ground”. Similarly, respondent 5 considers the governance and accountability will be improved through the conduct of oversight, scrutiny and the promotion of public participation and by-law making by committees of Council. Respondent 6 suggests inadequate public participation in the Council processes to be the primary problem the model seeks to address. They, however, provided an extreme description of the problem and state that the primary objective of the governance model is improving public participation through specifically, “...giving space to the community to participate in whatever projects are being implemented by the City in their areas.”

Other respondents place emphasis on poor financial performance in the municipality and therefore perceive the oversight of financial matters in the municipality as a key objective of the model. They specifically identify the monitoring of the spending patterns on appropriated budgets to avoid audit issues as well as irregular, fruitless and wasteful expenditure as key areas of focus for the governance model. For example, respondent 10 states that the governance model ensures that “...departments don’t spend outside of the budget, and they don’t spend anything which is not included in the budget, and secondly to check on the performance of projects, whether money allocated was used for the expenditure allocated for it”. Similarly, respondent 12 supports this financial oversight objective and emphasises that “we must ensure that Council funds are used

properly and should also make sure that the revenue is collected so that we can be able to meet our expenses and we should also make sure that our customers are being satisfied... like for instance statements.”

Beyond the interview questions, the study also sought to establish how official programme documentation identified and documented the problem the governance model is addressing. To achieve this, the study analysed programme documentation, primarily the inception report, for the rationale and motivation for the governance review and adoption of an alternative governance model in the City of Johannesburg in 2005. This analysis reveals that the governance review is addressing two main problems—first, the governance challenges in local government of weak oversight, accountability and public participation and second, the need to continuously improve the democratic practice. Specifically, the report states the primary motivation for reviewing governance practices in 2005, and adopting a new governance model in 2006, is “to improve governance in local government and to improve the practice of democracy at local government level”.

However, there are two divergent reasons for why the governance reforms happened at the time they did which help to clarify the definition of the problem. The one perspective suggests that this reform is part of a continuum of reform activities within South Africa local government that started with the advent of democracy in 1994. Specifically, the report notes “...the first democratic local government elections in South Africa, in 1994, marked the beginning of an interim phase of the transformation which lasted for five years, from 1995 to 2000... 2000 to 2005 there was a preoccupation with implementing the architecture of a new democratic local government. In 2005, the end of the local government term presented an ideal opportunity to review governance arrangements in local government”

The second perspective is that the executive mayoral committee system adopted at the advent of democracy in South Africa was failing to deal with the governance challenges of metropolitan municipalities and local government in general and therefore required review. Specifically, the inception report notes that the executive mayoral system, “...was constrained by weak accountability, weak oversight and poor public participation, as well as councillor inexperience” (Johannesburg, 2006). As an illustration, the inception report notes that because of some of the challenges with the executive mayoral system of

governance, municipal Councils experienced “...limited opportunities for debate in Council, with Council format of discussion confined to written questions for the Executive Mayor and Members of Mayoral Committee (MMC) only and no provision being made for oral question time”.

To complement this perspective of the problem, the governance model seeks to address, the inception report notes that the weaknesses of this governance arrangement also extended to “...limited flow of information in respect of which reports were being considered within each of the mayoral sub-committees as well as the status of report reviews” leading to difficulties to access information with regards the progress of the discussions (Johannesburg, 2006). The inception report also noted that the local government performance review of the previous term of office, for instance, identified that “... municipalities lacked in the culture and practice of democratic accountability and that councillors were quite inexperienced in dealing with matters of accountability in general, but more so financial accountability (CoJ, 2005).

4.1.2. Structure of the ‘separation of Powers’ governance model

With regards to the structure of the governance model, there was a physical transformation brought about by the implementation of the governance model. This is illustrated in figure 10 (pre-2006 governance model) and figure 11 (post-2006) which show diagrammatically how the pre-2006 and post-2006 structures were configured, respectively.

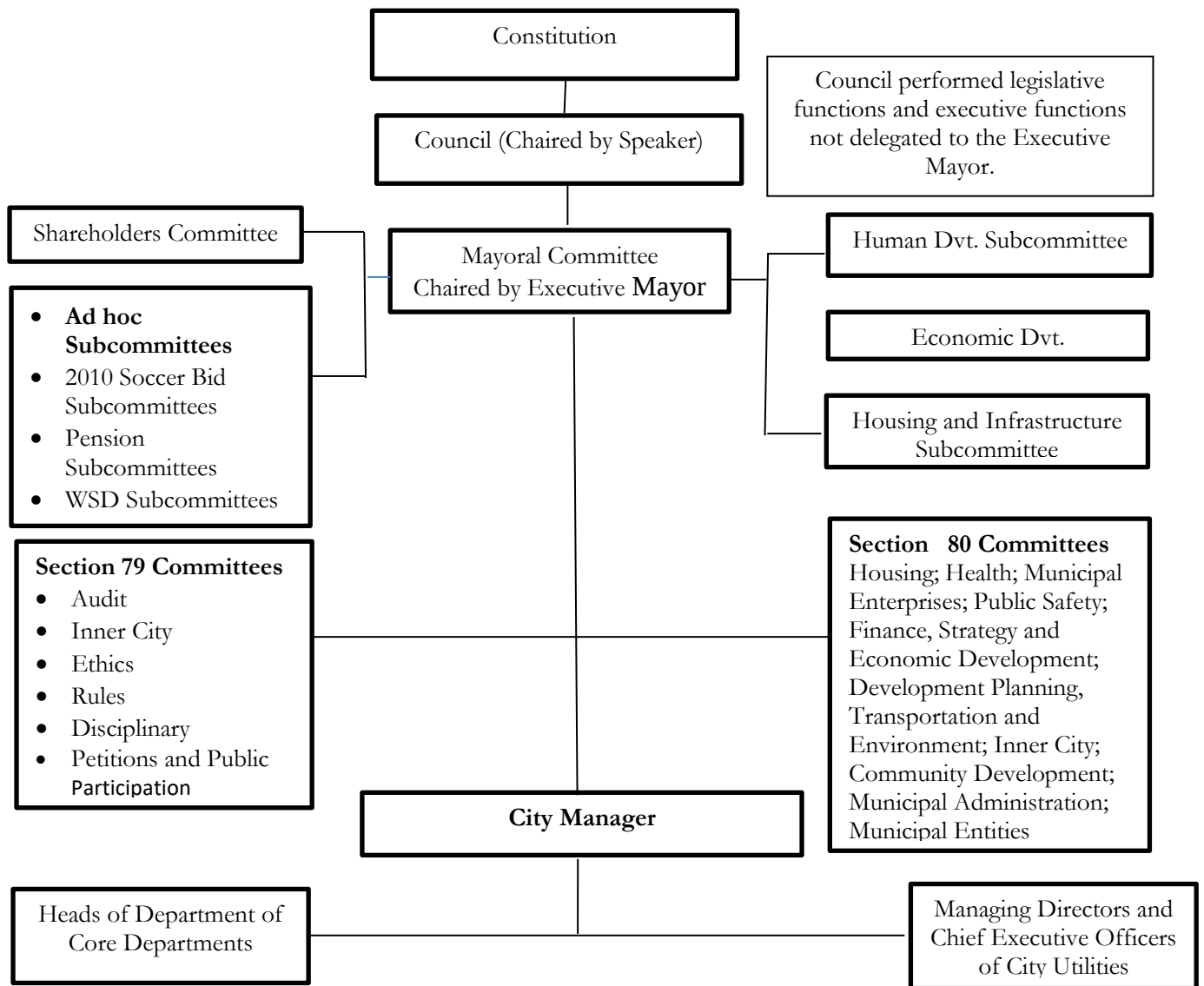


Figure 4.1: An illustration of governance arrangements pre-2006

Figure 11 below diagrammatically illustrates the configuration of the post-2006 governance arrangements, showing main differences such as the delegation of Council authority to both the executive and legislature (as compared to just the executive in the pre-2006 arrangements), the establishment of an administrative support structure for the legislature, as well as the attendant accountability flows.

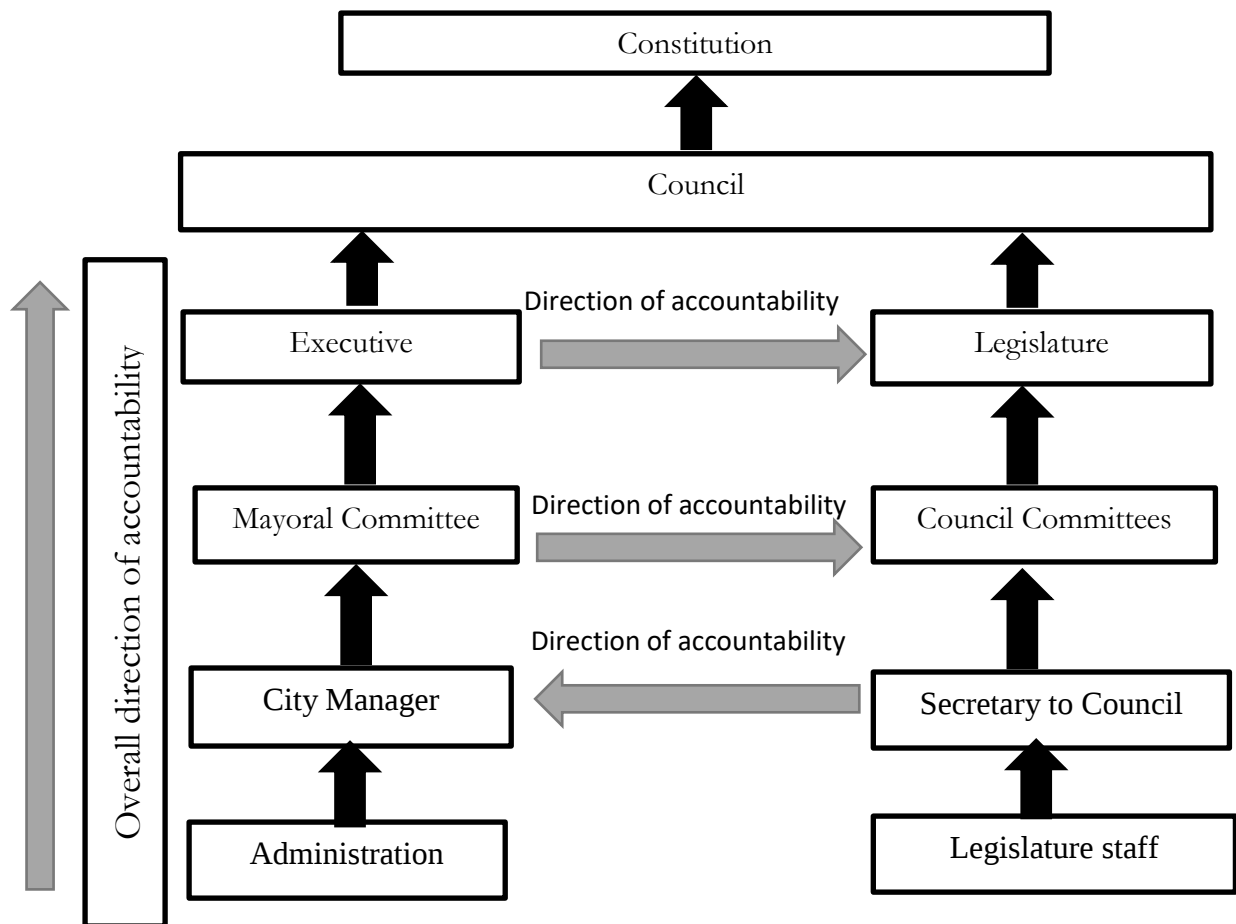


Figure 4.2: Accountability arrangements in the post-2006 governance model

An assessment of the two structures suggests that despite the perception that the role and function of the Council would change and be more empowered, however, the role and function of the Council did not change. The inception report suggests post-2006 Council continued to delegate its executive functions to the mayoral committee and that a significant part of the role and functions of the Council remained unchanged continuing broadly, as law making (by-law making in the case of Johannesburg and local government), and approving budget allocations as well as facilitating debates on motions tabled in Council. There were changes, however, relating to committees of Council, with the biggest change being the withdrawal of Council's delegations for legislative functions from the mayoral committee and its subcommittees and instead delegated these functions to the legislature and its committees.

Because of this change, post-2006, Council established oversight committees to carry out the legislative functions of promoting public participation, conducting oversight and monitoring of the executive arm of Council, on behalf of Council. The overall effect

of this was separate the powers of Council, the legislative and oversight roles on the one hand (legislature), from executive roles and responsibilities, on the other. This introduced governance structures and practices ordinarily practiced in national and provincial government to the South African local government sphere.

The direction of accountability changed with the introduction of the new governance model. Under the pre-2006 governance arrangements, the executive mayor and members of the mayoral committee oversaw, and chaired portfolio committees established in terms of Section 80 of the Municipal Systems Act (see section 3.2.2). Figure 10 (above) shows that the mayoral committee addressed both executive and legislative issues prior to these issues being considered by Council. Matters for consideration flowed from Executive Directors of departments and entities to their respective MMCs, through to the relevant Section 80 committees, onto the executive mayor and mayoral committee, and only then onto Council. However, post 2006 (figure 11) horizontal and vertical accountability was introduced, with all with executive accountability to the legislature being emphasised.

With regards to role players, the new structure, illustrated in figure 11 above established a legislative arm of Council, which reinforced some existing positions but also created new areas of responsibility. The structure retained the position of Speaker to serve as chairperson of Council, presiding over Council meetings, ensuring that Council meets monthly and that the meetings are orderly and in accordance with the rules and orders of Council. This was an improved and broader responsibility when compared to the pre-2006 responsibility of chairing the Council meeting alone. The structure also retained the position of Chief Whip of Council, a responsibility allocated to an appointed councillor from the majority party to manage the interface between parties, to serve as custodian of the councillor code of conduct, as well as dealing with committee memberships, i.e. assigning councillors to various committees.

However, new governance model created new positions of Leader of Executive Business (LOEB) and Chairperson of Committees, also referred to as 'Chair of Chairs'. The LOEB is an elected councillor also serving as a member of the mayoral committee, to manage the interface between the executive and the legislature (Johannesburg, 2006). This position gives responsibility to a councillor to serve as the link between the executive and

legislative branches of Council. The role of the leader of LOEB, among other responsibilities, is to manage the business of the executive in Council, to introduce executive business to formal Council processes and to ensure that the legislature's demands on the executive are well coordinated. The 'Chair of Chairs' is a position allocated to a councillor to serve as chairperson of the committee of chairpersons with the responsibility of coordinating the work of all chairpersons of committees.

The committee of chairpersons is made up of all chairpersons of oversight committees excluding those chaired by Speaker. There are eighteen chairpersons (non-executive councillors) as compared to none in the pre-2006 governance arrangements as committees were chaired by MMCs. The City of Johannesburg Council resolved that oversight committees would be chaired by councillors who are members of the majority party. As chapter 6 shows, this was a highly-contested decision which influenced perceptions on the performance of the committees.

4.1.3. Oversight committees

With regards to committees of Council, analyses of pre-2006 and post-2006 governance arrangements reveal that committees remain an essential part of the city's governance arrangements. However, there is a fundamental shift in the type of committees established between the two pre-2006 and post-2006 scenarios. Pre-2006, Council had four different types of subcommittees; First, Council had committees established in terms of section 79 statutory standing committees (see section 2.2) with the responsibility to process procedural and governance matters of Council. Second, there were ten committees established in terms of section 80 of the Municipal Systems Act (see section 2.1), chaired by members of the mayoral committee. They were established by the executive mayor and reported to the executive mayor. The mayor also had the authority to dissolve such committees as and when required. Third, the pre-2006 governance model also had mayoral sub-committees to deal with matters falling within the ambit of these portfolios. Fourth and last, there were ad-hoc committees established to deal with matters the Council considered of paramount importance at different times in the political term such as a 2010 committee to deal with coordinating soccer world cup activities in Johannesburg, as well as pension sub-committee to resolve councillor pension fund issues which were important at the time due to the amalgamation of councillors from 15 other different municipalities.

Post-2006, the governance model retained committees as a critical component of the legislature. However, the main difference is that section 79 committees became the

dominant type of committees in the committee system as section 80 committees of the previous dispensation were eliminated completely. The model introduced ten, oversight committees, established in terms of section 79 of the Municipal Systems Act, namely, Finance and Economic Development; Community Development; Infrastructure and Services; Development Planning and Urban Management; Housing; Environment; Health; Transportation; Safety; Corporate Services and Administration. While this is the initial naming convention, there have been amendments to reflect changes in executive portfolios.

Together with the section 79 statutory committees, the model also maintained section 79 standing committees on the inner city, ethics, rules, disciplinary and on petitions and public participation but disbanded the audit section 79 standing committee. There were other new section 79 committees established such as the Municipal Public Accounts Committee (MPAC) on financial oversight. The mandate of MPAC is post-ante financial scrutiny to establish a value for money and to reduce instances of irregular fruitless and wasteful expenditure. Council also established a committee on Gender Youth and People with Disability (GEYODI) to look after the interests of these designated groups, oversight committee on the legislature to exercise oversight on the legislature and a governance committee to exercise oversight over the office of the city manager. In total there are seventeen section 79 committees, excluding Programming and Chairpersons Committees.

4.1.4. Size and membership of oversight committees

With regards to the size and membership of committees, each committee has a membership of sixteen members, allocated as follows African National Congress (ANC) (7), Democratic Alliance (DA) (6), Economic Freedom fighters (EFF) (2) and all the eight minority parties, combined, are allocated one (1) seat in each committee. This is perceived as a large committee membership largely driven by the fact that Johannesburg has 230 councillors. However, as encapsulated by respondent 16, this puts smaller political parties under pressure. They suggest, "...most of us have to sit in more than one committee if our party is to be represented in all committees. A reduction in the number of councillors required for each committee will go a long way in managing councillor workload." The size of the committees and the membership of many smaller parties, however, presented challenges to the functionality of committees as discussed in chapter 6 of the study.

One of the primary motivations for the high numbers of committee members allocated to each oversight is that committees would establish subcommittees to allow

them to focus intensely on various issues the committees would be seized with. There is evidence, albeit limited that oversight committees in the City of Johannesburg are establishing subcommittees as part of their business processes. This perception is summarised by respondent 22 who indicates that the portfolio committee they belonged to “...assigned specific portfolios to specific people. So, for example within development planning... I have allocated the responsibilities ... because the volume of work is huge and therefore it’s easier when break it down...”

4.1.5. Mandate, powers and authority of committees

With regards to the mandate, powers and authority of oversight committees in the post-2006 (current) governance model, the terms of reference of oversight committees allocate legislative, participatory and oversight responsibilities to oversight committees. The legislative function involves consideration and oversight of the development of the Integrated Development Plan (IDP) and budget in respect of the department and Municipal entities (MEs) relevant to a specific committee. The terms of reference also require oversight committees to consider quarterly performance reports of their respective departments and MEs. Committees are also expected to exercise oversight over the development and implementation of all bylaws, strategies and policies of their respective departments as well as to consider and exercise oversight of draft tariffs, fees and charges in respect of department or ME relevant to that committee.

The participatory mandate of committees involves promotion of public participation in the Committee’s activities and ensuring public consultation on any new by-law referred to the committee by Council. The committees must also promote public participation in the key planning processes of the City relevant to their departments and MEs and to ensure that key issues of public concern relating to a portfolio are brought to the attention of Council.

With regards to the oversight function, oversight committees have the power to exercise oversight over the quarterly performance of their departments and MEs as well as over any matter referred to the committee by the Speaker or Council. They also have authority to exercise oversight over any matter or activity of concern to the committee relevant to their department or ME. The committee has authority to invite the MMC or any official of the department or ME to account for any matter of interest to the Committee.

