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ENHANCING FINANCIAL OVERSIGHT OF THE PUBLIC ACCOUNTS COMMITTEE IN THE NELSON MANDELA BAY METROPOLITAN MUNICIPALITY

By

Chris Motsilili

A research report submitted to the Faculty of Commerce, Law and Management, University of the Witwatersrand, Johannesburg, in 25% fulfilment of the requirements for the degree of Master of Management (in the field of Public and Development Management)

March 2017

ABSTRACT

In recent years, increased attention being given to accountability on public finances in South African municipalities saw an increase in the number of municipalities establishing Municipal Public Accounts Committees (MPACs) to address deficiencies and gaps in the local government accountability mechanisms and oversight. The purpose of the study was to establish the alignment between the recently established MPACs and the generally accepted public accounts committees with respect to the institutional design, practices and performance assessment.

A qualitative case study of the Nelson Mandela Bay Metropolitan Municipality (NMBM) MPAC was followed where documents were analysed and semi-structured in-depth interviews with purposively selected participants were conducted.

This research study revealed some gaps in the alignment of the NMBM MPAC to the generally accepted public accounts committees. The most crucial gap that emerged pertained to the mandate and powers of the NMBM MPAC. Recommendations for enhancing the financial oversight of the NMBM MPAC were made. The study also suggests further research on a larger number of municipalities.

DECLARATION

I declare that this report is my own, unaided work. It is submitted in partial fulfilment of the requirements of the degree of Masters of Management (in the field of Public and Development Management) at the University of the Witwatersrand, Johannesburg. It has not been previously submitted for any degree or examination in any other university.

_____

Chris Motsilili

01 March 2017

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Many thanks are due to my friend Zolile Mnukwa for the support he gave to me during the report writing of the study.

DEDICATION

I dedicate this work to my late mother,
Mme Maphoka Nonzwakazi Motsilili.

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LIST OF ABBREVIATIONS

AC	Audit Committee
AG	Auditor-General
AFS	Annual Financial Statements
AGSA	Auditor-General of South Africa
APAC	Association of Public Accounts Committees
CCPAC	Canadian Council of Public Accounts Committees
COGTA	Department of Cooperative Governance and Traditional Affairs
CPA	Commonwealth Parliamentary Association
MFMA	Local Government: Municipal Finance Management Act
MM	Municipal Manager
MPAC	Municipal Public Accounts Committee
MSA	Municipal Systems Act
MStr	Municipal Structures Act
NCOP	National Council of Provinces
PAA	Public Audit Act
NMBM	Nelson Mandela Bay Municipality

NMBM MPAC	Nelson Mandela Bay Municipality Municipal Public Accounts Committee
PAC	Public Accounts Committee
PFMA	Public Finance Management Act
RSA	Republic of South Africa
SADCOPAC	Southern Africa Development Community Organisation of Public Accounts Committees
ToR	Terms of Reference
UK	United Kingdom
WBI	World Bank Institute

CHAPTER ONE

INTRODUCTION AND BACKGROUND

1.1 INTRODUCTION

South Africa is expected to provide all its citizens with quality public services in response to the legacy of inequality and socio economic underdevelopment. The three spheres of government and the respective organs of state are required to provide coherent, accountable and effective administration by the Constitution of South Africa. The legislative, as well as the executive authority of the municipality are vested in the council of a municipality. The municipal sphere is therefore expected to have in place effective oversight mechanisms over service delivery and the expenditure of public funds

This chapter introduces the study on enhancing financial oversight of the public accounts committee in the Nelson Mandela Bay Metropolitan Municipality (NMBM). It provides the background to the study, the problem statement, the purpose of the study, research questions, research methodology and the research report outline.

1.2 BACKGROUND

Municipalities in South Africa operate by means of budgets that are passed by their municipal councils as required by the Municipal Finance Management Act of 2003. They are therefore expected to account for their activities at the end of the financial year by producing annual reports and tabling them in their councils.

Before the budget is passed, the political head of the municipality presents a budget and detailed plans that are considered and then approved by the council. At the end of the financial year, the political head of the municipality tables the annual report in the council. The annual report is a document that presents an account to the council of how public funds were utilised by the executive of the municipality. Processes and mechanisms of reviewing whether the budget was indeed utilised according to the wishes of the council and according to the legal framework are still emerging and hence are not well established in the South African Local Government.

The Constitution of the Republic of South Africa charges the national and provincial legislatures with the responsibility of establishing systems that enable them to ensure that government is accountable to them and to maintain oversight of government action. According to Senay and Besdziek (1999, p.12), prior to 1994 parliament played a minor oversight role at the national level and none in the provinces as there were no legislative institutions. Hence there are no significant South African lessons from the apartheid era. In the case of municipalities, accountability and oversight mechanisms are not elaborated in the South African Constitution.

Some pieces of legislation and various guidelines have been developed to guide accountability and oversight mechanisms in municipalities. However, with respect to financial management systems, accountability and governance, many challenges are faced by the municipal sphere. The big proportion of qualified reports issued annually by the Auditor General of South Africa (AGSA) is an indicator of the financial management weaknesses in local government. There have also been regular instances of civil unrest arising from perceived service delivery failures within many municipalities. Interventions in the form of corrective action are urgently required to improve accountability and also enhance effectiveness in the management of public resources.