The Municipal Public Accounts Committee (MPAC) has the authority to exercise oversight over the spending of public funds and to scrutinise public expenditure in each area. Its aim is to exercise oversight over public spending by providing effective monitoring of public spending within the municipality. The committee has wide-ranging functions including responsibility for oversight of public funds

Oversight committees have powers to make recommendations to Council on all issues they consider. Committees can make recommendations based on their oversight processes, such as the oversight visits conducted, or on an assessment of the quarterly and annual performance of the committee. They also make recommendations to Council when they submit comments on provincial and national bills and proposed national policies affecting local government.

There is a different perspective, however, on the establishment of committees, that the new governance model weakened the decision-making responsibilities of committees as the new council committees do not have decision making powers. In pre-2006 decision-making was largely done by the section 80 committees under the leadership of members of a mayoral committee member, ratified by the mayoral committee and endorsed or ‘rubber stamped’ by Council. However, in the new model non-executive councillors are no-longer involved in the decision-making process but can only exercise oversight over executive decisions. This, it is suggested, weakened the role of non-executive councillors in decision making. Moreover, it is apparent from an assessment of the committee’s terms of reference that committees do not have any powers to sanction, even though they can make recommendations to Council for consideration of any issues.

4.1.6. Activities, processes and procedures for oversight and public participation

The quarterly performance reports and oversight reports of committees show a common set of activities applicable to oversight committees in the new governance model. Committees undertake planned and unplanned oversight visits and table oversight reports to Council. Committees also undertake quarterly performance assessments on the performance of departments and MEs they oversee and table oversight reports to Council. The reports also show that committees in some instances develop background papers to support the implementation of oversight visits. Some committees (over 60%) have developed and approved annual strategic plans for oversight activities. In very few instances committees undertake public participation processes, including inviting the

public to participate in meetings. These are the common activities applicable to all committees.

Beyond the analysis of programme documentation, the study also relied on question 11 and 13 with regards to the activities, processes and procedures systems developed, implemented or utilised in the new governance model. With regards to question 11, the study sought to establish the business processes and procedures introduced to manage the business of Council and to understand whether these activities had been established as conceptualised. There is a view that post-2006, Council began to communicate its business and procedures through Council papers, announcements, tabling and committee reports (ATC). Council also began to use the question paper, which captured all questions to be tabled and considered by Council. An analysis of Council agendas and Council minutes reveals that Council is also institutionalising procedural aspects such as executive mayor's question time; questions and interpellations (a question leading to a debate); questions without notice; questions for oral reply to the executive; and questions for written reply to the executive.

4.1.7. Resources and capacity for oversight

Regarding question 11, the study also sought to establish the resources, both financial and physical, availed to the 'separation of powers' governance model. An assessment of the legislature's performance report reveals that the new governance model established a human resource management to manage the human resource matters for the legislature staff; a Council and Committees department to provide committee secretarial support; a research department to provide research and analytical support to committees; a legal department to provide procedural advice to Council as well as councillor affairs department to manage the requirements of councillors including capacity building and training. It also established a community participation department to drive public participation and manage legislature stakeholders. The new governance model also established the position of Secretary to Council to serve as the executive manager and head of the administrative functions of the local legislature. The post-2006 administrative structure was elaborate when compared to the administrative support provided to the Speaker pre-2006. This was different from the pre-2006 model where the speaker's office had less than five officials supporting the Speaker of Council. However, the inception report on the establishment of the governance model did not recommend the

establishment of a separate administrative support for the legislature, save for the specialist services. There are therefore, different views on the establishment of administrative support for the legislature.

The results also show that the new governance model completely separated the administrative support for the legislature from the administrative support of the executive. The legislature administrative support was established to support the legislature only which was different to the pre-2006 period wherein the administrative support staff supported section 80 committees, section 79 standing committees such as ethics committee and rules committee as well as all ad-hoc committees such as the 2010 committee and pension sub-committees. So, while the pre-2006 governance model had the same single group of administrative support that supported both executive and legislative committees, the post-2006 governance arrangements established two groups of support staff, one to serve the legislature committees exclusively and the other to serve mayoral committee and its subcommittees exclusively. As a result, post-2006 administrative staff structure was not shared between the legislature and the executive.

Most respondents identified human resources in the form of an administrative support structure (researchers, committee officers, finance staff, training and capacity development staff as well as councillor affairs staff) for the city legislature and infrastructure in the form of committee rooms that promote public engagement. The governance model also required financial resources in the form of 'tools of trade' for councillors such as laptops, office furniture, financial resources towards and human resources (councillors, committee support staff and administrative), transportation and a large investment of time by critical stakeholders as critical inputs in the implementation of the 'separation of powers' governance model.

There were, however, divergent views regarding some of these resources. Specifically, there was a view that the governance model could make use of shared resources where this applied such as in financial management and human resource management instead of having a separate finance and human resource department. This perspective was more apparent in a respondent who suggests "...the city has centralised group corporate and shared services and group finance department that can provide shared HR and financial management services for the legislature. There was really no need to establish a separate finance and human resource function in the legislature. This will create accountability problems as there is only one accounting officer in the city.

4.1.8. A logic model outline for the ‘separation of powers’ governance model in the City of Johannesburg

The sections above provide a broad overview of the separation of powers governance model including its objectives, structure, components, activities, inputs and resources as well as the outcomes to be achieved. The study sought to draw an outline of the logic model of how these components interact to generate specified governance model outcomes and achieve governance model goals. The study also sought to theoretically interrogate this to determine whether the level of certainty these interactions would lead to intended outcomes. Based on the results above, the study understood the logic of the ‘separation of powers’ governance model to be as follows;

IF a new high-level legislative structure of Council was established; **THEN** new roles and responsibilities of Council would be defined and delegated;

IF new roles and responsibilities of Council were defined and delegated; **THEN** mechanisms for strengthening Council would be developed;

IF mechanisms for strengthening Council were developed and implemented; **THEN** a new administrative structure to support the new Council would be required;

IF an appropriate administrative structure to support the new mandate of Council was established; **THEN** oversight committees of Council would be functional;

IF oversight committees of Council were functional; **THEN** there would be increased accountability in Council through increased scrutiny, oversight and public participation within Council;

IF accountability levels within Council increased; **Then** there will be improved performance in the City.

Using the outcome of strengthening the role of Council as a legislature and enhancing its role in oversight and promoting public participation as the ultimate outcome of the governance model, the study identified three core objectives based on the stated objectives and those identified from stakeholders. Table 4 below identified the inputs, activities and outputs required to achieve these objectives as well as the indicators that could be used to measure progress towards these objectives. In the process, the table illustrates how the model achieves each of its objectives.

Goal: To strengthen the role of Council as a Legislature and enhance its role in oversight and promote public participation

Objective	Inputs	Activities	Outputs	Outcomes	Indicators
To physically verify the implementation of Council's programmes and projects	Councillors, Committee support Staff (Researchers & Coordinators) Relevant stakeholders Financial resources Transport Time	Committee meetings; Party Caucuses; Council meetings; Produce background paper Undertake oversight visits Develop oversight visit report with recommendations Table oversight report with recommendations to Council for adoption Monitor implementation of resolutions	Debates Resolutions Oversight visit reports with recommendations Oversight report on the implementation of Council resolutions	Increased accountability and transparency	Number of oversight reports produced Number of Committee resolutions adopted in Council Number of Council resolutions implemented Number of resolutions that comply with the SMART principle
To monitor the performance of Departments and MOEs against set Integrated Development Plan targets	Councillors, Committee support Staff (Researchers & Coordinators) Relevant stakeholders Financial resources Transport Time	Committee meetings Party Caucuses; Council meetings; Analyse quarterly performance reports; Generate questions and areas of enquiry for the Committee; Develop PowerPoint presentation; Present analysis to committee; Develop oversight report with recommendations; Table oversight report on quarterly performance with recommendations to Council Monitor the implementation of Council Resolutions; Develop Oversight Report on Implementation of Council Resolutions	Debates; Resolutions; Oversight reports on the quarterly performance of Departments and MOEs with recommendations Oversight report on the Implementation of Council Resolutions	Improved service delivery through increased accountability	Number of quarterly; oversight reports produced Number of Committee resolutions adopted in Council Number of Council resolutions implemented Number of resolutions that comply with the SMART principle
To promote meaningful ² public participation in oversight activities of Council	Councillors; Committee support Staff (Researchers & Coordinators); Relevant stakeholders Financial resources Transport Time	Committee meetings; Party Caucuses Council meetings Invite comments from the public on the performance of departments and MOEs Invite the public to participate on oversight visits Conduct public hearing on relevant matters Develop public participation report	Debates Resolutions PowerPoint presentations of analysis List of questions for engagement with the Executive	Meaningful public involvement in Committee oversight activities	Number of reports indicating public participation Number of resolutions emerging from public input Quantity of public participation events that are aimed at informing, consulting, collaborating or empowering the public

Table 4.1: Logic model of the City of Johannesburg 'separation of powers' model

² The parameters of meaningful participation are obtained from the Public Participation Spectrum of the International Association for Public Participation. It suggests that to have maximum impact, public participation must move increasingly through the following stages informative, consultative, collaborative and finally empowering.

4.2. Comparison of research results to those found by similar studies and evaluations

In Chapter 2 (Section 2.3) the study reviewed selected similar studies and evaluations on similar governance models. In doing so, I point out research approaches, designs, procedures and methods that such studies have applied as well as the results, findings, and conclusions these studies have realised. Though the ultimate objective is to uncover the knowledge gap on this subject in general and specifically in the City of Johannesburg, I have used this knowledge to propose some methodological options that the study employs in Chapter 3. Here I compare the research results of these studies with those that I have presented in Section 4.1.

Most of the findings presented above reinforce what the study established in the literature review on how governance models are established, structured, their components and how they operate. However, there are other findings that reflect the peculiarity of Johannesburg and the South African local government as a research context. More generally the results of the study on the objectives of the separation of powers governance model and its causal logic echo the findings by Ashworth and Snape, (2004); and Ashworth (2004). They found that one way of counterbalancing executive influence in decision making in Councils is to establish oversight and scrutiny committees and delegate the powers and functions that support this counterbalancing objective. They also established the link between oversight and organisational scrutiny and performance management which this study has mirrored by emphasising a performance evaluation objective to oversight committee terms of reference.

There is further agreement between the findings of this study and the findings of Reir (1997) who found that in many instances committees are denied the powers to make decisions or to sanction the executive. They can only make recommendations to the executive. The study by Ashworth (2003) also found, like this study that the powers and functions of committees are limited to retrospective scrutiny of financial performance by Public Accounts committees and uncertain role clarification on what the specific role of oversight committees on budgetary and financial scrutiny is.

Regarding the range of powers and authority of oversight committees this study's findings echo the findings by Ashworth (2003); Cole (2001); Makhado, et al. (2012) that

common formal powers available to oversight committees include power to call evidence sessions, to make recommendations to Council, as well as power to demand responses from the executive. These powers and functions are entrusted to committees in the City of Johannesburg through their terms of reference.

Regarding the chairing of oversight committee by majority party councillors, this arrangement is not unique to Johannesburg. Jason and Hatter (2003) concluded that as many local authorities in the United Kingdom and Scotland governance models resolved to let the ruling party provide chairpersons for either all or most of the overview and scrutiny chairs (Johnson & Hatter, 2003). There were some exceptions though, such as the equal spread of chairs in some Councils and the proportional spread of chairs in a few others. This was done to manage political dynamics as well as to increase the perception of objectivity in the governance processes.

The concept of a committee of chairpersons is also not unique to the City of Johannesburg. It echoes findings by Johnson and Hatter (2003) who concluded based on the scrutiny model in the United Kingdom that some sort of co-ordinating body, such as the chairpersons' committee Johannesburg, was extremely helpful as it allowed regular communication between the committee chairs, in the process eliminating overlaps (Johnson & Hatter, 2003). Such a coordinating platform also enabled chairs (and members) to know what other committees were engaged with (Johnson & Hatter, 2003). This is one of the findings that reinforces what emerged out of the literature review.

The emphasis on having a committee to exercise oversight over public funds was not unique to the City of Johannesburg legislature. It was present at the national and provincial government level, where the equivalent committee is the Standing Committee on Public Accounts (SCOPA) and prevalent in international jurisdictions where audit committees were prevalent. There was a motivation for this, related to the need to improve the management of public funds at a time when municipalities in South Africa were failing to account for resources appropriated leading to unfavourable audit opinions from the auditor general (Makhado, Maschela, & Mokhari, 2012).

However, there are some results that do not echo conclusions of past studies. First, the results of this study are not aligned to the findings by Ashworth and Snape,

2004; Ashworth, 2003; or Leach et al. 2003); on the importance of policy development and review as a critical function of oversight and scrutiny committees. In the City of Johannesburg, the terms of reference of committees do not elevate policy development and review to strategic importance in the work of oversight committees. They are also not aligned with the findings by Stoker et al. (2003) and Snape et al. (2002) who suggest that external expert advice is critical for oversight committees. Apart from the Municipal Public Accounts committee in Johannesburg, no other committee has powers to call upon identified or specified external parties to provide advice to the committee. This study found that oversight committees in Johannesburg also did not have powers to call-in executive decisions before their implementation, an effective oversight tool as the findings by Ashworth (2003) established.

Second, the number and average size of oversight committees established in the City of Johannesburg is rather high, compared to other jurisdictions (Ashworth & Snape, 2004) (Cole, 2001) (Cole & McAllister, 2015). While there was a decision to establish committees based on themes and areas of focus elsewhere such as in the United Kingdom, in the City of Johannesburg there was a committee corresponding with each executive portfolio. Limited time and lesser numbers due to smaller Councils led to this not being the most preferred committee structure in the United Kingdom where a similar model was implemented (Sandford & Maer, 2004).

Third, elsewhere, Sanford and Hatter (2004) concluded that there were three basic options for the structure of committees, i.e. they could either match executive member portfolios; matching the executive's key service directorates or establish cross-cutting committees which match neither portfolios nor directorates. The recommendation was that overview and scrutiny committees should take a cross-cutting rather than narrow service-based view of the conduct of the local authority's business (Sandford & Maer, 2004). To illustrate the point and, by comparison, a study conducted when the United Kingdom local government model began, revealed that of the local authorities studied, none had more than 6 scrutiny committees and in many instances these committees would cover one or two cabinet portfolios in their entirety, possibly including small parts of one or two others, and often including issues which were not within the competence of the Council (Sandford & Maer, 2004). These improved efficiencies in how committees dealt with their business.

4.3. Discussion of research findings

In Chapter 2 (Section 2.6) the study interrogated appropriate frameworks that I can use to interpret the empirical research results presented in 4.1 above. The frameworks interrogated include the democratic theory of governance which states that democratic governance is based on the enforcement of the fundamental values of democracy in the power exercise, complemented by principles of governance which include participation among others. I also interrogated participatory theory of democracy which assumes that people's participation is the most important quality of a democracy as well as the principal agent theory, useful for explaining accountability relationships between citizens (principals) and executive (agents) on one hand and between the legislature (acting as principal) on behalf of citizens and the executive and bureaucracy on the other. In varying degrees all the above frameworks are relevant to explain findings relating to (i.) motivation and conceptualisation of the governance model; (ii.) structure, and components of the governance model; and (iii.) processes and procedures of the governance model.

First, the overall review of governance arrangements and subsequent implementation of the 'separation of powers' governance model in the City of Johannesburg can be understood within the context of the democratic theory of governance as articulated in section 2.6. The implementation of the 'separation of powers' governance model resonates with the intent of improving democratic governance in the City of Johannesburg and local government in general through enhancing aspects of democratic governance through new political management arrangements. This theory explains the logic of improving accountability, public participation and oversight through emphasising the relative independence of legislative and executive functions.

The separation of powers principle and its advocacy for checks and balances helps explain the terms of reference of oversight committees and the powers and functions allocated to oversight committees. In its crude form, separation of powers is a separation of legislative, executive and judicial functions of government primarily to prevent abuse of power by any one of these bodies through a system of checks and balances (Samuels, 2002). The core assumption is that where sufficient checks and balances are applied and are fully functional the legislature and executive bodies discipline each other to the benefit

of the electorate. The powers and functions of the City of Johannesburg's oversight committees are derived from the need to create checks and balances which give effect to the separation of powers principle.

New political management arrangements of allocating a 'scrutineer' role to non-executive councillors inform the elevation of non-executive councillors to play a more significant role in local governance. This to counter the dominance of one arm of government, primarily the executive, dominating other arms of government (Samuels, 2002; Sweeting, 1999; Wilson & Game, 2002). This explains why there is a strong emphasis on strengthening the role of non-executive councillors as compared to the executive in the new governance model. There is deliberate focus in ensuring that within the new governance model, the executive and the legislature are viewed as equal.

Institutionalism, as discussed in 2.6, is more appropriate to explain the findings on the overall structure and configuration of the legislature in the 'separation of powers' governance model in Johannesburg. This theory explains that based on historical and other political development factors, there exist templates of how particular institutions are structured and when new institutions are developed, they borrow their structure from these existing institutional templates, sometimes without due consideration of the technical performance requirements (Peters, 1999). Organisations, according to institutional theory must accommodate institutional expectations to prosper and survive even as those expectations may have little to do with the technical requirements of their expected performance. The legislature of the City of Johannesburg is structured as a parliament with a set number of oversight committees, even as there exist different and potentially more efficient structures (as shown elsewhere) to operationalise the separation of powers governance model. However, the choice of a parliament, according to the theory, has been defined prior to being the most appropriate way of organising a legislature. This explains the reproduction of a typically parliamentary structure, components and functions in the City of Johannesburg.

Institutionalism also helped the study understand why, despite evidence of dissatisfaction with the effectiveness of the model, there was consensus across participants that the 'separation of powers' governance model as implemented in the City of Johannesburg was the 'right' model. The structure, form and routines of institutions,

according to institutionalism, can serve to legitimise institutions. Therefore, the general acceptance of the City of Johannesburg's governance model as the 'right' one is informed more by the perception that it has the structure, form and routines of a long-established institution of Parliament, and less by its attainment of its mandate of improving governance processes at local government level.

The structure, components, processes and procedures of the Johannesburg governance model were 'borrowed' from the structure of Westminster parliamentary tradition, applicable to South African national and provincial legislatures. It mirrored the configuration of executive and legislative arms of government and the functions, roles and responsibilities of the national parliament and provincial legislatures. The similarities of the structure to the national and provincial government can therefore, be explained by this theory. The theory (sociological institutionalism components in particular) further suggest that public organizations, prefer not to be innovative because conformity reinforces their political legitimacy and improves the social image of their members, therefore adopting a similar structure in Johannesburg also presented legitimacy. A critical challenge, however, of this structure was that it overlooked the peculiarity of local government.

The processes and procedures implemented to effect oversight, accountability and public participation can be viewed in the context of principal-agent theory as illustrated in section 2.6.3. This is a useful analytical framework to explain executive-legislative accountability relations, specifically, how delegations of authority and accountability arrangements envisaged in the model were conceptualised and implemented. The new governance model emphasised the role of public representatives (Council) as agents of residents and principals of the executive, empowered by communities to hold the executive to account. This is the premise of the new governance model in Johannesburg. The model also recognised the role of the executive as agents of Council on one hand and principals and the administration on the other. It elevated and reaffirmed Council as the sole decision-making body of Council, accountable to the requirements of the Constitution.

The 'separation of powers' governance implemented in the City of Johannesburg while generally like the broad interpretation of separation of powers principle, also reflects

adaptation in several instances. Again, this variation is of theoretical relevance. There is evidence that it is impossible to implement a formal separation of powers as envisaged in the principle and that in many instances many jurisdictions choose an understanding of the principle for implementation. One of the key reasons for this is that for a start, the executive is formed out of the legislature and the full Council sitting has both members of the legislature and executive, eliminating the possibility of a formal and clear separation between the two. This explains why the model implemented in Johannesburg has delegations that are unique to Johannesburg and could be substantially different if implemented in a different metropolitan municipality.