Committees are appointed as the main mechanisms of oversight at national and sub national level by legislatures across the world. With respect to financial oversight, public accounts committees are appointed by the various legislatures as the core oversight mechanism. The Public Accounts Committees (PACs) hold to account retrospectively those agencies who are mandated to implement annual plans and priorities with public funds. Despite the varying degrees of success, over time PACs have built up a reputation as one of the preferred financial oversight mechanisms.

This study explores progress in effecting the accountability and oversight mechanisms as provided for by the Constitution of the Republic of South Africa (Act 108 of 1996), local government legislation and associated guiding frameworks. A case study method was utilised to assess the institutional design, practices and the performance measurement mechanism of the Nelson Mandela Bay Municipal Public Accounts Committee (NMBM MPAC).

The research results pertaining to the lessons arising from policy implementation were expected to be significant for South African policy makers.

1.3 PROBLEM STATEMENT

The Constitution of South Africa provides for three spheres of government that are accountable and transparent. In addition, it also provides for local government that is democratic and accountable to the communities. With respect to the national and provincial spheres of government, governance arrangements for oversight and accountability are well elaborated in the Constitution.

These include the separation of powers between the executive and the legislature; the oversight role of the legislature over the executive; and the accountability obligations of the executive. With respect to local government, the Constitution provides for a municipal council that has both executive and legislative powers. However, the governance arrangements for oversight and accountability in the case of local government are not elaborated in the Constitution, a problem that this study sought to investigate.

According to Murray and Nizjink (2002, p.103) the South African Parliament and the nine Provincial legislatures have established PACs as one of their oversight mechanisms over the executive arm of government. The PACs' core function is to satisfy the legislatures that expenditure is in accordance with resolutions in the budget vote, the constitution and the relevant legislation. According to Stapenhurst, Sahgal, Woodley and Pelizzo (2005, p. 4), "public accounts committees are seen as the apex for financial scrutiny and have been promoted as a crucial mechanism to facilitate transparency in government financial operations". In addition, Stapenhurst et al (2005, p.3) maintains that a public accounts committee is a core institution for public financial accountability and that it is a key instrument that a legislature can utilise to further strengthen oversight over public resources Furthermore, McGee (2002, p. 55) asserts that, "the PAC helps Parliaments hold the government to account for its use of public funds and resources by examining the public accounts".

The Municipal Finance Management Act (MFMA) that was adopted in 2003 called for the tabling of an annual report of the executive to the council and a mechanism for its review by the council in the form of an oversight report that is also tabled to the council. Section 129(4) of the MFMA further provides for the National Treasury to issue guidance on how municipal councils should consider annual reports, as well as the mode of operation and composition of any financial oversight mechanism established to

support the council when considering an annual report. In 2011, the National Treasury issued guidelines that address the institutionalisation, practices and reporting of the Municipal Public Accounts Committee (MPAC).

The advent of the Municipal Finance Management Act and the subsequent circulars and guidelines for oversight reports and the establishment of public accounts committees has triggered the establishment of such across municipalities in South Africa. This is a very significant development as it represents a key milestone in the development of financial oversight processes and systems for local government. In the 2011/12 audit report on South African Municipalities, the Auditor-General (2013, p.147) asserts that "the MPAC is one of the most critical role-players in municipal oversight and governance and when operating as intended, it should have a positive impact on audit outcomes". According to Khalo (2013, p.579) the establishment of MPACs in South African municipalities is meant to "close the gaps as well as address deficiencies in the local government oversight and accountability mechanisms".

In their analysis of the data collected in 2002 from fifty-one national legislatures in Commonwealth countries, Stapenhurst, Sahgal, Woodley and Pelizzo (2005, p.24) found that the PACs' critical success factors are their institutional design, their behaviour and functioning, information availability and non-partisanship. In addition, according to the National Treasury and the Department of Cooperative Governance and Traditional Affairs (COGTA) Guide for the establishment of MPACs (2011, p.4), "except for certain powers regarding subpoena of individuals, MPACs will undertake and manage similar functions and responsibilities for municipalities, as undertaken by the Standing Committee on Public Accounts in the national and provincial legislatures". However, very little is known about how the institutionalisation as well as the operations of MPACs in each of the South African municipalities compares with other public accounts committees internationally, whether MPACs have the authority to review all previous and

current municipal expenditure irrespective of when it was incurred, their relationship with the Auditor-General, and whether the MPACs have mechanisms in place to measure their performance.

Therefore, this study sought to gain in-depth insights on the progress made in the institutionalisation and operations of a Municipal Public Accounts Committee. It is necessary for the policy makers to understand the progress made in the institutionalisation and operations of the MPAC's in South Africa as they seek to strengthen accountability in municipalities. The results of the study build on the recent research on MPACs in South Africa and will contribute to the sharing of lessons among municipalities on the practices that enhance effective financial oversight and inform policy makers about the emerging lessons.