According to Lane (1994:220-221) the doctrine of separation of powers is not binding in terms of its implementation and that jurisdictions can alter its implementation. This is because it is impossible to implement a formal clear version of the separation of powers governance model as it would collapse government (Lane, 1994). This explains why in other jurisdictions; similar governance models are also referred to as 'fusion' or 'incoherent' or 'hybrid' application of different aspects of the separation of powers principle. The City of Johannesburg's model is no different, and it is a combination of aspects of the separation of powers principle perceived capable of functioning within the city's context. In the City of Johannesburg 'separation of powers' referred more to the elevation of legislative functions at local government level which is different from the classical separation of three arms of government, i.e. the executive, the legislative and the judiciary (Persson, Roland, & Tabellini, 1997).

The use of the logic model to discern relationships among the activities and inputs planned in the governance model, what they planned to achieve and to determine the operating resources required for the governance model to be operational and to achieve its objectives exposed key assumptions that were made. An analysis of the hypothesised links established that there were some assumptions inherent in the model and programme theory including assuming that all stakeholders and particularly, the political parties would be in support of meaningful and robust oversight and scrutiny. always and that there would be sufficient time to undertake oversight activities of Section 79 committees. As the literature review in Chapter 2 revealed, there are several party-political dynamics that exist that positively or negatively influence the practice of meaningful oversight. Yet

another assumption inherent in this logic model and theory of the programme is that there is sufficient time to undertake the oversight activities required by the programme.

5. CHALLENGES OF IMPLEMENTING THE ‘SEPARATION OF POWERS GOVERNANCE MODEL’ AT LOCAL LEVEL: THE CASE OF THE CITY OF JOHANNESBURG MUNICIPALITY

The preceding Chapter (4) presents empirical research results, compares these results to other similar studies and evaluation, and discusses the research findings to the question—what is the causal logic of the ‘separation of powers governance model’ and to what extent did its implementation comply with this causal link? Following on Chapter 4, this chapter pursues the second research question—what challenges is the City of Johannesburg Municipality facing with regards implementing the ‘separation of powers’ governance model? —of the three research questions meant to realise my research purpose and hence address the research problem articulated in Chapter 1.

The second research question requires the study to interrogate the following attributes identified in Chapter 2 (Section 2.5)—the legislative and policy environment as well as the range of powers available to oversight committees; the capacitation of oversight committees including availability of technical support; levels of majority party dominance including appointments to leadership positions; the influence of oversight committees in the budgetary process; the relationship between the legislature and the executive, and, levels of public participation practiced by oversight committees. Beyond these attributes, the chapter also interrogates other attributes that emerged from the interview process including time constraints to conduct oversight, equality between the legislature and the executive as well as public participation in oversight activities.

To collect empirical evidence on these attributes the study asked the following questions in its interview schedule: Question 9 on perceptions of functionality relating to identified attributes, Question 12 which sought the challenges faced in executing functions in support of the model; Question 13 which sought to establish factors/challenges that are reducing the functionality of the model. Questions 9 and 14 on functionality also presented challenges being faced in the implementation of the governance model. With regards to questions 12 and 13, almost all the respondents had something to say about the challenges the City of Johannesburg Municipality is facing with regards implementing the ‘separation of powers’ below the study presents the results and the challenges identified based on the attributes identified above.

5.1. Presentation of results

5.1.2.1. Powers and authority of oversight committees

Regarding question 9, almost all the respondents had something to say about the powers at the disposal of oversight committees to do their oversight work. Most councillors perceive oversight committees as having the necessary powers at their disposal to carry out the mandate of oversight and public participation. For example, respondent 8 notes that “...our committee terms of reference empower the committee call executive members, MMCs and their senior managers to appear before the committee. We can even make recommendations to Council for sanctions if the committee sees it fit”. Similarly, respondent 12 also suggests that “the committee terms of reference are empowering enough in that we have an opportunity to determine our own oversight agenda as a committee. This means we can have our own business outside of executive business...”

However, there are divergent views on this attribute. One camp suggests that despite committees having seemingly adequate powers in the terms of reference, committees rarely use these powers. This is a view much more apparent with respondent 11 who elaborates that “...I am not entirely convinced we are in control of our oversight programme as a committee because our current focus revolves around the reports submitted by the executive. We have cancelled a few meetings in the past because of the executive not having submitted their reports”. Despite the authority to hold the executive accountable respondent 12 also suggests compliance levels were low, stating “in our committee we currently have a long list of outstanding matters arising, instances where the executive has failed to provide reports on matters of interest to the committee”.

The second camp is of the view that committees do not have sufficient powers and authority at their disposal, citing the absence of a clear legislative framework to support the implementation of the ‘separation of powers’ governance model. This view is most apparent with respondent 27 who observes that “...we still suffer challenges of not having it legislated. So, the legislation impedes some of the roles that we need to perform. I can give you an example, according to the executive mayor and perhaps city manager, to a certain extent, the powers of managing the administration

are still with the city manager. Until legislation is brought about certain delegations can't be questioned or certain delegations cannot be for oversight. So how does the legislature account? Who does the Speaker account to and who does the Secretary to Council account to?"

Similarly, respondent 1 confirming this inadequate legislative environment suggests that "...at times, it becomes difficult for the oversight committees to enforce rules regarding the submission of departmental reports or the appearance of the members of the executive before the committee as there is no policy framework guiding this interface". There is a suggestion that these perceptions on the legality of the model contribute to generate some inertia in the implementation of the model.

There is, however, a minority view which suggests that legislative reform is essential only as an enforcement tool to improve compliance, especially by the executive, with the requirements of the governance model. This view is apparent in respondent 12 who suggests "... an amendment to the Municipal Structures Act will assist municipalities to enforce the requirements of the 'separation of powers' governance model, there must be a perception of non-compliance when municipal executives failed to implement or respond to the requirements of the separation of powers governance model". This group also agreed that the effects of the absence of a legislative framework reform were exaggerated and that to the contrary, within the existing legislative framework, there was sufficient space to implement a separation of powers model. This minority view suggests that reforming local government legislation is not a pre-requisite for the model as sufficient provision exists within the existing legal framework to support the City of Johannesburg's governance intentions.

5.1.2.2. Technical capacity

In response to questions 10, 12 and 13 several respondents identified inadequate capacitation—technical, financial and physical—for the legislature and the oversight committees to execute their functions. With regards to technical competencies required for oversight work, respondents noted that they have access committee secretariat support in the form of a researcher and a committee coordinator to research support. However, most respondents point out that the quality of research and administrative committee support is poor and inadequate negatively impacting the implementation of the 'separation of powers' governance model.

Specific to research support, interviewees suggest that oversight committees in the City of Johannesburg's 'separation of powers' governance model are not satisfied with the quality of research support availed to them. They however, attribute this to different reasons including insufficient researchers and inadequate skills in the available researchers. These views are most apparent in respondent 13 who suggests that due to inadequate numbers, researchers are stretched, and the steep workload means the quality of research and analytical support provided to the committees is compromised. Respondent 13 states "...my researcher is serving three committees and I can't get her to do some of the work I would like her to do. They say it is being addressed, but at present the researcher does not have sufficient time to satisfy the demands of all three committees allocated to her. One way we are trying to deal with this is to have sufficient communication among those chairpersons served by one researcher to manage our requests accordingly".

Similarly, respondent 18 suggests lack the right technical skills-set such as policy analysis skills to support oversight committees and states that "...the 'separation of powers' model is a local government pilot. Admittedly similar skills are only available at provincial and national government levels. However, simply taking researchers from other spheres of government would still have required for them to be trained in local government. So, we have researchers with good academic research skills that need customising to the local government sphere. This takes time."

This view of inadequate capacity building for researchers is also apparent in respondent 7 who notes that "...many of our committee researchers are qualified, they have the degrees, however, and they are not familiar with parliamentary or legislative research in a local government environment. To compound the situation, these researchers are not part of any targeted capacity building programme which can improve the suitability of their skills to local government. As a result, many oversight visits are conducted without background papers, and often the reports of the researchers are no different to the performance reports of the executive".

However, there are divergent views to this challenge. One camp suggests that the perception of poor quality research support should be understood within the context of political stakeholders or the senior executive managers also wanting to determine outcome result of the research process. Where this did not happen, research outputs are described as poor in quality. This view is apparent from respondent 8 who when asked to make recommendations for the governance model suggests that one of the potential

improvements of the governance model would be "...committee members should not adjust what is contained in reports analysing the performance of departments and entities. They can influence the recommendations of the report to direct the executive, however, the description of findings must always remain objective and not politically inclined. ...oversight report must also remain a true reflection of the committee's collective recommendations".

The other camp seems to be neither here nor there regarding this challenge, suggesting that the ratio of researchers to committees in the City of Johannesburg is in better than found in other legislatures that perform similar functions, yet the levels of support are different. They note that the recommendation of a single research per oversight committee was not the solution given that the committee work in local government differed substantially to committee work in the provincial and national legislature where such a ration applied. Respondent 9 states that "...committees of Council are expected to meet at least once a month. In many of the committees, the business of the committee is determined by the executive. We have recommendations now that some committees of Council revert to meeting once every quarter due to limited business. It makes sense that researchers serving such committees also give research support to other committees as well ..."

Specific to the administrative support, the interviewees suggest that oversight committees in the City of Johannesburg legislature struggle with inefficient administrative support for their processes. Respondents expressed dissatisfaction the quality of committee minutes, quality of committee agendas, tracking of resolutions and matters arising as well as the logistical support for oversight committee activities such as oversight visits. This perspective is apparent with respondent 16 who, when referring to the quality of minutes, suggests that it is common practice for many committee meetings as well as Council meetings to invest a significant amount of time making corrections to minutes of previous meetings and confirming deliberations of the previous meetings which had not been recorded correctly. This took away valuable time from the core business of the committee. Respondent 16 emphasises that "...the issue of minutes and the quality of minutes... you find that some detail in the minutes is distorted and not recorded properly and that causes a lot of friction because you record what you think is required from your presence in the meeting but then the minutes are reading differently, and the requirement is different. This causes friction with the committee".

Similarly, respondent 4 further illustrates the extent of the problem noting it “...relates to the issues of capacity... sometimes you are not sure whether you were in the same meeting when you look at the minutes that would have come out of that section 79 committee meeting. Sometimes minutes reflect committee clerk’s reflections and not what has been the decision of the committee...” This weakness creates tension between the legislature and the administration and this tension was often characterised as the administration failing to comply with the requirements of the legislature.

The lack of secretarial skills also affects logistical processes of the committee such as agenda preparation, budgeting for the committee programmes as well as preparations for key processes such as oversight visit, which was implemented with major challenges. Respondent 5, while observing the value of oversight visits to the programme of the legislature laments that secretarial support diminishes the value obtained from the visits, noting, “...we do have oversight visits quarterly and sometimes it’s not always as effective because of poor management and poor planning...”

With regards to question 10, in respect of the quality of administrative (secretarial) support for committees in the form of committee minutes, matters arising, tracking of resolutions, agenda packs, as well as general logistics, emerged as a major challenge for the model with the ultimate effect it delayed the committees from dispensing with their proper business. Respondents, particularly, in the executive viewed the skills of committee coordinators to produce good quality minutes as very limited. This led to committees not having accurate records of the proceedings of meetings while it also became very difficult for executive management to prepare adequately based on inaccurate minutes. In some instances, minutes simply reflected conversations of committee members and not the decisions or resolutions they made. There were some strong possibility decisions of the committee were therefore lost because poor quality minutes.

With regards to question 20 on councillor capacity to carry-out their new role in the ‘separation of powers’ governance model, respondents suggest that most non-executive councillors sitting in oversight committees are technically ill equipped to conduct oversight and scrutiny on the relevant departments over which their oversight committees had jurisdiction. They were not receiving any external expert advice except for the Municipal Public Accounts Committee which met often with the Auditor General.

Generally, many of the councillors lack committee subject content knowledge. This view is apparent in respondent... 17 who states "...the composition of the committee for instance... fully brief the councillors on a specific committee, the background of the portfolio that they have to be involved with. Allow the committee members to interact with external experts to stimulate the thought process. Unfortunately, at this stage I think people are being appointed to committees without them appreciating what is required in the committee..."

Similarly, respondent 23 confirms the existence of this capacity challenge emanating from inadequate capacity building processes for councillors but also suggests that there is councillor apathy to capacity building, stating that the legislature "...the office of the Speaker runs training sessions for councillors all the time, on municipal finances, technical issues etc. but training that is facilitated is not always well attended. Despite the training, there are councillors who ... still do not understand how the budget operates."

5.1.2.3. Oversight committees and the budget process

Despite the establishment of a Municipal Public Accounts Committee (MPAC) and an oversight committee on finance, overall results on this attribute show that there is little evidence of stringent financial scrutiny underway in the City of Johannesburg 'separation of powers' governance model. Most respondents (over 70%) suggested there isn't a defined approach to how all oversight committees should approach financial scrutiny arising out of the confusion between the role of MPAC, oversight committee on finance and individual portfolio committees. This view is encapsulated in the following quote from respondent 11 who states "...there is a bit of confusion in whether our scrutiny of the department's finances will encroach onto the mandate of the finance committee or MPAC. So even though we receive financial performance of the department as part of the performance reports of the department the level of scrutiny of this performance could be better but is tapered by the expectation that the finance committee with their responsibility over the budget is doing a more thorough analysis".

Similarly, on the annual budget and planning process, the terms of reference of committees do not give oversight committees the clear mandate and responsibility regarding their role. An analysis of the committee terms of reference shows that a lot more emphasis is placed on the integrated development planning process and the

assessment of departmental business plans by oversight committees. Specifically, as an example, under the mandate of IDP, Budget and By-Law process, the terms of reference of Community Development committee state that the committee must focus on;

- “The consideration and oversight of the development of the IDP and budget in respect of the Community Development and its Municipal Owned Entity (MOEs).
- The consideration of the quarterly performance reports of the Community Development and its Municipal Owned Entity (MOEs)
- To exercise oversight over the development and implementation of all by- laws, strategies and policies of the Community Development and its Municipal owned entity (MOEs).
- The consideration and oversight of draft tariffs, fees and charges in respect of community Development functions in the City.

The absence of a clear process within the legislative timelines is reducing oversight committee influence on the budget and planning process. Oversight committees do not have any direct influence on the budget allocations of departments they oversee. Respondent 9 states that “...the annual budget and planning process is highly legislated and does not make specific provisions for oversight committees in local government. So, committees do not necessarily have influence but councillors can influence through the public consultation process. The budget analysis work of committees has not taken off due to time limitations and when we have attempted to have committee researchers analyse the department’s budget, it was apparent the specific skills were lacking.

5.1.2.4. Single party domination of Council legislature

With regards to question 13 and 14 a common challenge identified by most respondents which the ‘separation of powers’ governance model is facing in its implementation relates to the leadership of Council’s oversight committees. Most respondents point out that while the system of appointing oversight committee members is understood by councillors, the decision by Council to give the chairpersonship of all oversight committees to the majority party is heavily contested. This is affecting the performance of oversight committees. This view is apparent in respondent 8 who states that “... the model is hamstrung by the debate on who should lead the oversight

committees of Council. Sometimes committee functionality is reduced based on who is chairing or leading the committee”

However, there are divergent views on this challenge. One camp seems to suggest that the challenge lies in that oversight committees in the Johannesburg legislature are suffering credibility issues based on perceptions of lack of objectivity arising from a supposed chairperson’s allegiance to the ruling party. This view was apparent in respondent 4 who observes that “...opposition parties prefer that oversight committees be chaired by opposition party politicians and not members of the ruling party to improve oversight. An opposition chairperson will never attempt to cover up but will try to uncover stuff. This will increase transparency and accountability.”

The second camp, however, seems to be neither here nor there regarding this challenge basically indicating that there is no empirical evidence that when oversight committees are led by opposition or majority party politicians they become more accountable or effective. This is a view point more apparent in respondent 24 who indicates “...until we are provided with empirical evidence that committees chaired by opposition councillors are more effective, we will not revisit the arrangements in Johannesburg. Besides, the majority party won the right to lead these committees”.

5.1.2.5. Relationship between oversight committees and the executive

In response to question 8 which sought to assess the relationship between the legislature (oversight committees) and the executive, in general, respondents were positive about the improved relationship between oversight committees and the executive in the City of Johannesburg (their satisfaction is further discussed in Chapter 6. However, there are weaknesses in this relationship which presented challenges for the implementation of the governance model. These weaknesses include low executive response to oversight, failures in accessing and obtaining essential information, ownership of committee oversight agenda. For example, on the challenge of late submission of reports and general non-compliance with legislature requirements, respondent 4 sums this up as follows “The bone of contention between the administration and the councillors is the time it takes for the administration to give them reports. They feel their oversight is fruitless because the

reports they receive are late and their oversight reports are also late by about three months”

Similarly, respondent 21 concurred with the view that the late submission of reports to oversight committees was a critical factor challenging the implementation of the governance model. Their committee had resorted to reactive oversight as they were always way behind the executive’s implementation schedule. Respondent 21, states that oversight processes are reliant on the timely submission of reports, however in most cases the respondent notes “...our reports are out-dated, so in most cases when you receive a report people have gone beyond that report and have implemented programmes outside of the scope of the report currently under consideration by the committee. So, when you pick up a problem in the report, the accounting officers will tell you we have already corrected that as we have moved ahead with the implementation of the programme.”

However, there is a divergent view regarding this challenge with many respondents primarily in the administration and executive suggesting it is almost impossible to meet the timelines demanded by the legislature and that the executive has not deliberately undermined the legislature but has continued to exercise its responsibilities within the confines of the law. This perspective is much more apparent with respondent 7 who in relation to the perceived late submission of quarterly reports suggests, “...the Municipal Systems Act requires that the city’s quarterly SDBIP performance report must be completed one month after the end of the quarter. The executive has religiously complied with this requirement; however, the legislature would like this timeline further reduced to quicken oversight, something which is next to impossible.”

A minority but significant camp suggests that this challenge on low compliance of the legislature by the executive is exacerbated by the limited engagement between oversight committee staff and the senior management in the executive in-between meetings. They suggest that because oversight committee staff do not engage with the city administration in-between committee meetings, valuable information is not reaching oversight committees. This view is apparent with respondent 16, who states that “I do not know if there is a law that says the researchers are not allowed to interact with administrators... if they are doing an oversight report they do not meet with us so that we can also give them additional information or additional context which would add to the report. Then you go to the meeting and you find that certain statistical information

you could have provided would have added value to the report, then you are asked by the committee for that information which you obviously do not keep at the top of your head, but you have available...”

However, there is a divergent view to this perspective. One perspective provides insight into why there is little engagement between oversight committee researchers and the executive management of the city. This perspective suggests, notwithstanding the potential benefits of engagement between the legislature researchers and the executive management, that increasing the engagements between researchers and the departments that committees oversee, can ultimately reduce the ability of researchers to work independently and be critical of the work departments are doing. This ultimately creates a weak oversight and scrutiny process. This view is apparent with respondent 14 who states that “...often when oversight reports are discussed with the executives prior to being submitted to the committee, there are always requests to deduct or change aspects of the report that are not putting the department or management in good light. It is preferable for me to use the committee as a platform to engage the executive. If they are not happy they must advise the committee...”

One indicator of the relationship between the executive and oversight committees is the perceived apathy of the executive to committee meetings. One group of respondents provides an explanation to executive non-attendance to committee meetings, an explanation that revolves around a perception that oversight committees were not aware of the multiple other responsibilities of the executive over and above committee attendance. As a result, sometimes the executive ended up not prioritising committee meetings to do other functions required of their status as members of the mayoral committee and members of executive management. This was more so when the committee elected to host the committee meeting away from the Council precinct. Respondent 4 observes that having meetings out of the city offices was inconvenient and states “...so they moved the oversight committee to Midrand and being a disciplined member of Council I had to attend that meeting. But I have other things to do being a member of the mayoral committee and ward councillor I should not be spending time in traffic to attend a meeting in Midrand that could have been held here at metro centre...”

Similarly, in response to question 8 respondents also note that one of the reasons for executive apathy for committee meetings was that they sometimes viewed the

oversight committee meetings as not making adequate use of their time. Respondents cited attendance to meetings where their presence was not necessarily required, but because they had been invited to account, they were forced to attend. Specifically, respondent 9 cites a meeting of the Municipal Public Accounts Committee in which the annual report and the auditor general's report were being discussed. They state that "...all twelve managing directors of municipal entities and all eleven executive directors of core departments were requested to attend yet we were not advised of the specific issues we needed to respond to. We spent the bulk of the day at the meeting yet very few of us were relevant or required for that meeting. The time invested in that meeting could have been used differently".

Further acknowledging the reasons for executive apathy to oversight committee meetings, there is a view that, sometimes, the conduct of committee members and how they engaged officials attending meetings was disrespectful to them, further discouraging them from attending committee meetings. On the actual conduct of meetings, respondent 22 states that "the way the committee interrogates us sometimes you feel like you are in a court. Committee members sometimes do not recognise we are professionals capable and technically competent of executing our responsibilities".

There is also a minority view that suggests the executive uses set processes and sticking to legislative prescripts to subvert the legislature's oversight and scrutiny process. This view is more apparent in respondent 13 who cites a case in point being the provision for the executive to table items for urgent consideration in Council is also being used to obstruct the implementation of the model as explained in the quotation below which encapsulates this view. Respondent 13 states "...on the Council side the submitting of urgent items is a major problem because we don't get time to go through them. Sometimes they are laid on the table and have not been to Section 79 committees. These items should not be allowed as sometimes Council is required to approve reports that have major implications after they have been classified urgency items. There are also instances when the urgency item has been abused, in my opinion. It's better to call an urgent Section 79 committee meeting to consider urgent matters."

5.1.2.6. Clarification of roles and responsibilities

In response to questions 12 and 13, several respondents identified inadequate clarification of roles and responsibilities within the governance model as a major challenge

affecting the implementation of the governance model to be another leading challenge. This view was apparent with several respondents, for example, respondents 2, 4, 11, 13, and 27. They identified the confusion around roles and responsibilities of the different stakeholders in the model as a leading challenge for the implementation of the governance model. One area of confusion is the role of oversight committees. For example, one camp suggests that oversight committees must involve themselves in ensuring that the City's operations are run in the appropriate manner. This view is summarised in respondent 11 who suggests "If billing statements are not correct, we (the committee) have got a responsibility to assist to make it possible to make sure that these are being corrected. And even our meter readers, we (the committee) must make sure that they read the meter they are supposed to because at times they sit at the street corner and start writing meters which don't exist."

However, there are divergent views to this conceptualisation of the role of oversight committees. One perspective is that this amounts to committees' micromanaging the work of the administration in the name of undertaking oversight, suggesting that oversight committees are getting involved in the actual implementation of the city's programmes and projects, a space reserved for the executive in the broad framework of the governance model through the delegations of Council. This group of respondents questioned this understanding of the roles of the committee as encapsulated in the quotation below from respondent 2 who suggests that when committees conduct their work, sometimes "...committees are investing significant energy on minute, operational details of projects whereas the expectation is the committee focus on maybe financial issues as well as implementation against targets in the integrated development plan and service delivery and budget implementation plan...."

Yet, another perspective, largely emerging from the legislature stakeholders provides reasons why councillors go to the levels of information considered as minute details was because they view the committee meeting as being their only formal platform to exercise oversight because outside of the committee meeting or Council meeting, the opportunities to exercise oversight and engage with the administration were limited. For example, as respondent 22 suggests "...committee meetings are insufficient to address all committee concerns. Committees meet once every month which is our only contact with the administration, outside of the meeting committee members cannot engage with the administration on oversight..." This implies councillors use committee and Council

meetings as opportunities to engage on everything including what officials would refer to as minute details.

With regards to question 12 and 13, another leading challenge, emanating from inadequate role clarification is the confusion regarding who exactly is accountable to oversight committees. There are three instances of this confusion—whether, one, the governance model required a member of the mayoral committee as a political head of a city department to account to a committee of other political representatives; or two, the executive director of a city department, or the head of a municipal entity; or three, their subordinates reporting back to public representatives. Respondent 28, for example, reveals the uncertainty surrounding whose responsibility it is to account to the oversight committee; “...so, I think it needs to be clear in that part because you find that when you attend meetings they really interrogate the officials but their argument is that we are the ones that wrote the reports, yet our understanding is that when the report comes to the system, it is an MMC’s report. The MMC should have read the report, should have understood the report so that they can come and account.”

Similarly, respondent 26 suggests that this confusion contributes to executive apathy towards oversight committee meetings as the executive views committee processes as inefficient and inconsiderate. In general, respondents were negative about the relationship between oversight committees (legislature) and executive. For example, most respondents from the legislature suggest there were difficulties in obtaining essential information and deciding their own agenda. Respondent 26 proposes a preferred approach to guide committee – executive interaction, which is that oversight committees must “...identify issues of interest to them, document those issues and send them to the department and the head of department so that the department prepares a response that is sent back to the committee. This would help managers avoid spending so much time in committees where they might not be required. It would also help us (executive) deal with other pressing issues.”

However, there are divergent and contradicting views to this challenge. One group of respondents suggests that a major reason why executives preferred an alternative process was that sometimes committees asked follow-up, detailed questions, whose detail the responding manager would not be having, leading to uncomfortable conversations questioning the competence of the respective manager. This perspective is a lot more apparent with respondent 15, who elaborates that executive discomfort with oversight

committees emanated from “...sometimes you find that it becomes a ward councillor’s interrogation of minute details in a particular area...which then I think, leads to unnecessary conflict when the head of department does not necessarily at the time have all the answers.”

Yet another group seems to be neither here nor there with regards to this challenge and its effect on the attainment of accountability, instead placing responsibility for this challenge on the City’s elaborate governance model. The City of Johannesburg has municipal entities that were established to deliver services on behalf of the municipal Council. This, it is suggested, hinders accountability of municipal entities (managing directors) to Members of the Mayoral Committee (MMCs) and to the Council. This is a view most notable in respondent 29 who states “...our governance model, of entities is also a challenge. Who are the entities accountable to in terms of the business model? The Board? The entity is accountable to the shareholder, as represented by the Mayor and City Manager. Sometimes there is a grey area, where does the MMC fit into this thing. And where does the chairperson of Section 79 who is not part of the executive fit in? It is a problem area that affects the model in general”.

5.1.2.7. Limited time for oversight work

With regards to question 7 and relevant to questions 12 and 13 on challenges faced in implementing the ‘separation of powers’ governance almost all the delegates in one perspective all the other identified that, non-executive councillors simply do not have sufficient time to execute the mandate as envisaged in the model. For example, respondent 13 observed “...when I joined council I was told it is a part-time job, but I found out it is a seven-day job but the pay for councillors is inadequate. ...issues of whether we have too many councillors or whether we need them all must be debated; however, councillors must be paid adequately. You can either have young people or old people in the system who have the time. Personally, I have gone backwards financially in the time I have been a councillor. Councillors need a proper salary. If you paid a full-time salary you must do fulltime work.”

The availability of time is linked to the transformation of the role of the non-executive councillor within the City of Johannesburg Council. With regards to interview question 7 on the influence of the governance model on non-executive, the results suggest the governance model transformed the role of a non-executive councillor in the City of

Johannesburg, adding several responsibilities. There are two dimensions to this issue. The one dimension is that the responsibilities of non-executive councillors increased from community work and a monthly Council meeting to include oversight responsibilities such as monthly and special committee meetings, oversight visits, public hearings, budget meetings, public participation events, and evidence gathering sessions among other responsibilities. The second dimension of the challenge of the part-time nature of non-executive councillors, emerged also in the context of leading oversight Committees. There is a view that the obligations of chairing Section 79 committees over and above all the other responsibilities of being a councillor required that chairpersons of Section 79 committees be appointed as full-time councillors. Interviewees pointed out that as part-time appointees, they were unable to carry-out all these responsibilities unless they were appointed on a full-time basis. They also wanted the number of committee meetings increased. To illustrate this, respondent 7 suggests that full-time councillors must be considered, however, only for metropolitan Councils and states; "...Johannesburg must start looking at whether defining councillors as part-time is correct... as a ward councillor I put in a minimum of seventy to eighty hours a week... and there is no way that can be classified as part-time."

However, there are divergent views on this challenge of inadequate time for the work that the 'separation of powers' governance model expects non-executive councillors to do. One group of respondents seems to suggest the presence of a strong financial dimension to the challenge of the part-time nature of councillor work. This was more apparent with respondent 14 who pointed out that "... the work that we do in Council is based on meetings that are scheduled in support of part-time work. The work of councillors is activist work, it is part time work. My research shows people compare part-time versus full-time based on monetary reward, but the argument is not being made that we want to be paid more".

The second group of respondents is of the view that this challenge implies that the added responsibility of oversight on ordinary non-executive councillors means the councillors' role cannot continue to be viewed as a part-time responsibility and that as with their counterparts in the executive, they should also be designated full-time councillors. For example, respondent 11 compares the status of the position and responsibilities of chairpersons of committees to the position and responsibilities of members of mayoral committee responsible for executive portfolios. In motivating the

appointment of councillors, particularly chairpersons of oversight committees as full-time members of Council, respondent 11 observes that “in terms of workload and the provision of leadership, the chairpersons of Committees are at par with their executive counterparts (members of the mayoral committee) who are full-time councillors while the former remain part-time Councillors”.

5.1.2.8. Equality between the legislature and the executive

With regards to question 2 and relevant to questions 12 and 13 on challenges faced in implementing the ‘separation of powers’ governance model respondents also identified another common challenge—that the legislature and its oversight committees in the city of Johannesburg does not have and is failing to develop the same status or influence as the executive and its committees. Most respondents in the legislature considered this a major challenge that was inhibiting implementation of the ‘separation of powers’ governance model. For example, respondent 4 thinks that “non-executive councillors are not empowered so you find a disjuncture between councillors who are part-time and those who are members of the mayoral committee who are privileged enough to be felt by the institution. They hear and lead the institution, sit in critical meetings where strategic decisions take place. So how do you expect the chairperson of an oversight committee, as an example, to do the same yet they come to two meetings in a month, one a committee meeting and the other a Council meeting. It’s a huge act to get councillors to be at par”.

Similarly, respondent 11 suggests that the lack of capacitation for the legislature makes it possible to draw one conclusion and that “...it’s easy to accept the legislature was set up to fail considering it is viewed as another department in Council and not a separate arm of government as would be implied in a separation of powers governance model. The legislature still has to work to establish its relevance in the institution...” Similarly, respondent 4 reflected that there could have been a better model to fund the pilot to improve its chances of implementation and suggests “How is it possible that the city took on a pilot project and did not budget sufficiently for it? That is why this model is struggling because the base has never been there. ... I will not propose that they have a separate payroll... but you must be able to work out a formula of the costs of running a legislature...”

However, there are divergent views on this challenge. One camp suggests that the ‘separation of powers’ governance model has not necessarily translated into the legislature assuming a status at par with the executive implying that the senior administrative leadership had not taken a position to operationalise the governance model beyond the minimum requirements. Respondent 4 suggests that the legislature is receiving a cosmetic sense of parity. They state “if... does not buy into the model you will have problems... so the culture and style of the leader will permeate to the lower levels... what you find, to a certain extent is that there is no respect councillors. ...currently officials are sitting in very comfortable offices while the Speaker of Council does not have an office... little dignity...”

The second group is of the view that the legislature had been provided with all resources required to execute its new mandate within the existing legal frameworks and that some of the demands of the legislature would contravene existing legislative frameworks. For example, in emphasising why the Secretary to Council should account to the City Manager, respondent 7 states that “...according to the Municipal Finance Management Act there is only one accounting in any municipality. The municipal manager as the accounting officer accounts on the use of all appropriated budget. This means the Secretary to Council must also account to the municipal manager and cannot be at par with the municipal manager”.

The last camp seems to be neither here, nor there regarding this challenge, emphasising more that there is a need for a political management process for the capacitation of the legislature. This is a viewpoint notable in respondent 17 who suggests that “At provincial and local level, there are funding models for the legislature that are negotiated, meaning the legislature does not follow the routine budget allocation process as with other executive government departments. The political party that authorised the establishment of the model is in power and cannot now refuse to fund the model. The legislature must simply negotiate with the executive and obtain the requisite resources bearing in mind the harsh economic environment.”

Regarding questions 13 and 14, within the capacitation discussion, almost all respondents had something to say about the funding challenge, particularly financial resourcing in the implementation of the separation of powers governance model. Many

of the respondents, across the political and executive divide, agree that from the onset, the City did not adopt an appropriate funding model for the legislature as a result from the onset the legislature was not recognised as being at par with the executive. For example, respondent 13 thinks that “...of course, from a funding perspective, the measure of how the model was conceptualised from the point of funding has presented problems as the legislature is seen as an extension of a department of the city...”

Similarly, the funding challenge also contributed to the inadequacy infrastructure challenges such as office space, inadequate or inappropriate committee rooms as well as the inadequate budget for committee oversight programmes presenting major impediments to committee work and functionality. This view was apparent in respondent 21 who states that “...the lack of a defined funding model limits the extent to which the committees can access and utilise resources for oversight and scrutiny ... the legislature and the oversight committees, in particular, are still at the mercy of the executive for funding its operations, and this compromises the independence of the oversight committees”. Similarly, this lack of a defined funding model is limiting the extent to which the legislature has sufficient financial and material resources to fund its programmes. It is lamented by respondent 21, that “the legislature and the oversight committees are still at the mercy of the executive for funding its operations, and that this compromised the independence of the oversight committees”.

5.1.2.9. Public participation in Council and committee programmes

With regards to question 15 and complementing question 12 and 13, regarding public participation improvements in the City of Johannesburg, the absence of public participation in Council activities emerged as one of the most common challenges of the implementation of the ‘separation of powers’ governance model in the City of Johannesburg. Most respondents noted that public participation was a problem and had not improved with the adoption of the ‘separation of powers’ governance model. Respondent 16 states that “...public participation is weak, we have not managed to manage our stakeholders... the systems that are supposed to support councillors to promote public participation are not functional and this makes councillors unable to support their constituents”. Respondent 7 also concludes that the Council “...had no proactive measures in place to ensure meaningful participation both at ward and Council level”.

Similarly, respondent 5 suggests that public participation in the City of Johannesburg under the 'separation of powers' governance model is not meaningful and empowering but is very much a municipality driven compliance activity in which the community exercises little influence on the final approved plans of the municipality. Respondent 5 further suggests the few public participation activities conducted did not result in any meaningful or empowering participation for communities and that they were largely for compliance purposes and not designed to influence the City's plans. This view is apparent in respondent 5 who suggests that "... when we did the GDS we made sure to attend every consultative session but when the final document was produced a lot of that was discussed in the community sessions did not end up in the GDS." This reflects that it is common for public consultations to take place, but the process does not lead to subsequent adjustments or influence on positions already adopted by the executive especially in organisational strategies such as the Integrated Development Plan and Growth and Development Strategy.

Responses to question 15 were also complemented by an analysis of oversight reports as well as quarterly reports of committee activities. It was apparent from the oversight reports that there was little evidence oversight committees were involving the public in their oversight activities. From the quarterly reports there, was no evidence that other public participation activities such as evidence gathering sessions were being undertaken by oversight committees. This perception of inadequate public participation in Council was consistent throughout the outputs of both the first term of office and the second term of office. Some respondents in responding to question 15 referred to very limited community or civil society participation in the business of Council, particularly, by law formulation, oversight and scrutiny activities of Council. According to the respondents, beyond the legislated processes, community participation in many instances was largely limited to *ad-hoc* interaction with community members during oversight visits and during the legislated Integrated Development Planning (IDP) activities. Other than this, no structured community participation in the work of the oversight committees was in place.

However, there are divergent views to this challenge. One camp suggests that public participation has improved in the municipality. For example, when respondents were asked to rate their perception of the levels of public participation in Council and committee activities, most respondents indicated there had been an improvement in

public participation as being either good or very good. However, when probed further it emerged that one of the reasons why there was a perception of improvement in public participation was that public participation was viewed as a numbers game, implying, that the more people that were organised into a public meeting the more effective public participation had become. Respondent 9 encapsulates this perspective by stating “...we have noticed improvements in public participation. In 2008 (year 1) and 2009 (year 2), we had the highest numbers of people attending the Speaker’s public participation summits. We had over five thousand participants each year and had to use Gallagher Estates to accommodate these numbers” Probed on the quality of the participation, there was no evidence the legislature is tracking the quality of participation.

The third camp attributes the public participation challenges to the physical infrastructure challenges that the City faces, implying that even if committees would like to implement public participation activities such as inviting external parties, the legislature does not have the appropriate physical infrastructure to support this. This group argues, for example respondent 10 that the two key reasons responsible for poor public participation in the City is, “...physical participation by the public in committee meetings and in Council meetings is impossible because the infrastructure in the legislature, like committee rooms, the Council chamber does not provide sufficient physical space to house members of the community”. Similarly, respondent 13 further emphasises that the policy environment does not provide sufficient guidance for public participation to go beyond compliance mechanisms. They suggest “... the legislature does not have a clear strategy or policy supporting the standing rules, to target improving the participation of stakeholders in Council and committee activities. So, for now we do public participation in line with the national legislation specifically on legislated processes such as the integrated development planning process as well as the annual report processes”.

5.2. Comparison of research results to those found in similar studies and evaluations

In Chapter 2 (Section 2.3) the study reviewed selected similar studies and evaluations on this subject. Here, I compare the research results of these past studies with those that I have presented in Section 5.1. More generally the results of this study echo the findings in similar to the studies by Ashworth (2003), Ashworth and Snape (2004) and Shenga (2007) who drew the same conclusion that oversight and scrutiny struggles to become meaningfully institutionalised in municipalities They identified several common variables that negatively influence and present challenges to the implementation of

oversight, scrutiny and public participation programmes in legislatures. They collectively identified common variables which have been identified as impediments to parliamentary scrutiny which include resources and technical support; majority party dominance and the a problematic relationship between oversight and the executive; limited financial and infrastructural resources; limited skills in both the political representatives and their support staff as well as the failure for the true values of oversight and scrutiny to emerge (Ashworth, 2003; Ashworth and Snape, 2004 and Shenga 2007).

Specifically, the findings on reactive oversight are like what Cole (2001) found in a study on the scrutiny processes in an English county (Cole, 2001). Similarly, the results in this study show that oversight processes in the City of Johannesburg 'separation of powers' governance model are too reactive, analysing performance of departments and entities of Council way after the fact and policies long after they have already been formulated and adopted by Council. As a result, the study found many respondents advocating for proactive oversight, findings that were also arrived at by Cole (2001) from a study on an English county (Cole, 2001). However, this is different from what Ashworth (2003) found on this result as the mechanisms of calling in executive decisions prevented the oversight process from being too focussed on reactive processes.

The findings of this study on the difficulty of implementing the values and culture of oversight are like what Ashworth and Snape (2004) (Ashworth, 2003) found that oversight remains a problem function for local government as the values and culture of oversight often requires political representatives to challenge their own political party. In prior studies by Leach, (1999) also concluded that majority party dominance was an important area of concern for councillors as some councillors found it difficult to be openly critical of their colleagues (Leach, 1999).