1.4 PURPOSE OF THE RESEARCH

The purpose of the research was to understand the progress made in the establishment and operations of the Municipal Public Accounts Committee in the Nelson Mandela Bay Metropolitan Municipality (NMBMM). The insights gained from the research will contribute to the knowledge pertaining to the experiences and obstacles faced by South African municipalities in the roll-out of Public Accounts Committees at municipal level. The research results will highlight possible policy gaps that need to receive attention from the policy makers in South Africa and also demonstrate the practices that support effective and efficient financial oversight.

Therefore, the objectives of the research were:

a) To assess the alignment between the institutional design of the NMBM MPAC and the institutional design of the generally accepted public accounts committees internationally;

b) To understand the practices of the NMBM MPAC and their alignment to the generally accepted public accounts committee practices internationally; and
c) To understand the NMBM MPAC performance assessment mechanisms.

1.5 RESEARCH QUESTIONS

The research questions are the following:

1. To what extent is the institutional design of the NMBM MPAC aligned to that of generally accepted public accounts committees?
2. To what extent do the practices of the NMBM MPAC align to those of generally accepted public accounts committees?
3. What are the mechanisms for measuring the performance of the NMBM MPAC?

1.6 RESEARCH DESIGN AND METHODOLOGY

Creswell (2013, p.107) defines a research design as, “a set of guidelines and instructions to be followed in addressing the research problem”. He further believes that the research design enables the researcher to anticipate the appropriate research decisions that are necessary so as to maximise the validity of the eventual results. A case study research design was followed where a phenomenon in the form of a community, institution, group or individual is intensively described and analysed (Merriam, 2011: p.8). In particular, the researcher sought to understand the experiences and perspectives that are prevailing in the Nelson Mandela Bay Metropolitan Municipality (NMBM) Municipal Public Accounts Committee (MPAC) pertaining to accountability and oversight.

Salkind (2012, p.213) asserts that the qualitative research method entails an exploration of processes that underlie human behaviour. In addition, Myers (2013, p.9) believes that qualitative research is suitable when studying a particular subject in depth, a particular topic is new and previously published research is limited. A qualitative research method was therefore deemed more appropriate for this study in order to understand the phenomena under investigation from the participants' perspectives.

The researcher used purposive sampling which is a universal attribute of non-probability sampling procedure (Lyon, 2012, p.88). One metropolitan municipality was selected by the researcher. Document review and interviews were employed by the researcher.

1.7 RESEARCH REPORT OUTLINE

The research report will follow the outline below:

Chapter 1 introduces the research topic and provides a background to the study.

Chapter 2 reviews the literature on accountability and oversight by addressing the theoretical framework, the conceptual framework, and lastly the legislative and regulatory framework.

Chapter 3 presents the research design and methodology that were followed.

Chapter 4 presents the Data and its Analysis.

Chapter 5 presents Findings and Recommendations.

CHAPTER TWO

LITERATURE REVIEW

2.1 INTRODUCTION

Within the broad oversight process in legislatures, the Public Accounts Committees (PAC's) role is very specific in that it assesses the extent of alignment between resource management and policy implementation through reviewing and following up on the reports of the Auditor General. Academic research should be encouraged in the area of public accounts committees as they are key in ensuring effective governance and public sector accountability.

In this section the researcher reviews the literature on accountability and oversight. This section is divided into the theoretical framework, the conceptual framework, and lastly the legislative and regulatory framework. The theoretical framework covers the conceptual theory of accountability and public accountability. The theoretical framework will serve as a lens in the investigation of financial oversight.

The second part of this section deals with the conceptual framework. This literature review will help the researcher to form the basis for his research as this review will reveal the already accumulated knowledge in this area. A number of concepts introduced by various writers are discussed.

The third part of this section deals with the legislative and regulatory framework for the South African municipalities.

2.2 THEORETICAL FRAMEWORK

The theoretical framework forms the underlying structure which can be compared to the construction of a new building wherein there is a foundation upon which the structure is built. Based on the above perception, no single theoretical perspective is adequate for gaining an insight into and understanding of financial oversight. Hence the researcher anchored this research project on Lindberg's (2013) accountability conceptual theory and Boven's (2006) public accountability theory as the lens through which to view accountability and oversight in municipalities.

2.2.1 Lindberg's accountability conceptual theory

According to Lindberg (2013, p.209), "the defining characteristics of any form of accountability can be expressed in various ways and consist of the following elements:

a) An agent or institution who is to give an account (A for agent);
b) An area, responsibilities, or domain subject to accountability (D for domain);
c) An agent or institution to whom A is to give account (P for principal);
d) The right of P to require A to inform and explain/justify decisions with regard to D; and
e) The right of P to sanction A if A fails to inform and/or explain/justify decisions with regard to D."

These five key characteristics denote the conceptual core of accountability in which there is no requirement for codified formal relationships or that the agents and institutions involved hold an official office or be formal.

The first two characteristics require the transfer of decision making power that is applicable to a specific domain to the agent, with the agent not necessarily in a public office or democratic. With respect to the third and fourth characteristics, there is no requirement for the principal to be a product of a democratic process or act in the interest of the public. At its core, according to Lindberg (2013, p.210), "accountability necessitates only the right to sanction A for failure to provide information and justify decisions. The right of P to also sanction the content of decisions and actions by A is a possibility that if present adds additional leverage for the P but is not strictly necessary for the concept of accountability".