These research findings on technical support for oversight confirm those from previous studies (Snape et al., 2000; Cole, 2001) that the availability of technical support is crucial for successful oversight committees, highlighting the main challenges to political management reforms. Dacombe (2008) and Snape and Taylor, (2001) also echoed the findings of this study when they predicted the challenges of limited technical capacity to support oversight committees and emphasised that oversight and scrutiny are most

effective when more officers are employed, budgets are available and external technical expertise availed.

However, this is different from the evidence of non-existent advice from external organisations. Committees in the city of Johannesburg do not have non-councillor stakeholder representatives which limits local accountability and responsiveness. Also, the findings in this study that there was very little of evidence oversight committees positively influencing the development of policies and strategies in the City of Johannesburg differs somewhat to the findings by Ashworth and Snape (2004) who found on this result that in some Councils the scrutiny committees made valuable contribution in terms of policy review and policy development. Similarly, the findings of this study on public participation also echo findings in the studies by Michels & De Graaf, (2010) and Geurtz and Van de Wijdeven who confirmed the relevance of public participation in the local government space. They noted that compliance driven public participation processes and the challenges with ward committee systems were presenting insufficient benefits for local communities.

The findings of the study on the lack of public participation were also identified by Cowell (2004), who noted the same occurrences in an assessment of public and community participation in local government in Scotland. Like in Johannesburg, Cowell (2004) concluded that community planning was not sufficiently engaging the public which presented the prospect of negative long-term consequences. Similarly, on the challenge of power and the legislative framework for the legislature, the findings echo the findings by Butler, (2005) who established that accountability is given when it is requested and more so, when that request is backed up by power (Buttler, 2005). This explains why there was a view in the City of Johannesburg that a legislative provision would guarantee the successful implementation of the model. Pratchett (2002) acknowledged that despite legislation instigating the local government reform process, there were concerns that the ability of actors to subvert the process was leading to several unanticipated consequences.

The findings on role imbalance established in this study are like the findings by Snape and Taylor (2004) who found that there was a severe role imbalance between the legislature and the executive which contributed to local government oversight and scrutiny having limited achievements. They concur, as established in this study that the

nature of power and interest in local Councils as well as local political and organisational factors are primary to this imbalance.

5.3. Discussion of research findings

The results presented in 5.1 present an institution that is structured correctly (as was described in chapter 4) but faces significant challenges negatively impacting its ability to make real progress on their mandate. Institutional theory interrogated in in Chapter 2 (Section 2.6) states that institutional development is path-dependant and that institutions obtain their legitimacy through their structural form and routines. Arnstein's (1969) framework of a ladder provides a useful framework to assess and evaluating public participation. These two frameworks are appropriate for interpreting the empirical research results presented in Section 5.1.

According to Arnstein's framework for assessing public participation, the results presented in 5.1 imply that the city is undertaking a token approach to public participation. The interviews with respondents and the analysis of programme documentation show that the city basically consults and informs the residents of its plans but does not change its plans to suit the demands of residents. The results show that respondents believe the public participation process is not directly influencing the decision-making processes. These are the characteristics that Arnstein identified with a token approach to public participation.

According to Peters' (1999) institutional theory, the findings of this study imply that the structural and process legitimacy of the City of Johannesburg legislature is failing to translate into the legislature achieving the evolutionary effects of oversight and scrutiny primarily because of institutional culture. Institutional cultural theory as identified by Stoker *et al.* (2004) can explain the difficulties that emerge in developing effective scrutiny. The following factors are influential, legislative/constitutional, behavioural, attitudinal and behavioural factors in developing effective scrutiny.

In the findings above, as defined in chapter 4, the legislature of the City of Johannesburg has the right social structure, the associated activities, reasonable resources, some stability and routines to fit the description of a legislature. This has given the legislature its legitimacy, critical for the legislature and its oversight and scrutiny processes. However, the right physical and social structure of the legislature is failing to achieve its

mandate due to challenges brought about by local circumstances and dynamics leading to limited optimisation of the decisions, practices and structures. Therefore, progress towards any radical and voluntary changes in public administration, that are expected of the City of Johannesburg's governance model (improved accountability, oversight and public participation), is slow because the criteria used at the time when public institutions (legislature) was initially designed has been confronted by local challenges and dynamics.

6. TO WHAT EXTENT IS THE ‘SEPARATION OF POWERS GOVERNANCE MODEL’ PROMOTING ACCOUNTABILITY, OVERSIGHT AND PUBLIC PARTICIPATION IN LOCAL GOVERNMENT?

The preceding Chapter (5) presents empirical research results, compares these results to those of other similar studies and evaluations, and discusses the research findings to the question—what challenges is the City of Johannesburg Municipality facing with regards implementing the ‘separation of powers governance model’? Following on Chapter 5, this chapter pursues the third and last—to what extent is the ‘separation of powers governance model’ promoting accountability, oversight and public participation in local government?—of the three research questions meant to realise our research purpose and hence address the research problem articulated in Chapter 1. This third research question requires an interrogation of the following attributes identified as strengths of separation of powers in Chapter 2 (Section 2.5)— the extent to which oversight committees are functional and conducting their core activities, the extent to which committees are using the powers and authority available to them, the extent and levels of debates in Council and elevation of Council as a decision making body, the extent to which non-executive councillors are holding the executive to account, and the extent to which the governance model is promoting public participation in the City of Johannesburg Metropolitan Municipality.

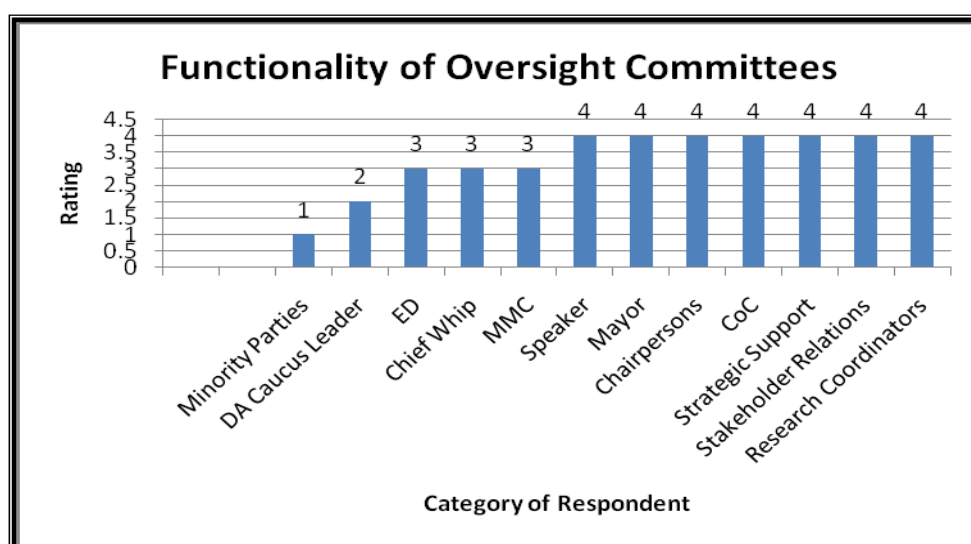
To collect empirical evidence on these attributes the study asked the following questions in the interview schedule: question 2 on ways that the Council as a legislature has been strengthened by the governance model; question 3 on improvements observed in the governance of the city and how these can be attributed to the governance model; questions 4 and 16 on any public participation improvements; question 5 on progress towards governance model objectives; questions 9 and 15 on perceptions of functionality; questions 8 and 18 on tracking and executive response to Council resolutions; question 17 on perceptions regarding Council debates and question 21 on key strengths of the model. The study also responded to these questions through analysis of programme documents that include oversight visit reports, quarterly performance oversight reports, and resolution tracking reports, Council minutes and committee annual plans.

6.1. Presentation of results

6.1.1. Promotion of oversight and accountability

6.1.1.1. Functionality of oversight committees

With regards to question 9 and 15 respondents were asked to assess whether they viewed the oversight committees as functional against their mandate and to rate their assessment of this functionality on a scale of 1 to 5. The results of the ratings reveal that the general perception on the functionality of committees is positive as many respondents indicated oversight committees are functional and contribute to the attainment of governance model objectives through the conduct of certain activities. As shown in figure 3 below average rating¹ of oversight committee functionality is “Good”.



Graph 6.1: General perception of the functionality of oversight committees

The responses to the question of overall functionality reveal different opinions. The majority (over 90%) of respondents suggest that oversight committees are functional. This is more apparent in respondent 13 who states “...the model is functional; Committees hold monthly meetings; conduct oversight visits and facilitate public participation. Committee recommendations are approved and become binding resolutions of Council compelling the executive to implement accordingly. We also have knowledgeable, professional support staff that are fully competent and able to contribute towards furthering the oversight and scrutiny mandate of the legislature.”

¹ Respondents were asked to rate functionality of oversight committees using a rating of 1 to 5 (1 – Poor, 2 – Fair, 3 – Good, 4 – Very Good and 5 – Excellent).

Similarly, the perception of functionality is also supported by the suggestion that there is increasing regard for the work and authority of oversight committees by both the Council and the executive. Respondent 5 encapsulates this view and states, “We had problems but now it is getting better, I don’t think there is a black and white answer to whether the model is functional or not, there is a grey area, but I think it is functioning to a large extent. It can be improved, given more teeth. With the maturing of the governance model there has been greater respect and recognition of the role and function of Section 79 committees as initially there was resistance and disregard for the authority of oversight structures. There is also a marked improvement in the attendance of committee meetings by the executive and executive departments are becoming more responsive to the requests of committees relating to reports or Council resolutions”.

To augment the perception of functionality, some respondents drew similarities between the oversight committee processes and activities to those of more established committees at provincial and national legislature, concluding as respondent 14 states “...in relation to what happens at national and local government when you get invited to the oversight committees ... I do not think that it is in any way different... the only thing is that national and provincial oversight committees are now more entrenched and more experienced... the vigour and myriad of questions are actually the same...”

However, there are other respondents who are cautious in their perception of the functionality of the model, pointing out that while there is co-operation of political parties within oversight committees in the City of Johannesburg Council, there are challenges caused by perceived political influence in the activities of oversight committees. This is illustrated by respondent 22 who makes the following observation “...to say it is completely functional or dysfunctional would be inaccurate. Functional in terms of the non-partisan cooperative relationship within committee structures and the improvement in the levels of accountability and transparency by the executive? Yes, but dysfunctional in the sense that there are instances where political heads of departments try to influence the agenda of committees by influencing the member in charge who is also a member of the ruling party. So political interference in the work of oversight committees is compromising the effectiveness and functionality of committees. By ensuring that committees remain free of any political party bias we will go far in ensuring that oversight committees can function effectively in discharging their mandate...”

Yet, another perception, albeit in the minority, suggests that despite the perception of functionality of oversight committees, some stakeholders are disappointed and disillusioned with the progress and ability of oversight committees to achieve their mandate of promoting oversight and accountability and do not perceive the model or oversight committees as functional. This perspective is encapsulated by respondent 19 who states “...honestly I am not convinced by it. It has been frustrating to try and effectively change the direction of the City”.

6.1.1.2. Planned and unplanned oversight visits

With regards to questions 9 and 15 which also required respondents to provide comments to substantiate or explain their rating of oversight committee functionality, several factors emerge as critical indicators of functionality and of the extent to which the model is promoting accountability and oversight. Most respondents (over 90%) mention oversight committees undertaking planned and unplanned oversight visits on pertinent matters as one of the reasons they gave a high rating of committee functionality. This perspective is more apparent by respondent 17 who states “...one of the highlights of the model, the unannounced oversight visits have proved to be very successful as we have been able to work as a collective together with all parties involved in the committee. Notably we have improved the situation of medicine stock outs in city clinics as the officials try to ensure that when an unplanned visit takes place there is always stock in the clinic.”

Similarly, an analysis of committee outputs also confirms, this view above, that oversight visits are indeed taking place. Over the first local government term (2006-2011), for example, oversight committees conducted 65 oversight visits distributed as follows; development planning and urban management committee (12), housing committee (11) and infrastructure and services committee (11), economic development committee (9), municipal public accounts committee (2), and safety committee (12) among others.

Most of the respondents also viewed the matters dealt with in the oversight visits and subsequent reports to Council as pertinent to the most pressing concerns of the city and its residents at the time. The analysis of oversight reports shows these matters include oversight on the billing and revenue concerns in the city by the oversight committee on

finance; night-time oversight visits on the illegal connections of electricity and the provision of public lighting by the oversight committees of public safety and environment and infrastructure services; as well as oversight visits to bad buildings in the inner city by the chairpersons committee. The community development oversight committee was also concerned with the quality of maintenance taking place in public (community) amenities in the city, to highlight but a few of the focus areas of oversight visits that were prioritised by committees. This confirmed the observation that oversight committees included very pertinent issues in their areas of focus. There were many other oversight visits and reports with recommendations to the city of Johannesburg Council.

However, there are divergent views regarding the conduct of planned and unplanned oversight visits and the extent to which this is promoting oversight and accountability. One camp, despite confirming that oversight committees are functional, suggests that this functionality can be improved by increasing the benefits, scope and objectives of oversight visits beyond being just site inspections. Respondent 10 suggests that "...oversight based on what was done and the quality of what was done has improved but there is room for improvement as critical aspects such as background papers that provide a researched context to a proposed oversight visit are not always prepared for oversight visits. As a result, in many visits, committee members hardly engage sufficiently with the issues and end up merely observing the site visited. We lack contextual information that could help us engage meaningfully on these visits".

Yet another camp notes that oversight visits in the city of Johannesburg legislature can benefit from improved planning and logistical processes, suggesting that the benefit of oversight processes to Council is not always realised due to failures in the administrative and logistical arrangements supporting oversight visits. Respondent 17 indicates the following "...we are conducting oversight visits at least once every quarter and obtaining good insight into the City's operations and projects. However, one weakness of the system is that our reports serve at Council way after the visit has been conducted, sometimes two months, against a turn-around time of thirty days, leading to some of our recommendations being overtaken by events. The system would work well if we also conducted follow-up visits to ensure that our comments and recommendations are being taken on board. But then we are part-time...On a few occasions we have also failed to undertake oversight visits due to financial constraints in the legislature budget..."

6.1.1.3. Performance monitoring and reporting

With regards to question 15, most of the respondents, again above 90%, also mention the routine monitoring of the performance of departments and entities and reporting the outcome of this monitoring to the Council on a quarterly basis as yet another reason they gave a high rating for committee functionality. Respondent 11 encapsulates this view and states "...we have managed to get all departments and entities of the city to report to their committees on their performance on a quarterly basis. Basically, all departments have complied with this process without fail, only JMPD was a little slow in complying for a variety of reasons..."

Similarly, an assessment of committee output also confirms this view and reveals that since the inception of the 'separation of powers' governance model oversight committees have produced quarterly performance reports on 36 occasions amounting to 360 quarterly oversight reports on the performance of departments and entities of the City of Johannesburg. In the same period the Municipal Public Accounts committee considered and successfully exercised oversight on the annual report of the City, producing an oversight report on the annual report of the City, a process that had not been conducted before but commenced with the inception of the 'separation of powers' governance model.

There is, however, a different but complimentary view to this aspect of quarterly performance reporting by departments and city entities, suggesting that the city could derive even more benefit from the process and make the executives more accountable if committees could implement sanctions where performance of departments is not improving. This view is more apparent in respondent 11 who states that "...as committees sometimes we want to recommend that Council take specific action on situations where performance is not improving because if you check our reports.... we have repeated some recommendations on several occasions without commensurate change from the department. However, committees are hesitant to sanction officials because of many reasons including political dynamics and the perception that committees do not have decision making powers, which eliminates the occurrence of any such recommendations..."

An assessment of programme documentation such as the oversight and scrutiny framework reveals that the Council approved a quarterly reporting format that included financial as well as non-financial information focussing on the revenue collected by source, operational and capital expenditure, actual service delivery against targets and performance indicators approved by Council and any revisions of such plan by the mayor in terms of section 54(I)(c) of the MSA. It also required actual progress toward outcomes against performance indicators, a qualitative assessment of progress against set targets.

6.1.1.4. Oversight committee recommendations to Council

With regards to question 15, yet another indicator of oversight committees promoting oversight and accountability that respondents identify is that oversight committees are involved in the decision-making process of Council as they are making recommendations to Council. There is a view, the recommendations they are making are improving organisational performance and accountability. This view is most apparent in respondent 13 who observes that "...committees are making recommendations that are improving service delivery and they are also making recommendations that certain financial issues are referred to MPAC for investigation...Moreover, soon after inception of the governance model, the city obtained a clean audit. We believe the improved oversight and accountability, brought about by the oversight committees contributed to the attainment of the clean audit..."

Similarly, an assessment of committee outputs also confirms this perspective that committees are making recommendations to Council. Most of the recommendations focus primarily, on operational matters of departments and municipal entities such as requests for progress or reports on service delivery matters and departmental operations. The analysis of the recommendations of oversight committees shows that the focus on operational matters was more appropriate for services' sectors such as safety, health and corporate and shared services committees.

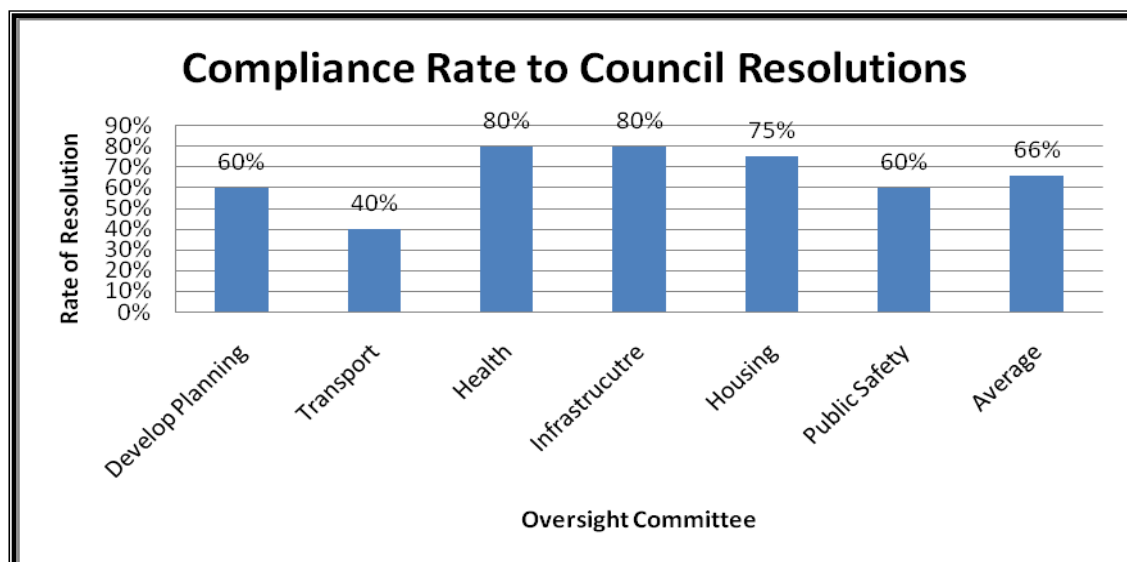
However, the situation was slightly different in housing, infrastructure and services as well as transport committees as these committees paid comparably more attention to service delivery than other committees, notably during oversight visits. The relative greater emphasis by some Committees (e.g. Health, Housing and Transport) on service delivery based on oversight visits was a positive accountability mechanism that

supported augmenting oversight on departmental reports with fact finding in-situ. Combining reporting with on-the-ground assessment of performance is a recommended oversight practice.