Lindberg (2013, p.212) asserts that "types of accountability can be categorised into three dimensions and twelve sub types:

a) the source of the accountability relationship, i.e. whether the accountability holder, or principal, is internal or external to the one being held to account;
b) The degree of control which the principal exercises over the power holder which can be weak, strong or somewhere in between;
c) The spatial direction of the accountability relationship and this can be vertical or horizontal."

TABLE 2.1 Sub-types of accountability

Source of Control	Strength of Control	Vertical		Horizontal
		Upward	*Downward*	
Internal	High	*Business*	*Bureaucratic*	*Audit*
	Low	*Client-Patron*	*Patron-Client*	*Peer Professional*
External	High	*Representative*	*Fiscal*	*Legal*
	Low	*Societal*	*Political*	*Reputational*

Source: Lindberg, 2013 : p.213

The twelve sub types of accountability are elaborated as follows:

a) Business accountability – the principal is internal to the organisation in the form of shareholders holding to account the executive for generating profit, their degree of control is high and runs vertically upwards.
b) Bureaucratic accountability – the principal is internal to the organisation in the form of senior managers holding to account the lower levels for performance with control that is high that runs downwards.
c) Audit accountability – the principal is internal to the organisation in the form of an auditor holding to account other office holders in the same state organisation for prudence with control that is high that runs horizontally.
d) Client–patron and patron-client accountability – informal accountability relationship that runs upwards and downwards respectively with a low degree of control.
e) Professional/Peer accountability – internal accountability that is either formal or informal among peers that is horizontal and a low degree of control.
f) Representational accountability – accountability in a political democratic system with an external principal in the form of citizens holding to account their elected representatives in a vertical relationship running upwards and a high degree of control.
g) Fiscal accountability – an external principal in the form of a legislature holds to account departments and public entities fiscally accountable vertically downwards with a high degree of control. When the legislature holds the executive for fiscal prudence, the relationship runs horizontally, whereas when Treasury holds other ministries fiscally accountable, the accountability runs horizontally.

h) Legal accountability – an external principal in the form of various judicial institutions holding the public, private sector and public office bearers accountable for lawful behaviour running vertically downwards with a high degree of control. In addition, there are instances where the judicial institutions hold to account other state institutions for the legal compliance of decisions and actions with the accountability relationship running horizontally.
i) Societal accountability – an external principal in the form of civil society and the media holding to account public and private institutions for their actions with a low degree of control and runs vertically upwards.
j) Political accountability – an external principal in the form of elected politicians holding to account the bureaucracy and public agencies for performance runs vertically downwards with a weak degree of control.
k) Reputational accountability – accountability among peers or peer institutions for compliance with established norms and are external to the agent with low degree of control.

This theory is relevant to this study as it provides conceptual clarity by examining the accountability principle which is contained in the supreme law of South Africa, the Constitution. Section 1 (d) of the South African Constitution provides for accountability, responsiveness and openness as founding values of South Africa. In addition, section 41(1)(c) of the Constitution requires effective, transparent, accountable and coherent government for South Africa as a whole by all spheres of government and all organs of state within each sphere. Furthermore, democratic and accountable government for local communities is also provided for in section 152(a) of the South African constitution.

In the context of the study, fiscal accountability relates to the municipal council holding the executive of the municipality accountable for the implementation of its budget, the accountability relationship is horizontal.

2.2.2 Public accountability

Bovens (2006, p.5) defines accountability as, “a relationship between an actor and a forum, in which the actor has an obligation to explain and justify his or her conduct, the forum can pose questions and pass judgment, and the actor may face consequences”. In addition, Bovens (2006, p.9) defines public accountability as a “situation in which account rendering is always accessible to the public and entails matters in the public domain , such as public expenditure, operations of public institutions and private institutions funded by public resources”.

Arising from the above understanding, Bovens (2006, p.13) asserts that “there are five requirements necessary for defining a social relation as one of Public Accountability, and they are

a) account rendering must be open to the general public;
b) there must be an explanation and justification of conduct;
c) the explanation is directed at a specific forum;
d) the actor (agent) feels obliged to come forward;
e) there is the possibility of debate and judgement, including (informal) sanctions”.

The definition of public accountability provided by Bovens (2006) is relevant for the study as it helps to explain the context within which accountability is taking place. In particular, accountability in a municipality pertains to its conduct as a public institution and therefore account rendering has to be open to the public and not be discreet. Furthermore, Bovens’ (2006) conditions for a social relation to qualify as public accountability are aligned to Lindberg's defining characteristics of accountability and are also useful in applying it in the context of assessing financial oversight in a municipality.

Public accountability as outlined by Bovens (2006, p.9) articulates the context and the conditions under which accountability is taking place. In the case of the NMBM, account rendering is accessible to the public and entails matters in the public domain such as public expenditure and operations of public institutions. Public financial accountability in this case entails the scrutiny of the municipal expenditure by the Auditor-General and the executive being held to account by the Municipal Council for the implementation of the budget by the executive, with the MPAC being the instrument of the Council.

Hedger and Blick (2008, p.4) understands public financial accountability as an interface of the executive, the legislature and the Supreme Audit Institution and composed of two dimensions of accountability, the public audit and parliamentary accountability. Public audit is a retrospective review of public expenditure by a Supreme Audit Institution whilst parliamentary accountability, involves the legislature holding the executive to account for implementing the budget in a prudent manner that is aligned the law. The public accounts committee in parliament is primarily concerned with financial accountability. The public financial accountability seems to be consistent and aligned to both Lindberg's accountability conceptual theory and Bovens' understanding of public accountability.

Hedger and Blick (2008, p.5) asserts that the culture of public sector governance in a specific country influences the end objective of public financial accountability. The objective of accountability moves beyond the identification of inefficiencies and includes establishing their causes and providing measures to reduce or eliminate them. In their search for criteria for evaluating the strengths and weaknesses in the performance of public accountability arrangements, Bovens (2006, p. 24) advances the democratic, constitutional and cybernetic theoretical perspectives on public accountability.

2.2.2.1 The democratic perspective on public accountability

The democratic perspective assess the extent to which the accountability arrangement enhances the options open to the voters or legislatures in controlling the executive power. The key indicators for assessing the accountability arrangements include the accuracy, relevance and timeliness of the information about the conduct of the agents and their attitude to oversight exercised by the principal (Bovens, 2006: p.25).

The democratic perspective to public accountability is relevant for the study as the municipality that is being assessed pertaining to the effectiveness of financial oversight is a democratic institution and therefore is supposed to have in place accountability arrangements. In particular, it is important to establish whether the accountability arrangements provide the democratically legitimate principals, in this case the municipal council, with accurate, relevant and timely information pertaining to the implementation of the budget that was endorsed by the municipal council. Furthermore, it is also necessary to establish whether the executive resists or co-operates with the oversight measures arising from the council.

2.2.2.2 The constitutional perspective on public accountability

The constitutional perspective asses the contribution of the accountability arrangement to the prevention of corruption and abuse of powers by the agent. The key indicators include the environment created leading to agents refraining from abusing power and the authority of accountability forums with respect to revealing corruption (Bovens, 2006: p.25). In addition, Hedger and Blick (2008, p.6) notes that action targeted at individuals responsible for the identified financial irregularities which can be in the form of public sanction and punishment are indicators of a functioning accountability process and may have a deterrence result on public officials resulting in reduced levels of financial corruption.

Furthermore, Schacter (2000, p.1) views accountability as a measure to reduce the abuse of power that also helps ensure governments operates within the regulatory framework as they cannot always be expected to voluntarily adhere to the legislation and the mechanisms that control their ability to act.

The constitutional perspective to public accountability is relevant to the study as the executive of the municipality utilises public financial resources on behalf of the citizens to achieve the approved policy objectives. The access to public financial resources carries an inherent risk of abuse and mismanagement and therefore must be utilised according to the rules and in accordance with the wishes of the principal. One of the questions in the study is to assess the alignment of the institutional design of the public accounts committee of the municipality being studied to that of generally accepted public accounts committees, i.e. its establishment, powers and mandate, especially with respect to preventing corruption and mismanagement through interrogating and revealing it where it exists. It is also important for the elected representatives to be clear about the centrality of public accountability in an institution of democracy. The other question in the study is to assess the alignment of practices of the public accounts committee to those of generally accepted committees with respect to whether they advance the objective of preventing corruption and abuse of power.

2.2.2.3 The cybernetic perspective on public accountability

The cybernetic perspective views accountability as an instrument to enhance the effectiveness of individual officials and public agencies in fulfilling their commitments thereby achieving desirable societal outcomes consistently. The key indicators in this perspective include the extent to which the accountability arrangements provide quality feedback and whether the environment created results in officials and agencies revisit

the values and assumptions underpinning their policies, procedures and organisations (Bovens, 2006: p.26).

The cybernetic perspective to public accountability is also relevant to the study as it promotes an environment of learning and revising the initial assumptions on the part of the agents rather than being defensive and having a negative attitude to the exercise of accountability. In the context of the study, the operations of the public accounts committee will expose weaknesses and gaps on the part of the executive of the municipality and make recommendations on measures to improve the situation. The preparedness of the executive to accept and implement the recommendations from the council in general and the public accounts committee in particular demonstrates a shared perspective with respect to serving the citizens in a way that improves their quality of life. For the executive of the municipality to adopt a learning attitude from the accountability arrangements, it is necessary for the engagement between the municipal council and the executive to have a balanced relationship that is not overly confrontational but also has substantial aspects of co-operation towards a shared goal.

2.3 CONCEPTUAL FRAMEWORK

2.3.1 Oversight in perspective

Is oversight the same as accountability? There is a tendency to refer to accountability and oversight interchangeably as if they are the same. This discussion on oversight seeks to answer the above question. With regard to whether oversight and accountability are the same, there is a broad definitional literature and perspectives. It is useful to note the following definitions and interpretation upon which this study draws.