However, in terms of the quality of recommendations, minority respondents note the following two factors as limiting the extent of influence of oversight committees i. oversight committees very rarely make recommendations on financial matters, and ii. Not all committee recommendations are serving in Council. An assessment of committee outputs (resolution tracking report) shows that apart from recommendations of the finance committee, less than 30% of all oversight committee recommendations focus on financial performance such as fruitless and wasteful under-expenditure, over-expenditure apart from the finance committee recommendations. The same report (resolution tracker) also shows that not all the Committees' recommendations (e.g. 31% in the case of the Health Committee) served in Council. Respondent 12 encapsulates this perspective and notes "...due to process inefficiencies some committee reports with committee recommendations do not go all the way to Council. As a result, the recommendations are not adopted by Council as Council resolutions and in that situation, the committee cannot enforce these recommendations as the committees do not have decision making powers. If recommendations are adopted by Council, we can as a committee enforce the implementation of that resolution..."

6.1.1.5. Monitoring the implementation of Council resolutions

Regarding question 8 and 18 on the ability of council and its committees to track the implementation of their resolutions most chairpersons of oversight committees and researchers that provide research and analytical support to committees agree that there is a fairly high level of compliance with Council resolutions by the various departments improving the accountability objective of the 'separation of powers' governance model. This perception of high levels of compliance is illustrated in graph 2 below.



Graph 6.2: Perception of compliance with Council resolutions as rated by chairpersons of Section 79 Committees

Similarly, respondents noted that Council has put in place a mechanism in the form of a standing rule of Council that requires the executive mayor to report to council every quarter on the executive's implementation of Council resolutions, to track the extent to which Council resolutions are being implemented by the executive. Respondents indicated that this mechanism was working, especially in the first political term of the governance model. This is illustrated in the following quotation by respondent 17 who states "...we have introduced mechanisms to track Council resolutions to ensure that things do not fall between the cracks. I have not heard of any matter completely disappearing of the Council radar because of this process. However, this is not the only process the Political Management Team (PMT) made up of Speaker, Executive Mayor and Chief Whip is another integrating factor that encourages compliance with oversight recommendations" An analysis of the reports on the implementation of resolution tracking matrix reveals evidence that in the first political term many Council resolutions were made and there was a high rate of compliance with those Council resolutions as reflected in the implementation resolution reports to Council, as evidenced by the following statistics. Transport committee had an implementation rate of 40%, development planning committee 60% and health committee a resolution rate of 80%.

There are different but complementary perspectives to this perception that there is a very high compliance level to implementation of committee and Council recommendations primarily because of the inconsistent and uniform application of a

tracking and reporting mechanism. One camp suggests that when it does happen the resolution tracking mechanism is a useful tool to hold the executive accountable and for the legislature to influence decision making in the executive. However, the tracking is left to individual committees and except for a few committees such as housing and development planning committees most oversight committees lack some form of effective and consistent tracking mechanism. As a result, overtime, the requirement to report to Council on resolution implementation has not been implemented, such that on the ground there is no certainty how the executive is performing on the implementation of Council resolutions. In the second political term of office tracking of implementation of Council resolutions declined and was discontinued. From 2012, there weren't any reports on the implementation of Council resolutions submitted to Council. As a result, respondent 13 encapsulates "...there is still a lack of action in terms of the recommendations that emanate from oversight committees, quarterly reports on departments that are not acted upon by the executive..."

Respondents concur that the tracking and implementation of committee resolutions was strongly pursued during the early days of the governance model, particularly in the first political term and not sustained in the second term. This was attributed to a number of reasons including lack of sanction where committee resolutions were not implemented as indicated by respondent 11 who states "...The reporting on the implementation of Council resolutions has slowed down largely because it's a shared responsibility and accountability for it is lacking. The legislature must give Council resolutions to the executive to enable the mayor to respond. But also, when there aren't any sanctions as a result on non-compliance eventually the compliance requirement falls away. This is exactly where we are...Council has no information on the implementation of its resolutions"

6.1.1.6. Ownership of committee oversight agenda

In response to question 21 regarding the strength of the governance model some respondents state that one of the ways the governance model is promoting oversight and accountability is through oversight committees establishing and owning their oversight agenda and therefore promoting their independence and separation from the executive. Some respondents felt that, progressively, oversight committees had begun to take control of their oversight programme, including choosing whether to undertake planned or

unplanned oversight visits which would prevent the executive from taking corrective action prior to a visit taking place. As a result, this had improved the value of oversight visits to the oversight and accountability process of Council. This view is more apparent in respondent 4 who states that “...at the beginning of each financial year, as a committee, we undertake strategic planning sessions where we identify the oversight activities for that financial year. We make provision for planned and unplanned oversight visits as well as the routine oversight work such as quarterly performance assessments. The only challenge is that sometimes these planning sessions are late in the financial year...”

However, there are divergent view regarding the development of independent oversight agenda of committees with some respondents in different committees implying that due to several reasons, this was not a common practice throughout all committees. As a result, some respondents declined awareness of these strategic planning sessions and insisted the executive still dominated the agenda of oversight committees which was why committees often cancelled meetings for lack of executive reports. This was apparent in respondent... who indicated that “...we have not had the opportunity to go for our strategic planning session due to budgetary reasons, “...our oversight meetings are informed by the reports tabled by the executive as well as the oversight visits we conduct”. Similarly, an assessment of committee outputs (strategic plans) reveals that there were some annual plans of committees that were not available such as Gender Youth and People with Disabilities (GEYODI) giving credence to the perception that some committees might not have conducted such sessions.

6.1.1.7. Questions time – questions for written and oral reply

Regarding question 2 and 8, on the strengthening of Council and the implementation of ‘question time’ in Council, one of the factors identified as promoting oversight and accountability is the provision and use of written and oral question time. Most respondents indicate that the provision of question time in Council is improving accountability as non-executive councillors are using the opportunity to hold the executive mayor and the members for the mayoral committee accountable. The respondents note that the practice of asking questions to the executive is a useful accountability mechanism in the city of Johannesburg as encapsulated by respondent 4 who states “...particularly with oral questions, councillors are holding the mayor accountable especially when there is an issue a councillor would like resolved in their constituency. Most of questions have come from the opposition; however, majority party

councillors do ask questions linked to their wards or as requested by caucus... there can however, be an improvement in this regard.”

Similarly, an assessment of Council minutes shows that in the first and second political term there was a high number of oral and written questions asked. A total of 720 oral questions and as many as 1 232 questions for written reply from non-executive councillors to the executive confirming that this is an accountability tool that is in constant use in Council. The questions covered a broad range of areas such as service delivery issues as well as operational issues, including specifics, as an example, miss world beauty pageant, financial expenditure on consultants, the true state of revenue collection in the city, the quality of service delivery to specified areas, the city’s programme for the rehabilitation of hostels, breakdown of expenditure on legal processes, gender and non-violence related issues, drug abuse issues among other various areas, reflecting councillors’ concerns with a multitude of issues. Many of the questions sought accountability and to obtain information and clarity from the executive mayor and members of the mayoral committee on the administration’s approach to issues.

However, there is a divergent view to the usefulness of this question time in the City of Johannesburg Council and the extent to which it promoted accountability, particularly the failure to establish the specific positive consequences of question time. One camp considers the practice as capable of increasing accountability if members of the executive always responded to all the questions and in a satisfactory manner particularly on oral questions. To illustrate this, of the 1 232 questions for written reply there were 1137 responses many after requests to find additional information and explanations which further delayed the responses. Similarly, another camp suggests abuse of question time whereby a significant number of questions were asked by majority party councillors, who often, asked questions that only served to give members of the executive an opportunity to, according to respondent 20, “make long speeches about the supposed achievements of their administration, in the process using up time and resources spent on researching and providing detailed responses to such a question...”

Similarly, in terms of abusing the practice, some respondents saw the questions as too repetitive and having been responded to in one form or the other in previous meetings. These respondents’ perspective is summarised by respondent 20 who suggests

“...at the same time some councillors love to develop profiles as individuals that constantly take the executive to task... without commensurate indication of the benefit of the question to the city’s service delivery or governance. Question time is a routine Council meeting activity, but I am not sure how much it is changing the behaviour of city departments and entities on any of the issues asked about...”

6.1.1.8. Quality and content of debates in Council

With regards to question 17 on the improvements in the city of Johannesburg Council in the quality of debates and whether the debates are pertinent to communities, the majority of respondents state that there had been a general improvement in terms of the process, conduct and robustness of debate, and that Council has had more debates on pertinent issues during the period of the ‘separation of powers’ governance model than compared to the period before the inception of the model. This general perception of improvement is illustrated by respondent 3 who states that “...when I arrived here there was not a Speakers’ List to guide what happens in Council. Council processes for introducing debate and discussing what type issues to be debated were non-existent and these were introduced with the model. To date, several meaningful debates have taken place, including debates on service delivery failures emanating from the work of oversight committees, debates to confer freedom of the city status on eminent individuals as well as debates on topical issues such as the 16-days campaign of non-violence on women...”

Similarly, an analysis of minutes of Council meetings reveals that motions tabled for debate as well as questions for written and oral reply that led to debates in the Council chamber increased and came from across the political divide, but predominantly from opposition party councillors who dominated the tabling of motions for debate as well dominated question time. The minutes further provide evidence that the City of Johannesburg Council debates are orderly and structured and the procedure for debates is predictable, which helped smoothen the conduct of debates in Council, as encapsulated by respondent... who states... “...Council debates are generally guided by items placed on the Council agenda for that day, reports are directly linked to development programmes or projects that are been implemented within a given financial year”.

The minutes² also show that the debate in that meeting had been robust and topical showing that speakers from opposition parties including the Democratic Alliance (DA), Inkatha Freedom Party (IFP), African Christian Democratic Party (ACDP), Independent Democrats (ID), United Democratic Movement (UDM) and Operation Khanyisa Movement (OKM) all took the opportunity to take the executive mayor to account, on various issues that he raised in his State of the City Address. Topical issues raised by these parties included issues of corruption, the 2010 Soccer World Cup, the state of local governance in South Africa, service delivery protests, potholes, and formalisation of informal settlements. Speakers from the ruling African National Congress also highlighted and acknowledged some of the achievements of the City such as the milestone of hosting the 2010 World Cup as well as including the attainment of three successive clean audits.

However, there are divergent views regarding this with some respondents suggesting that there is a lot of political influence and that the most pertinent matters are not allocated sufficient time in the debate process. One such pertinent matter is the annual city of Johannesburg debate on the budget which is conducted a day after the budget tabling in Council. Respondent 17 states “...the budget debate should be given more time. At present its done over a few hours not exceeding a day, however, we would love to have it over multiple days, at least one portfolio per day ...” Similarly, respondent states “...we don’t always discuss pertinent issues and often matters are highly politicised with too much political point scoring with debates...I still think we can get more service delivery motions and chairpersons should still raise more issues that are committee related. Sometimes good motions have also been defeated because they have not been introduced by the majority party.”

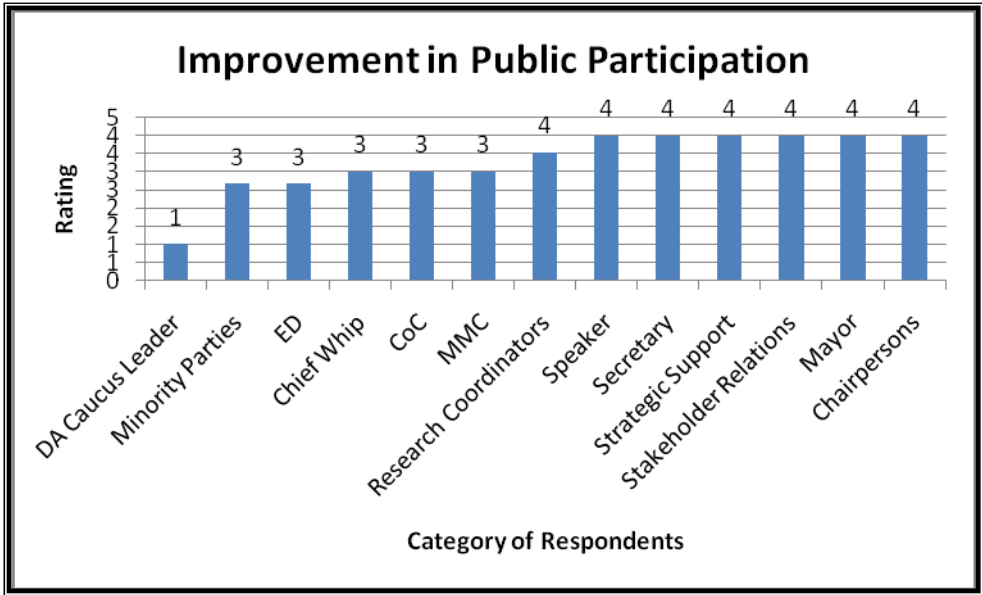
Yet another group of respondents suggest that while the conduct of debates improved, was more procedural and orderly, the value and content of debates is a weak point requiring improvement. They observe that debates could add more value if political party influence on debates declines. Respondent 1 encapsulates this perspective and states that “Council debates are not focussed on issues that are relevant to communities as Council is politicised between the two bigger political parties, the African National Congress (ANC) and the Democratic Alliance (DA). Councillors follow party positions

² Minutes of the 46th Extra-Ordinary meeting of the city of Johannesburg Council held in the Council chamber, ground floor, metropolitan centre, Braamfontein, commenced on Thursday, 11 March 2010 at 11:00, and continued Friday, 12 March 2010 at 09:00

and do not debate issues along other lines other than party lines therefore it is hard to agree on matters that we should be agreeing on.” There is some acknowledgement, however, that such was the nature of council and that to some extent political parties had to be allowed to defend their ideological positions even in debate situations as respondent 1 further illustrates, “MMCs and the mayor decide, and this stifles all debate. There is a party position, an executive position and if you step out of line your career is threatened and this reduces the effect of the separation. As a result, the Council chamber is a circus at the moment, but I suppose this could happen even if I was Mayor.”

6.1.2. Promotion of public participation

Regarding question 16 on improvement in public participation, respondents were asked to assess and rate whether public participation in council activities had improved because of the implementation of the model. The figure below shows that most respondents (Over 90%) think there has been improvement in public participation since the inception of the ‘separation of powers’ governance model. The table below reflects the assessment which shows there is a view among participants that they are satisfied that public participation had improved because of implementation of the model.



Graph 6.3: Percentage of improvement in public participation because of implementation of the governance model

Respondents were also requested to support their rating with comments. Several factors emerged that supported the ratings. Many respondents in the majority concluded that public participation had improved based on the increase in terms of the number of

people attending public participation events as arranged by the legislature as the reason for their rating. They observe that the stakeholder engagement summits of 2011 and 2012 which attracted over five thousand people each year from around Johannesburg to Gallagher Estates in Midrand were the highest numbers the city had ever attracted to an engagement session. This is illustrated by respondent 21 from the legislature who suggests “... the speaker’s office is getting more and more people involved in the council processes. Since the model was implemented we have seen a sharp increase in the number of people attending the stakeholder summits, especially in 2011 and 2012, the highest numbers since...”

Similarly, in confirming improvement in public participation because of the governance model, a member of the executive indicates that “...as part of the model we introduced a petitions and public participation committee. While there had been a petitions and public participation process before the implementation of the new governance model, it followed a haphazard process characterised by confusion and failure to respond adequately to community requests. We introduced the committee to allow for petitions to be raised both by groups and by individuals and to separate service delivery petitions from community-based planning requests. The budget process is also a lot more consultative and has been spread to include regional meetings. An annual stakeholder summit has also been introduced and it has been very good given the numbers that the city has been able to reach. The governance model has added real structure and momentum to public participation in the city. This has allowed people to experience government...”

Similarly, respondent 6, a member of the administration, an official, confirmed this improvement in public participation on the basis of the office of the speaker having taken custodianship of public participation, stating that “...public participation has really improved and the office of the Speaker has taken charge of the process ...previously I would have taken my department directly to the community...disregarding the role of wards and councillors...now it is clear to me that public participation is the speaker’s office’s responsibility” further confirming that the role of the office of the speaker as the custodian of oversight was affirmed with the establishment of the separation of powers’ governance model.

The improvement in public participation also emerged with regards to question 2, on the strengthening of the governance model many respondents identified the role of council in the development and processing of by-law process as having improved significantly leading to improvements in the public participation processes linked to by-law processing. There is a view that non-executive councillors are interrogating proposed laws to an extensive degree more than they did prior to the implementation of the governance model. This perspective is encapsulated in the view by respondent 6 who observes that "...law-making has improved and we have passed by-laws. The role of council has strengthened as before 2006 the by-law was pushed through council but now committees are engaging with these processes and having public hearings as oversight committees, supported by both research and legal support. The swimming pool by-law had extensive public engagement as an example. But there are major challenges in terms of by-law enforcement as well as dysfunctional municipal courts which if improved can improve council's effect regarding bylaws".

Similarly, an assessment of oversight committee outputs reveals that in the first political term alone, for example, seventeen (17) bylaws were passed by council after consideration by oversight committees. These by-laws focused on a variety of aspects including the 2010 FIFA World Cup (Community Development Committee) by-law amendments dealing with display of household and other item for sale (DPUM), the Review of Public Health By-laws (Health Committee), Amendments to Roads and Miscellaneous By-Laws to make provision for Rights of way for Electronic Communications facilities (Economic Development), Storm Water (Transport Committee) and Swimming Pools and Emergency services By-law by (Safety Committee). Committees undertook public hearings for by-laws and the by-laws that attracted sufficient public attention were the 2010 FIFA World Cup By-Laws and the Swimming Pool By-Laws.

However, there are divergent views of the extent to which the model has promoted public participation with one camp in the majority suggesting there is significant room for improvement. This camp believes the extent to which the model is improving public participation is limited by a weak ward committee system, the inadequate participation of the public in committee and council meetings as well as by the number of petitions that are unresolved in the system. This is a perception illustrated

more clearly by respondent 11 who states “... public participation process in Council is weak and the requirements for regular public meetings in the wards is happening only to a very limited extent. As it is we do not have reports of ward committees in the council system as required by Council. We should be able to resolve community petitions but there are a significant number of petitions in the system, some stretching from as far back as 2003”.

Yet another camp suggests that despite the legislature inviting the public to its meetings, it is not physically and practically able to promote public participation in committee and council processes due to insufficient physical space in the public gallery of committee rooms and the council chamber. This perspective is more apparent in respondent 17 who suggests “...we are not taking committees to the people... our committee rooms barely fit committee members let alone members of the public. We have had one meeting outside of the council precinct but due to lack of clarity on processes members of the community that came to our meeting only had observer status, meaning we could not engage them”.

Similarly, with regards to question 16, the study also analysed the outputs of committee oversight processes, specifically, oversight reports for evidence of public participation or the use of external experts in oversight committees to further establish the extent of public participation facilitated by the governance model. In sampled reports, the analysis found that members of the public, an external expert or members of civil society are rarely invited to committee meetings, do not attend committee and there was little use of external expert, public or civil society input in oversight processes either verbal or written submissions. For example, of all the ten portfolio committees only health committee had evidence that in two oversight visits to health facilities in September 2008 and the oversight visit in November 2008, there is evidence in the main body of the oversight report of public participation and utilization of public input. In the rest of the committees, there is no evidence of public participation activities in oversight committees.

6.2. Comparison of research results to those found in similar studies and evaluations

Similarly, in Chapter 2 (Section 2.3), I reviewed selected, similar studies and evaluations on this subject. Here, I compare the research results of these past studies with

those that I have presented in Section 6.1. More generally, the results are similar to the findings in the studies by Leach, (2003), Martin (2011), Leach and Wingfield (1999), Ashworth, (2003), Ryle (1997) and Martin, (2006). They found that implementing governance models with mechanisms, processes and procedures such as oversight or scrutiny committees, question time and debates among others, that emphasise and enable oversight of the executive by the legislature presents benefits for accountability within government in general and local government. However, our general findings are different from those of the studies by who found that the implementation of these models, mechanisms and processes leads to increased meaningful participation by the public and external experts in government activities.

Specifically, our results on routine activities such as quarterly performance monitoring and oversight visits being the dominant activity of oversight committees in the City of Johannesburg echo the findings by Ashworth and Snape (2003) who found that while there is a synergy between oversight and scrutiny and organisational performance management, it is not always easy to establish a causal relationship between oversight processes and performance. Instead what they found is, the focus on routine activities like performance monitoring and performance is also sometimes applied as a strategy to slow down the implementation of oversight and scrutiny. As part of the strategies to kill oversight and scrutiny, Ashworth and Snape (2003) found that when committees are continuously asked to do routine tasks such as performance monitoring and track performance indicators as a key deliverable, it gives the impression committees are extremely busy with oversight work. However, they will be focussing on a function from which they cannot derive discernible benefit while taking away time from other critical responsibilities. This is relevant for the way oversight committees in the City of Johannesburg, routinely and primarily focus on operational matters emanating from performance without obtaining a discernible benefit of the process.

The establishment, nature, form and responsibilities of oversight committees established in the city of Johannesburg, in terms of Section 79 of the Municipal Structures Act with specific powers to hold the executive accountable echoes the findings made by Snape and Taylor (2001) who also found that the establishment of committees was a critical step in promoting the objectives of scrutiny in local government councils in the UK. They also found that the number, form and structure of committees differed with

each council, implying that each council could have a different form of committees determined by its circumstances. Snape and Taylor, (2001) and Feesha, (2008) found that the most common strategy to holding of the executive and public representatives accountable is through the establishment of committees of council that are empowered through specific powers and functions.

It appears from the results that all other portfolio committees, except for finance and economic development, community development almost never seem to generate recommendations on budget performance issues of over-and under-spending, fruitless and wasteful expenditure etc. This reduces committee insight on budget related service delivery performance as well as value for money perspectives. These results contradict the conclusion by Ashworth and Snape (2003) who found that budget performance analysis should be a critical function of committees and that when oversight committees drive budget performance of government departments they develop increasing authority in the council.

The results presented above also show the absence of sanctions or other recourse by committees, especially where the executive or departments have been shown by the resolution implementation tracking or evaluation to have repeatedly failed to respond or implement a council resolution. The inadequate powers to sanction executive for failure to implement or comply with legislature resolutions echoes the findings by Ryle (1997) who found that the most unused attribute of legislatures and oversight committees is the power to sanction government departments. One of the reasons cited for this is the adulation of the executive by the legislature members who aspire to move to the executive, reducing their appetite for sanction as well as the dominance of the majority party who may not be interested in sanctioning fellow party members in the executive. In the City of Johannesburg, there were very few recommendations to council from oversight committees sanctioning the executives over the two political terms.

As Sanford and Maer (2004) established, for the overview and scrutiny process to be fully effective it must be followed through past the production of a report, into pursuing whether the recommendations have been implemented. Not only does it help members know what transpired, it allows for committees to track progress as tracking also aids the collective memory of the scrutiny committees—if members know that a

certain policy was unsatisfactory six months ago, and is still not satisfactory, they may redouble their criticism. Proper tracking and the evaluation of executive responses, substantively has important consequences for subsequent committee work and optimal impacts on service delivery through oversight, going forward. The tracking process can be significantly improved if the quality of recommendations improves to also.

6.3. Discussion of findings

The principal–agent theory as discussed in Chapter 2 is most appropriate for interpreting the empirical results presented in section 6.1. It states that that an agent (the executive) is accountable to his principal (the legislature/parliament) who also accounts to the electorate. The agent is obliged to act on the legislature’s demands and the legislature is empowered to reward or punish the agent for his performance in this capacity (Wiberg, 2011). The principal agent theory emphasises the establishment of institutional mechanisms whereby principals can monitor and enforce compliance on their agents. According to the principal-agent theory the authority of the legislature is delegated from the citizens and in parliamentary systems of government the authority is further delegated to the executive branch of government.

This theory is most appropriate for explaining the accountability relationship between citizens (as principals) and the executive and the legislature (both as agents) on the one hand and between the legislature (acting as principal on behalf of citizens) and both the executive and the bureaucracy on the other hand. This legislative-executive relationship within the principal-agent understanding requires the oversight and accountability arrangements as implemented through council oversight committees and the following formal control mechanisms—in the context of the City of Johannesburg’s ‘separation of powers’ governance model—question time, oversight visits, performance monitoring and tracking of council resolutions—to enable the legislature to hold its executive accountable through regular requests for information on the executive’s actions or inactions. These tools and mechanisms strengthen the application of principal-agent relationships to legislative oversight and accountability. Oversight tools serve to deal with agency problems through reducing information asymmetry which favours the agent against the principal. This is considered critical for the smooth operation of democracy.

The notion of accountability as discussed in Chapter 2 (Section 2.4) is also an appropriate framework to explain how the oversight model in the city of Johannesburg is working. This concept of accountability frames the relationship between an individual and institution whose tasks and responsibilities are subject to another individual or institution's oversight direction. Within this they may be asked to explain or justify their actions and the whole process of accountability involves two stages of answerability and enforcement (defined in section 2.4). This notion of accountability explains the requirement for the executive to respond to recommendations and requests from oversight committees on all matters of interest to the committee. However, while the possibility of remedial action through council is evident in the City of Johannesburg, the possibility sanction is non-existent and has not been applied.

Last, institutional theory, also discussed in in Chapter 2 (section 2.6) is also most appropriate for interpreting the empirical results presented above particularly to explain why councillors ask political party aligned questions for written reply (old institutionalism) and sometimes ask oral questions that are influenced more by their constituency and less by their political party caucus (new institutionalism traditions). This shows that councillors are both, socialised into their roles and behave in a way the traditions of the institution require but they also rationally adapt their behaviour to meet their political needs particularly with respect to the wards and communities they represent, leading them to ask ward specific questions that may be beyond the counsel of the political caucus.

7. SUMMARY, CONCLUSIONS, LIMITATIONS AND RECOMMENDATIONS

This chapter concludes the study and summarises the response to the research objectives as outlined in Chapter 1. The chapter summarises the study indicating what was researched; how the research was undertaken; the main findings as established in each of the chapters, the study's conclusions, limitations, and recommendations together with suggestions of possible areas for future research. It establishes the contribution and significance of the research to the public-sector governance field of research.

7.1. Summary

The aim of the study was to undertake a formative evaluation of the City of Johannesburg's separation of powers' governance model, a governance model that was implemented as a pilot to mitigate governance challenges experienced in the municipality. The governance model sought to improve the governance processes of oversight accountability and public participation through enhancing legislative functions within the municipality. The study assessed how the governance model was conceptualised and implemented, the challenges experienced in its implementation and the extent to which it promoted the processes of oversight, accountability and public participation in the City of Johannesburg metropolitan municipality.

Excluding this chapter, this was done through six chapters. The objective of Chapter 1 was to broadly provide a research framework, which is articulated in more detail in Chapter 2 to explain the physical context of the research problem, the research knowledge gap, the attributes of interest in the academic context and the appropriate frameworks that were subsequently used to interpret the empirical research results. Chapter 3 articulated the qualitative methodology applied in the study—the design, procedure and methods implemented to collect, collate, process and analyse empirical information as well as the limitations of the study. Chapter 4 described the logic of the 'separation of powers governance model' established the extent of the 'separation of powers' governance model's compliance to the causal link. Chapter 5 documented the challenges troubling the implementation of the separation of powers governance model while chapter 6 noted that significant progress is being made in promoting oversight,

accountability and less, public participation because of the implementation of the governance model.

The study addressed the problem of a seemingly flawed design of local governance at local government level emerging from the conflation of executive and legislative function in a single body of Council and the subsequent delegation of both executive and legislative functions to executive structures. This flawed design is contributing to governance challenges of weak accountability mechanisms, lack of oversight and public participation processes that are not meaningful enough for local communities. The study addressed this problem by conducting a formative evaluation of a governance model, premised on the 'separation of powers' principle that was implemented by the City of Johannesburg metropolitan municipality. The study assessed the conceptualisation, challenges faced and the extent to which the governance model as implemented in City of Johannesburg is promoting oversight, accountability and public participation.

In the study we contribute to an existing knowledge gap in two ways. First, there is a significant amount of existing research on local governance models that points out that the conceptualisation and implementation of governance models is influenced to a large extent by the circumstances of the local council's political, physical and environmental context. Being a case study, the study documents the effect of localised and peculiar City of Johannesburg circumstances and dynamics to the conceptualisation and implementation of the 'separation of powers' governance model. Second, significant research also exists that there is a scarcity of evaluations of local governance interventions, generally, and in South Africa in particular, leading to continuous interventions and governance reforms being implemented without sufficient lessons being drawn from past interventions. The study draws conclusions, lessons and recommendations from the City of Johannesburg's implementation of this governance model, that are relevant and can inform further roll-out of the governance model beyond the City of Johannesburg, specifically, the challenges as well as the extent to which this governance model does indeed address and promote oversight, accountability and public participation.

The study defined and theorised the relationships between governance in general, democratic governance and public accountability as a key feature of democratic

governance. The study also identified the separation of powers principle as a guiding theoretical model for the City of Johannesburg's governance model and establishes key processes of oversight, scrutiny and public participation as key to the attainment of public accountability. For this to happen certain attributes must exist in the governance model to support the causal relationship between oversight, scrutiny and public participation on one hand and public accountability on the other.

The study selected democratic governance, institutional theory and the principal agent theory to account for the findings and results of the study. Specifically, democratic governance was useful to explain the governance reforms and the implementation of the 'separation of powers' governance model in Johannesburg as an attempt to improve the practice of democratic governance at local government in Johannesburg and South Africa. This explains the specific focus on the oversight, accountability and public participation imperatives of the governance model. Institutional theory was relevant to explain the form and structure of the governance model and how these are a result of the specific circumstances and dynamics of the City of Johannesburg's physical and political landscape. It accounted for the similarities between the City of Johannesburg legislature and national and provincial legislatures already existing in South Africa. It also explains the establishment, number and size of committees implemented in the City of Johannesburg governance model. The principal agent theory was appropriate to account for the practice of oversight and accountability within the governance model, specifically the delegation of legislative functions of Council away from executive structures (mayoral committee and section 80 committees) to legislative structures (Council and its committees), as well as the development of internal practices and procedures that facilitate the accountability of the executive to the legislature (such as question time, oversight tools among others).

Using a qualitative research strategy, a case study design, document analysis and semi-structured interviews as the key data collection method, thirty-five key governance model stakeholders were identified and interviewed across the political and administrative spectrum. All interviews were transcribed and coded looking for the relationship between individual leader themes and the extent these linked to certain research focus areas. The patterns determined from the data (interviews and document analysis) were used to explain the conceptualisation of the governance model, identify the challenges with its

implementation and to establish whether, indeed, the governance model is promoting the governance practices of oversight, accountability and public participation.

Based on the above, chapter 4 found that despite some levels of variation, there is, generally, a commonly shared understanding of the objectives of the model as improving accountability, oversight and public participation and that the establishment of the governance model presented a major transformation in the physical governance structure and governance arrangements of Council, in line with the physical structure and governance arrangements applied in provincial and national legislature. The City of Johannesburg retained the use of committees, albeit increased in number and with a broad range of delegations and powers to implement legislative functions of Council. There are also a range of internal processes and mechanisms such as question time, motions and debates that support committees and council to execute its responsibilities. The City of Johannesburg also put in place significant physical and financial resources, insufficient in some instances to support the implementation of the governance model. The institutional theory indicates that the logic and physical structure of the governance model were borrowed from the already existing templates of national and provincial legislatures.

Chapter 5 established that the governance model is facing challenges in its implementation. These relate to an obscure and contested legislative and policy environment as well as the perception of inadequate range of powers available to oversight committees; the inadequate capacitation of oversight committees including limited availability of technical support; high levels of majority party dominance including appointments to leadership positions such as chairpersonship of committees; the close to non-existent influence of oversight committees in the budgetary process; a relationship of subtle conflict between the legislature and the executive, and, poor levels of public participation practiced by oversight committees.

The results and findings of Chapter 6 reveal that despite the challenges summarised above, the governance model, to a certain extent is promoting the governance process of oversight and accountability and to a very limited extent public participation in Council activities. The oversight committees of council are functional to the extent they are conducting their core activities such as undertaking oversight visits and performance monitoring of departments and entities of the City. Committees are

using some of the powers and authority available to them while council has put in place procedures for conduct of debates in Council. Oversight committees have established some level of independence and are in control of their oversight agenda. However, the study established that the measures applied to promote the participation of the public and civic society have faced significant challenges.

7.2. Conclusions

Attempting to answer the primary research question, of whether the governance model promoted accountability, oversight and public participation in City of Johannesburg presented a multifaceted, complex picture (as reflected in chapters 4, 5 and 6)—of a governance model that is well conceptualised and established, executing routine tasks of oversight, accountability and public participation, but facing major implementation challenges—leading to it failing to reach its full potential regarding ‘real’ oversight, accountability and public participation. Based on the evidence gathered in the City of Johannesburg, two extremes can be established. There are instances and examples of good routine practice, mechanisms and processes on the one hand and the absence of evidence of a ‘real’ culture and values of oversight, accountability and meaningful public participation on the other. The overall perceptions of stakeholders were diverse, split among, affirming that the model had promoted accountability, oversight and public participation; lack of conviction in the model and the extent of its promotion; and the outright disappointment the model was not promoting oversight, accountability and public participation. The chapter concludes that based on programme documentation and engagements with respondents there is evidence the model promoted accountability, oversight and public participation, however, the potential for improvement remained significant.

Several conclusions can be drawn from the study. From a critical analysis of the causal logic of the governance model, it can be concluded that the governance model is failing to account for several challenges such as inadequate time for oversight activities among others, as incorrect assumptions were made at the point of conceptualisation, about the factors that would influence its successful implementation. A critique of the logic model of the governance model has shown that the City’s assumptions on factors such as — the part-time nature of councillor occupation and thus inadequate time available for oversight work, cases of inadequate councillors capacity to effectively take up their

roles, the often incomplete participation by councillors in capacity building processes and the general lack of financial resources to implement the model — were flawed and therefore not mitigated upon in the conceptualisation of the governance model. This led to these factors presenting limitations in the implementation of the governance model.

Despite the theoretical and formal definition of ‘separation of powers’ there are local political and organisational factors that influenced and shaped the conceptualisation and implementation of the model leading to the City of Johannesburg implementing a merged/fused version of the separation of powers model. This is because the constitutional mandate of Council eliminated the possibility of a formal and physical separation between the executive and legislative arms of government as was possible with provincial and national spheres of government. Political party considerations and loyalties also influenced implementation of the model sometimes as shown by committees failing to rise above political party positions; the opposition criticising to fit their opposition position and majority party passing decisions based on numbers and not on rational considerations.

One of the key drivers of the governance model is its intention to establish some form of parity between the executive and the legislature, to empower the legislature to hold the executive to account and to elevate the status of the legislature in terms of responsibilities and decision making was raised to be equal or close to that of the executive. As chapter 5 showed, while non-executive members of council received more responsibilities of oversight and accountability, the legislature started off from a very weak position, weak in terms of resourcing as well as access to organisational information and structures. Notwithstanding some achievements attained such as allocating the legislature its own secretariat, allocating more responsibilities to non-executive councillors as well as approval of delegations of authority to council and its committees, these milestones did not lead to the legislature rising significantly in terms of its authority within the City when compared to the executive. This meant during the two terms, the model is failing in elevating the legislature to the same or close status as the executive. As a result, the legislature is not able to exert similar influence on the City as an institution.

Yet another conclusion to be drawn is that the City of Johannesburg’s governance model is a refreshing improvement in democratic practice in the municipality, presenting

proof that separating executive and legislative functions, to an extent promotes governance processes of accountability and oversight. While criticisms were raised, there is evidence of commitment to the new model. This commitment is evident across all interviewees from council to the administration, from the governing party to those in opposition. There is no disagreement on the need for a new model, nor is there dispute about the City's role in creating a precedent. Differences of opinion emerge on how the process unfolded. There is agreement that in theory, the model promotes good governance and service delivery and ensures that executives were accountable. It improved the role of non-executive councillors to participate directly in the governance process and not through the executive structures as was the previous governance model. Theoretically, the model is also capable of entrenching a culture of efficient use of oversight and accountability. Despite the model being a refreshing innovation, there are several challenges preventing it from progressing towards its higher-level outcomes.

Particularly, accountability and oversight improved in council and its committees, because of several processes including tools such as oral and written questions, oversight visits, debates and more orderly council processes and passing of resolutions from committee oversight reports. The City of Johannesburg successfully implemented many overt aspects of the 'separation of powers' governance model such as establishment of oversight committees, development of standing rules and orders of council, implementation of question time among others. It can therefore be concluded that in the period reviewed by this study, the process of oversight was adhered to but not always the outcome of the process of oversight which remained a problematic concept in the City of Johannesburg. So, while the City of Johannesburg implemented a set process and structure of oversight, the influence of oversight on the overall decision-making process remained problematic and divisive in terms of opinion. As a result, the study concluded, the potential for the governance model to deliver remained immense, and that potential is being realised only on a limited and infrequent basis.

It is also concluded that the governance model is struggling with establishing the subtle aspects of the governance model such as values and culture of oversight. Oversight and accountability processes are prioritised in the City, as reflected in processes, relevant mechanisms, and rhetoric, council and committee guidelines among other interventions. However, the influence of these overt processes, mechanisms and guidelines is limited as

shown by perceptions that the culture and values of real oversight and accountability are absent. As a result, the establishment and implementation of the City of Johannesburg governance model are not matched with a corresponding uptake of the values of oversight and scrutiny. The model is influencing governance processes but not their outcome (decision making) as largely, the process of oversight is adhered to, but the process is not always permitted to influence the outcome of the process. So, while the City of Johannesburg religiously implements a set process and activities of oversight, in the form of oversight visits, committee meetings, oversight reports among other processes, it is its meaning and influence on the overall decision-making process that is problematic and divisive in terms of opinion.

The study concluded that despite the perceptions revealed in this study, largely driven from a political party perspective, there was limited empirical evidence that the choice of chairperson from either the majority or opposition party had a direct impact on the performance of oversight committees. The appointment of chairpersons of oversight committees from the majority party had two divergent interpretations. There was a view that the having majority party chairpersons exercising oversight over their own political party colleagues, who may in some instances be senior to them in their political party was a sign of a maturing democratic process. However, there was also a perception that such a situation served to reduce the quality of oversight and the ability of committees to hold the executive to account. Chapter 3 of the study showed that there were different models to appointing leaders of oversight committee, ranging from allocating some committees to opposition parties as well as appointment of chairpersons of oversight committees and choices were rather informed by institutional dynamics.

We also conclude that City of Johannesburg's governance model is not maximising on its full potential because of significant challenges confronting the governance model. The strong perception of mistrust between the executive and the legislature at both political and administrative levels in the formative stages negatively affected the model's implementation. This perception took the form of the legislature (oversight committees) being accused of interference and micro-management by the administration, accusations of the administration withholding important information from oversight committees as well as accusations of general resistance by the administration of the oversight authority of oversight committees. This is how the subtle

conflict envisaged in the 'separation of powers' principle unfolded in the City of Johannesburg.

In the City of Johannesburg governance model, oversight is, essentially, a very reactive function based on committees undertaking oversight visits based on checking of performance reports of departments without other oversight dimensions such as policy making and by-law development. Committees are focussed on scrutinising and questioning decisions of the executive based on the reports submitted by members of the mayoral committee. This is also limiting the role of the governance model to act as an early warning system to performance issues in City departments as the oversight process is always focussed on past performance as the timelines prevent oversight processes from being current. The study found little evidence in the study that the model has sufficient capacity and processes to serve as an early warning system for Council and despite some annual planning sessions being held for oversight committees, a pro-active oversight agenda setting remained a challenge. As a result, the quality of accountability and oversight achieved in the first political terms of office is largely skewed towards attaining executive (MMC) accountability and less towards improved decision making, value for money and even less, policy development. Despite this conclusion, the constant focus on performance reports is improving the responsiveness and accountability of the executive to the legislature as members of the mayoral committee appear before the oversight committees to respond to matters contained in their performance reports.