According to Goudge, “accountability is the obligation to answer for a responsibility conferred. When called on to account, a party on whom

responsibility has been conferred must explain and justify against a criterion of some kind his or her decisions and actions. Oversight is the other side of the equation. Once a responsibility has been conferred, oversight seeks to ensure that the responsibility is properly fulfilled. The overseer must ensure that those who hold the responsibility in fact discharge it and are held accountable for their actions and decisions" (Goudge, 2009: p.332). Murray and Nizjink concurs with Goudge on the relationship between accountability and oversight as they also assert that, "the executive is accountable to elected politicians – the legislature – for fulfilling its responsibilities. Thus, 'oversight' and 'accountability' are two sides of the same coin – the accountability of the executive to the legislature is enforced when the legislature exercises oversight over it and scrutinises executive action" (Murray and Nizjink, 2002: p.87).

According to O'Donnell, "horizontal accountability is the existence of state agencies that are legally enabled and empowered, and factually willing and able, to take actions that span from routine oversight to criminal sanctions or impeachment in relation to actions or omissions by other agents or agencies of the state that may be qualified as unlawful" (O'Donnell, 1999 in Kenney, 2000, p.2). DFID concurs with O'Donnell in referring to oversight conducted by state agencies over others as horizontal accountability when they posit that, "horizontal accountability institutions are those in which state entities demand answers from (and sometimes possess the power to sanction) other state entities. Auditors-General, anti-corruption commissions, bureaucratic oversight boards, Parliaments (e.g. parliamentary committees and commissions) – these and other bodies stand in for citizens who generally lack the time, expertise, and collective-action resources to monitor the detailed work of their public representatives" (DFID, 2008: p.8).

The above inputs indicate that oversight is an aspect of accountability, the exercise of which is meant to fulfil the accountability obligation by the delegate through scrutinising its actions and decisions. Oversight is conducted by state agencies who are empowered by the constitution or legislation on behalf of the citizens which can be auditors-general, anti-corruption commissions, bureaucratic oversight boards or parliaments and also oversight that is conducted by a parliament or a legislature supported by auditors-general over the executive in public accountability environments.

Authors define legislative oversight from various perspectives. According to Corder, Jagwanth and Soltau (1999, p.4), “oversight is a commodious concept that refers to the crucial role of legislatures in monitoring and reviewing the actions of the executive organs of government”. According to Fölscher (2006; p.3) “legislative oversight is a mechanism for reviewing government policies and endorsing, revising or rejecting them before the fact or *ex ante”*.

Legislative oversight according to the National Democratic Institute is defined as “the obvious follow-on activity linked to law-making. After participating in law-making, the legislature’s main role is to see whether laws are effectively implemented and whether, in fact, they address and correct the problems as intended by their drafters” (NDI, 2000: p.19). Oversight according to this definition is understood as an exercise undertaken by legislatures on government actions and policies after the policies have been endorsed and does not acknowledge that oversight in some instances takes place before a policy is approved.

Pelizzo and Stapenhurst (2006a, p.3) suggests that, “parliaments and legislatures perform more of an oversight function. They need to evaluate the virtues (or the lack thereof) of government policies, to keep governments in check, to prevent governments from abusing their power,

to assess the merits of governments' legislative proposals, to examine these proposals, and to vote, amend, approve and at times reject these proposals. In addition to oversight which is exercised before a certain policy is enacted and referred as ex-ante oversight, parliaments and legislatures also perform an ex-post oversight function. Parliaments and legislatures are in charge of overseeing policy implementation. Parliaments need to make sure that policies are implemented as they were approved by the legislature".

.Some scholars broadly agree that oversight that is effective enhances the proper functioning of a democratic political system. Others further assert that effective financial scrutiny by legislatures reduces the space for secrecy thereby reducing for corruption to take place (Wehner, 2003: p.22). Parliaments are instrumental in preventing possible abuse of power through exercising their oversight function resulting in governments being accountable and responsive for their actions according to Pellizo and Stapenhurst (2006b, p.17). Furthermore, West and Cooper in Pelizzo et al (2006b, p.4) asserts that policies initiated by the executive arm of government improve in quality and acquire legitimacy through effective oversight and their endorsement by the legislatures. Finally, Stapenhurst (2004, p.6) also suggests that continuous improvements in public financial accountability result when weaknesses unearthed by the audit process are addresses in future budgets.

According to Pellizo and Stapenhurst (2004, p.4), "parliaments have several different oversight tools at their disposal for overseeing the executive, such as committee hearings, hearings in plenary sessions of the parliament, the creation of commissions of inquiry, questions, question time, interpellations, the ombudsman, auditors-general, and the public accounts committees". Stapenhurst (2004; p.1) agrees and adds, "Legislative oversight is nowhere more important than over the budget". Werner (2002, p.3) asserts that legislatures interact with the budget firstly

when they consider and pass the budget; secondly, when they monitor the execution of the budget; and lastly, when they assess whether the implementation of the budget was in compliance with the wishes of the legislature. The last phase of the interaction with the budget is preceded by an audit of the public accounts that is conducted by an independent body, in some cases a court or an auditor-general, followed by the consideration of the results of that audit by the legislature. Pellizo et al (2006, p.6) concurs with the assertion by other scholars about effective oversight having a dependency on additional conditions rather than only on the mere presence of oversight tools, which are the specific oversight powers given to parliaments, the ability of parliaments to modify legislation, access to proper information by parliament from the executive, the role of the public representatives and the role of the chairpersons of parliamentary committees.