The study also concludes that despite verbal anecdotes to the contrary, the ability of the City's council and committees to track and evaluate the extent of executive compliance with council resolutions, started off well but is generally weak and close to non-existent. It established that only in a few identified committees is this happening. During the two first two terms, Council did not have a working system to track council resolutions while the requirement to report on a quarterly basis to council on the implementation of council resolutions was not implemented. The research thus concludes that this is because of several factors including the poor quality of resolutions developed by committees, lack of capacity among committee support staff and the fact that there are just too many committee resolutions, many of a questionable quality making responses and accountability even more difficult. The overall effect of this is a failure to establish accurate levels of accountability and answerability to correct service delivery problems or

other problems identified which could be improved through improved monitoring of the implementation of Council recommendations.

Another conclusion the study arrived at is that despite perceptions to the contrary, an assessment of the perceptions reveals the existing South African legislative framework is sufficient to enable the implementation of the 'separation of powers' governance model as envisaged in the City of Johannesburg but that firm internal guidelines are required to complement this legislative framework. Throughout, the study found a common theme that the legislative framework is insufficient based on several interpretations. This contributed to the inertia experienced in the implementation of the governance model, culminating in challenges with the implementation of the model. The study concludes that these perceived challenges were not entirely anchored in the absence of an appropriate legislative framework. They were rather informed more by the need for the legislature in the City to have an enforcement tool, in the form of a legislative instrument that could be used to enforce compliance with the requirements of the oversight and scrutiny framework, terms of reference of committees as well as standing rules and orders of council. The research concludes, therefore, that the South African legislative framework, as it currently exists, while not too prescriptive, provides sufficient room for the implementation of a 'separation of powers' governance model as envisaged in City of Johannesburg metropolitan municipality. The study did not, therefore arrive at a conclusion that a legislative review is a pre-condition for the successful conceptualisation and implementation of a local governance model like the one implemented in the City of Johannesburg metropolitan municipality.

The study also concludes that, beyond focussing on the numbers attending Integrated Development Planning sessions, the 'separation of powers' governance model is not leading to, or promoting sufficiently, significant improvements in the participation of the public in council activities in the period reviewed by the study. There is very little evidence of public participation or participation by civil society in council activities as well as the activities of oversight committees for several reasons — including unavailability of the physical space to accommodate the public, absence of stakeholder databases to support consultation, lack of a clear strategy to accommodate the public in council activities all compounded by the adoption of a compliance driven public participation process. This means many routine public participation activities such as integrated

development planning consultation sessions are not leading to meaningful and empowering public consultation and participation. The City of Johannesburg also does not have an institutional mechanism that allows ward committee recommendations and engagements to be carried through onto to the agenda of Council. It is therefore concluded that the public participation approach in the City is too weak and so compliance driven that it does not address the objectives of empowering, educating, informing and collaborating with different stakeholders and there is very little evidence that committees are seeking or using the input of other stakeholders in the development of committee oversight reports.

7.3. Limitations

The study faced a few limitations especially emanating from the political nature of the City of Johannesburg Council. Due to other political commitments and access challenges not all interviewees, especially high level political office bearers such as the executive mayor, as well as some councillors were available for interviews to mitigate, document analysis became a dependable and safer data collection tool where interviews could not be conducted with specific individuals thus ensuring that that the study still had access to the perceptions of important stakeholders.

The study would have benefitted immensely from accessing all selected reports emanating from oversight reports of portfolio committees as well as reports of council. However, the study encountered a limitation in that there was some project documentation that was not accessible to the study, primarily because committees failed to produce these reports, for example reports tracking the implementation of Council resolutions, which despite the requirements to produce them, were non-existent in the 2011 to 2016 political term. There were instances when key programme documentation, such as reports (e.g. oversight visit reports) that assists in the development of a perception of programme process, were not available for several reasons. While this presented a critical finding on functionality, the outputs of the governance model, that not all governance model outputs were produced, the availability and analysis of these reports would have enhanced the quality of the study's findings. This was a key limitation of the document analysis process because it was dependant on accuracy of programme staff to record data.

Another limitation of the study relates to its choice of data collection tool—the interview. There is a real possibility that some information and stakeholder perceptions may have remained disguised as respondents tried to put positions intensely at the expense of other information. The City of Johannesburg being a political environment, there is a strong possibility some of the views obtained by the study could have been informed by political objectives as compared to unbiased views on the governance model. Despite mitigating with a corroboration of interview outcomes with information obtained from document analysis and analysis of programme information this remained a limitation for the study.

7.4. Recommendations

The recommendations articulated below cover generally, two broad areas emanating from this study; (i.) interventions that can be considered and implemented to improve the concept and implementation of the governance model and (ii.) policy recommendations on the expansion and implementation of the governance model to other municipalities, if pursued. First, despite conclusions on the adequacy of the existing legislative and policy framework to support the City of Johannesburg’s governance model, the constant theme of doubt around this adequacy contributes to the recommendation that the City of Johannesburg must still undertake a legislative review and adopt a formal city perspective on the adequacy of the current legislative framework. Developing a formal position on this will allow the City to adopt and share a common understanding of the current legislative framework and its appropriateness for the model. This will allow the role players to focus on the implementation of the model with legislative certainty.

The second recommendation relates to a central theme of chapter 5 relating to the challenges experienced in the governance model with the attendance of members of the mayoral committee to oversight committees. It is recommended that the periodic attendance of members of the mayoral committee to oversight committees be specified and formalised (whether monthly or once a quarter) and not only by invitation of oversight committees as is currently the situation. This will help provide certainty while eliminating current challenges wherein members of the mayoral committee attend meetings where their presence is not required. It is therefore recommended that the oversight scrutiny framework be amended to make it mandatory for MMC’s to appear at least once a quarter before the Section 79 Committee, an appearance that is planned to derive the most benefit from having a member of the mayoral committee attending

oversight committee meetings, including ensuring that all recommendations made by the committee during the quarter, would have been addressed.

The third recommendation relates to the absence of public and civic participation in the activities of Council or its committees as identified in chapters 5 and 6. It is recommended that the City of Johannesburg develops a specific governance model communication strategy to profile the 'separation of powers' governance model to the public and stakeholders. This will require alignment of the governance model activities with other networking partners such as non-governmental organisations and other organised formations. Fourth, it is recommended that the accountability lines of the Secretary to Council should be formalised and the requisite delegations adopted by Council. This will allow the municipal manager to be the only accounting officer for the City as required by the Municipal Finance Management Act.

Linked to the third recommendation, in the current setup, there aren't any functional institutional mechanisms that permit ward committee recommendations and findings to be carried through onto the agenda of Council. In practice the ward committee system can play a key role in a broader separation of powers governance model particularly in terms of public participation and oversight. It is therefore recommended that the functionality of ward committee system be reviewed from the perspective of how ward committees participate and contribute to the 'separation of powers' governance model.

The fifth recommendation relates to building the capacity of both the councillors and committee support staff to enable the implementation of the governance model. It is recommended that a comprehensive standard capacity building programme covering both generic and sector or portfolio specific training be developed to orientate councillors on the governance model and to support councillor participation in committee activities. This should include standard budget analysis and finance training. It is also recommended that this be complemented with up-skilling of committee support staff in aspects such as legislative research, report writing and minute taking.

Sixth, it is recommended that for other municipalities that may consider a similar governance model that they be permitted to define a minimal structure and to select the number and size of committees that meets their councillor resources and does not stretch

these due to the demands this governance model can make on councillors. Such a municipality must also ensure that all necessary institutional arrangements are in place before the model is adopted and implemented.

Seventh, and last, as part of recommendations for future research, the period after the local government elections of 3rd of August 2016 is not covered in this study but can potentially present an interesting future research focus as the City of Johannesburg experienced a change of government. After being run by the African National Congress from 2000 to 2016, a coalition government or minority parties emerged to control the City administration after the August 16 local government elections. An assessment of the governance model under a new government dominated by political parties who formed the opposition prior to 2016 can help to establish the effect of the change of government on the implementation of the governance model.

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APPENDICES

Appendix 1: Sample Interview Guide

Interview Guide / Schedule

Evaluation City of Johannesburg 'Separation of Powers' Governance Model

My Name is Salatial Chikwema. I am a registered PhD Candidate with Witwatersrand University's School of Governance. I am undertaking a data collection exercise towards my research entitled **"An Evaluation of City of Johannesburg's 'Separation of Powers' Governance Model"**. The research is being conducted under the supervision of Dr Kambidima Wotela. The purpose of my research is to establish whether the implementation of the 'separation of powers' governance model has improved governance processes in the City of Johannesburg. Please assist with participating and responding to the questions below. I can be contacted on salatialc@joburg.org.za. Thank you.

Name of Interviewee:

Political Party:

Designation / Position:

Number of Years in Position:

Date of Interview Completion:

Focus Area 1: Objectives of the 'Separation of Powers' Governance Model

1. Briefly describe what you understand the objectives of the Governance Model to be?

2. In what way has the role of Council as a Legislature has been strengthened as a result of implementing the Governance Model?

3. What improvements have you observed in the governance of the City? To what extent can these improvements be attributed to the separation of powers governance model?

4. In your view, what public participation improvements, if any have taken place as a result of the implementation of the 'separation of powers' governance model?

5. What is your view of the level of progress towards objectives of the Governance Model, in general? Any evidence to support your view?

Focus Area 2: Effect of 'Separation of Powers' on Governance Processes in the City

6. In your opinion, in what ways has the 'separation of powers' governance model influenced the practice of oversight and accountability in the City?

7. In your view, how has the 'Separation of Powers' Governance Model impacted on the role of non-executive Councillors in the City?

8. How has the implementation of the model impacted on the following; “administrative and executive attendance to oversight committee meetings”, “executive response to oversight committee requests”, and “question time in Council”

Focus Area 3: Functionality of ‘Separation of Powers’ Governance Model in the City of Johannesburg

9. How would you describe the model as functional / in terms of the following?
- (i.) powers of oversight committees (ii) capacitation of oversight committees (iii) levels and effects of majority party dominance (iv) role of oversight committees in the budgetary processes (v) relationship between the legislature and the executive (vi) levels of public participation practiced by oversight committees

- (ii.) Are there any other indicators you would like to mention?

Comments _____

How do you rate the functionality of the governance model?

Rating of Functionality				
1 Poor	2 Fair	3 Good	4 Very good	5 Excellent

10. How do you describe the levels of research and administrative support provided to oversight committees? Is there any other support mechanism provided to committees and how do you rate this support?

Comments _____

11. What role does your function play in the implementation of the ‘Separation of Powers’ Governance Model?

12. What systems has your function developed, implemented or utilised to improve the functionality of the governance model? What has been their effect?

13. What challenges do you face in executing your function to support the model?

14. What factors / challenges reduce the functionality of the governance model?
Focus on

15. In your opinion are Section 79 oversight committees functional and effective in their mandate? Please substantiate your response.

16. How do you rate Improvement in public participation? In what ways do Section 79 Committees and Council promote public participation in their activities? In your opinion, how can this be improved upon?

Rating of Functionality				
1 Poor	2 Fair	3 Good	4 Very good	5 Excellent

17. Do Council debates generally reflect the pertinent issues that the Municipality is facing? If yes, how can this trend be attributed to the Governance Model?

18. What is your opinion of Council and Section 79 Committees' ability to track the implementation of their resolutions and recommendations? Are the current processes adequate? Can they be improved upon, and how?

19. How do you rate the executive on compliance to Council resolutions? In your opinion, is the Executive often / always cooperative when it comes to Oversight Committees? Please elaborate.

Rating of Functionality				
1 Poor	2 Fair	3 Good	4 Very good	5 Excellent

20. In your opinion, do non-executive councillors have the capacity and competency to carry-out their roles as envisaged in the model be enhanced?

21. What would you say are the key strengths and weaknesses of the 'separation of powers' model as currently implemented in the City of Johannesburg? How can the weaknesses be improved upon?

Appendix 2: Consent letters

PARTICIPANT CONSENT LETTER

Wits School of Governance
University of the
Witwatersrand
2 St David's Place
Johannesburg
2050

Date

Dear Councillor/Ms/Mr

REQUEST FOR YOUR PARTICIPATION IN DATA COLLECTION FOR A PhD STUDY

I am a registered PhD Candidate with Witwatersrand University's School of Governance. I am undertaking a data collection exercise towards my research entitled "An Evaluation of City of Johannesburg's 'Separation of Powers' Governance Model". The research is being conducted under the supervision of Dr Kambidima Wotela. The purpose of my research is to establish whether the implementation of the 'separation of powers' governance model has improved governance processes in the City of Johannesburg.

I am hereby seeking your consent to interview you as part of my data collection activities. To assist you in reaching a decision, I have attached to this letter:

- (a) A copy of an ethical clearance certificate issued by the University;
- (b) A copy of a permission letter from the Speaker of the City of Johannesburg Legislature;
- (c) A copy of a permission letter from the Secretary to the Council of the City of Johannesburg Legislature; and,
- (d) A copy of the research instrument which I intend using to collect the data

Should you require any further information, please do not hesitate to contact me or my supervisor. Our contact details are as follows:

- Dr Kambidima Wotela, Wits School of Governance, kambidima.Wotela@wits.ac.za 073 395 1951 / Tel: (011) 717 3520
- Salatial Chikwema, 563958@wits.students.ac.za salatialc@joburg.org.za / 0837650128 / 0115874365

Upon completion of the study, I undertake to provide the City of Johannesburg with a copy of the thesis. Your permission to conduct this study will be greatly appreciated.

Yours sincerely,

Salatial Chikwema

Participant Informed Consent to participate in the following study: “An Evaluation of the “Separation of Powers” Governance Model in Johannesburg Municipality”.

The Researcher

My name is Salatial Chikwema, and I am a student at Witwatersrand University. I am conducting a PhD research study on the separation of powers governance model implemented in the City of Johannesburg.

The Research

The purpose of this study is to assess the effect of the separation of powers governance model on governance processes in the City of Johannesburg. The study seeks to also document the implementation of this governance model. The study's findings will be able to serve as recommendations on whether implementing separation of powers governance model in a metropolitan municipality improves governance processes in that municipality. The study will also document the implementation processes followed in the City of Johannesburg pilot.

The Process

Your participation in the study will involve an interview with an estimated length of one hour. This interview will be tape recorded for later analysis.

Risk

This study poses little to no risk to its participants. I will do my best to ensure that confidentiality is maintained by not citing your name within the actual study. You may choose to leave the study at any time, and may also request that any data collected from you not be used in the study.

Participants' Understanding

- I agree to participate in this study that I understand will be submitted in partial fulfilment of the requirements for the degree of PhD at Witwatersrand University.
- I understand that my participation is voluntary.
- I understand that I will not be identified by name in the final product.
- I am aware that all records will be kept confidential in the secure possession of the researcher.
- I acknowledge that the contact information of the researcher and his advisor have been made available to me along with a duplicate copy of this consent form.
- I understand that I may withdraw from the study at any time.

By signing below you agree that you have read and understood the above information, and would be interested in participating in this study.

Full Name

Researcher: Salatial Chikwema 563958@students.wits.ac.za
Supervisor: Dr K. Wotela Kambidima.Wotela@wits.ac.za

Date

Appendix 3: Permission letter



CITY OF JOHANNESBURG
METROPOLITAN MUNICIPALITY

Councillor Conny Bontle Bapela
Speaker of Council

MEMORANDUM

**TO : CHAIRPERSONS OF SECTION 79 COMMITTEES
THE WHIPPERY**

**FROM : COUNCILLOR CONNY BAPELA
SPEAKER OF COUNCIL: CITY OF JOHANNESBURG
METROPOLITAN MUNICIPALITY**

DATE : 18 JUNE 2015

**RE : AUTHORITY TO CONDUCT PHD STUDY ON THE
CITY OF JOHANNESBURG'S GOVERNANCE
MODEL**

I have been approached by Salatial Chikwema; a PhD student from the Witwatersrand University to grant him permission to undertake a study entitled, "An Evaluation of the Separation of Powers Pilot Programme in City of Johannesburg Metropolitan Municipality".

This letter serves to confirm that he has been granted permission to conduct this study. He has also requested assistance in gathering research for his study.

It would therefore be appreciated if you could avail yourselves, in your capacity as Councillors, for his data collection activities which may include interviews and questionnaires. Salatial Chikwema will communicate directly with the respective councillors selected for this purpose.

Kind regards


COUNCILLOR CONNY BAPELA



Research Office

Appendix 4: Ethical clearance certificate

HUMAN RESEARCH ETHICS COMMITTEE (NON-MEDICAL)

R14/49 Chikwema

CLEARANCE CERTIFICATE

PROTOCOL NUMBER: H15/07/05

PROJECT TITLE

An evaluation of the 'Seperation of powers' governance model in Johannesburg Metropolitan Municipality

INVESTIGATOR(S)

Mr S Chikwema

SCHOOL/DEPARTMENT

Governance/

DATE CONSIDERED

24 July 2015

DECISION OF THE COMMITTEE

Approved unconditionally

EXPIRY DATE

13 August 2018

DATE

14 August 2015

CHAIRPERSON

(Professor J Knight)

cc: Supervisor : Dr K Wotela

DECLARATION OF INVESTIGATOR(S)

To be completed in duplicate and **ONE COPY** returned to the Secretary at Room 10005, 10th Floor, Senate House, University.

I/We fully understand the conditions under which I am/we are authorized to carry out the abovementioned research and I/we guarantee to ensure compliance with these conditions. Should any departure to be contemplated from the research procedure as approved I/we undertake to resubmit the protocol to the Committee. **I agree to completion of a yearly progress report.**

Signature

Date

PLEASE QUOTE THE PROTOCOL NUMBER ON ALL ENQUIRIES

Appendix 5: Sample Terms of reference of committees

TERMS OF REFERENCE: SECTION 79 FINANCE COMMITTEE

- Unless otherwise instructed by the Council, the Finance Committee shall consider and make recommendations to Council on the following matters:

LEGISLATIVE ROLE

IDP, Budget and By-law Process

- The consideration and oversight of the development of the IDP and budget in respect of the Finance and Revenue and Customer Relations Management Department.
- The consideration of the quarterly performance reports of the Finance and Revenue and Customer Relations Management Department.
- To exercise oversight over the development and implementation of all by-laws, strategies and policies of the Finance and Revenue and Customer Relations Management Department.
- The consideration and oversight of draft tariffs, fees and charges in respect of Finance and Revenue and Customer Relations Management functions in the City.

PARTICIPATORY AND REPRESENTATIVE ROLE

- Promote public participation in the Committee's activities
- Promote public participation in the key planning processes of the City as they relate to Finance and Revenue and Customer Relations Management Department
- Ensure that key issues of public concern relating the Finance and Revenue and Customer Relations Management Department are brought to the attention of Council.

OVERSIGHT ROLE

- Exercise oversight over the quarterly/annual performance of the Finance and Revenue and Customer Relations Management Department.
- Exercise oversight over any matter referred to the Committee by the Speaker, Council and/or its Programming Committee.
- Exercise oversight over any matter or activity of the Finance and Revenue and Customer Relations Management Department that will be of concern to the Committee.
- Invite the MMC or any official of the Finance and Revenue and Customer Relations Management Department to account on any matter of interest to the Committee.

REPORTS/RECOMMENDATIONS TO COUNCIL

- To make recommendations to Council as a result of the oversight process outlined above.
- To report quarterly/annually on the oversight activities of the Committee
- To report on the oversight visits of the Committee.