Among the challenges around oversight in legislatures, Murray and Nizjink (2002, p.8) highlights the lack of clarity among members of the governing parties about their role in oversight, perceiving oversight as challenging the ruling party and the uncertainty about their responsibility in oversight. In addition, governing party members in the legislature tend to understand their role as the support to the executive instead of ensuring that the citizens receive quality service from their government. In their capacity as public representatives, members of the governing party need to realise that accountability and oversight are their core responsibilities (Murray and Nizjink, 2002: p.87).

2.3.2 Importance of oversight

In articulating the importance of oversight, the South African Legislative Sector (2012, p.16) suggests that as a mechanism of enforcing accountability, oversight is meant:

a) "To detect and prevent abuse, arbitrary behaviour or illegal and unconstitutional conduct on the part of the government and public agencies. At the core of this function is the protection of the rights and liberties of citizens;
b) To hold the government to account in respect of how the taxpayers' money is used. It detects waste within the machinery of government and public agencies. Thus it can improve the efficiency, economy and effectiveness of government operations;
c) To ensure that policies announced by government and authorised by Parliament and Provincial Legislatures are actually delivered. This function includes monitoring the achievement of goals set by legislation and the government's own programmes; and
d) To improve the transparency of government operations and enhance public trust in the government, which is itself a condition for effective policy delivery."

2.3.3 Committees as mechanisms of oversight

According to Armit (2004) of the Parliamentary Centre in Canadian Comprehensive Auditing Foundation (CCAF) (2006, p.10): "It is in committee where the individual MP weaves three strands of an MP's function together: as legislator, reviewing, modifying, amending legislation; as overseer, reviewing government policies, programs and expenditures; and as representative, hearing the various voices of the citizen, representing constituent concerns and reflecting the public interest in the deliberations of the committee."

The most established oversight mechanisms that are utilised by parliaments across the world are committees. They fall into two main categories: those that are granted autonomy by their legislatures as in the United States Congress and those that have delegated responsibilities with decision-making in their plenary such as the Parliament of the United Kingdom (Murray and Nizjink, 2002: p.59). Legislature committees are derived from its rules of procedure and act on behalf of the legislature and according to the responsibilities given to them focussing on legislation, budgeting, inquiry, oversight and legislature management (Friedberg and Hazan, 2012: p.11). Griffith (2005, p.39) asserts that through committees, accountability is deepened and the foundations of representative democracy are fulfilled.

Members of the legislature are assigned to various committees for the duration of the term or on a temporary basis to address matters more closely and simultaneously. Through their participation in committees, members become more knowledgeable on matters within the remit of their committees. In addition, the legislatures interact directly with citizens and other key stakeholders when committees hold public hearings and also open their meetings to the media and the public (NDI, 1996: p.3).

Most legislatures in democratic countries have two types of parliamentary committees, those that are permanent and the ones that are ad hoc (Friedberg and Hazan, 2012: p.12; NDI, 1996: p.5). The permanent committees deal with the legislation and the examination of government's activities and the duration of their operation is the entire term of the legislature. In most cases, they focus on a defined specific subject matter that is sometimes aligned to the portfolios of the executive arm of government. On the other hand, ad hoc committees are established to address specific issues on the agenda of the legislature. Their responsibilities are determined by the legislature and they cease to exist when their task is complete.

Griffith (2005, p.11) categorises five parliamentary committees as follows:

(a) legislative review committees;
(b) Public Accounts Committees;
(c) estimates committees;
(d) other select or standing committees; and
(e) oversight committees for independent investigatory bodies.

This form of categorisation is more specific and it expresses the one by Friedberg et al (2012, p.12) and the NDI (1996, p.5) differently.

In the context of South Africa, the committees play a key role in exercising oversight over the executive on behalf of their legislature as they have delegated powers with the decision-making taking place in the plenary. Unlike other legislatures, the powers of committees in South Africa are provided for in the Constitution of South Africa and are as follows according to sections 56, 69 and 155: “the legislatures or any of their committees may:

a) Summon any person to appear before them to give evidence under oath or affirmation, or to produce documents.
b) Require any person or institution to report to them.
c) Compel in terms of legislation or the rules and orders, any person or institution to comply with a summons or a request for a report.
d) Receive petitions, representations or submissions from any interested persons or institutions”.

Murray and Nizjink (2002, p.63) refers to committees as the ‘engine rooms’ of South African legislatures.

In addition, Murray et al (2002) reports that there are four types of committees in South African legislatures, namely the policy committees which mostly correspond with government departments; the standing committees which deal with the ongoing business of the legislature such as rules; ad hoc committees that are formed to address a specific matter of importance or problem; and the public accounts committees which deal with financial oversight across all the organs of the executive. Some of the challenges facing committees in South African legislatures are the poor attendance in committee meetings by members, lack of co-ordination between committees, lack of mechanisms to monitor the implementation of legislature resolutions arising from committee reports, and the confusion among some members between the role of oversight and opposition.

In the context of municipalities in South Africa, Section 33 of the Municipal Structure Act provides for municipalities to establish two categories of committees. The first category of committees are established by the council to support it in exercising its functions and powers; it is accountable to the council and is comprised of the members of the council. The second category of committees are established by the executive committee or the executive mayor to support the executive in exercising functions and powers, it is chaired by a member of the mayoral or executive committee and reports to the executive mayor or the executive committee.

The legal framework does not prescribe to the municipalities on how they should structure their committee system and therefore the choice on the committee system lies with each specific municipality. Fessha (2008, p.23) argues that the choice elected by the municipality in establishing committees has a bearing on the ability of the municipal council to hold the executive accountable. In instances where council committees are limited to generic matters of the council and excludes portfolio committees, the capacity of the council to oversee the executive tends to be reduced. Williams (2012, p.59) recommends that municipalities establish portfolio

committees as section 79 committees comprised of non-executive councillors with a mandate to oversee the various directorates or portfolios of the executive on behalf of the council.

In their review of scholarly literature emerging from researchers who are studying parliamentary committees, Friedberg and Hazan (2012, p.20) recommend the following measures enhancing the legislative committees:
“

a) The establishment of a system of mostly permanent committees in the legislature, which meet during every legislative term of office and whose responsibilities are anchored in legislation and in the rules of procedure.
b) Structuring the committee system so that it corresponds as much as possible with the ministerial portfolios.
c) Augmenting the professional support of the committees by significantly increasing committee budgets and staff.
d) Instituting clear criteria for committee conclusions/reports in order to ensure that their phraseology does not facilitate disregard by the executive branch, and to grant the house resolutions a binding legal status which will obligate the executive to report the steps that they took and will allow the imposition of sanctions against the relevant ministers for non-compliance.
e) Committees to have the ability and obligation to monitor the implementation of their decisions and recommendations and the plenary to have a follow-up debate as a closure to the chain of oversight.
f) Granting the committees the authority to compel witnesses to appear before them and present documents.
g) Reducing the control of the party over its members in the committee by limiting the ability to change/remove their representatives assigned to a particular committee.
h) Selective closure of committee debates to the media to avoid any

competition for the attention of the media among committee members".

2.3.4 The Supreme Audit Institution and oversight

The lead public sector organisation in a country mandated to scrutinise whether public funds are spent economically in a manner that is aligned to the regulations and national priorities are the Supreme Audit Institutions (SAI's). At their inception, they were mandated to assess whether government's financial statements reflect a true picture with respect to the revenues collected and expenditure incurred and whether public institutions operation within the relevant legislation (Hegarty and Musonda, 2011: p.11).

According to van Zyl, Ramkumar and de Renzio (2009, p.13) there are three models of Supreme Audit Institutions: the Westminster model which is headed by an Auditor-General and reports to the legislature, the Board or Collegiate model which is similar to the Westminster model except that it is headed by a group of members in a College or Governing Board, and the Judicial or Napoleonic model in which the Supreme Audit Institution is a court of law whose members are judges who can impose penalties.. The three models of SAI's have in common the assurance of their independence and the consideration of the audit results by parliament as the key pre requisites for their existence and effectiveness.

In a democracy, the elected representatives in various parliaments allocate taxpayers' money to the executive arm of government in the form of passing a budget to realise their policy objectives and in return, the executive is expected to account for its stewardship of the public funds in a manner that is consistent with the essential principles of democratic government which are accountability, transparency and value for money in the use of public funds. The SAI's provide an independent review and assurance to parliament and the public on the accounts as well as the execution of

government programmes and initiatives. An environment suitable for SAI's to execute their mandate is where they report freely with their findings and recommendations receiving parliamentary attention and being acted upon (SIGMA, 2002: p.11).

During the oversight stage within a budget cycle, all departments and public bodies prepare and submit their accounts for the previous year to the SAI in a prearranged time which audits them and produces a report to the legislature which refers it to the relevant committee. The committee, which is usually a public accounts committee in most legislatures, considers the reports by examining them, conducting public hearings and summoning public officials to give evidence. A report with findings and recommendations is compiled and considered by the legislature after which the outcome is conveyed the executive to act on (Wang and Rakner, 2005: p.7).

SIGMA (2002, p.28) asserts that the relationship between parliament and the SAI is symbiotic and characterised by a dependency on each other where the effectiveness of parliament in its oversight function is enhanced when utilising the auditing outputs of an SAI whilst the consideration of the SAI audit results and the encouragement of others to take appropriate corrective action by parliament and its committees enhances the effectiveness of the SAI. Hedger et al (2008, p.4) and Wehner (2002, p.4) refer to public audit and parliamentary accountability as the two dimensions of accountability that are mutually reinforcing with the SAI providing support to parliament through the PAC. These two dimensions of accountability are neither the same nor subsidiary to one another.

Proactive and conscious measures that will ensure that parliament has full confidence in the SAI are vital. According to SIGMA (2002, p.29), the SAI has a duty to consistently demonstrate its professionalism to parliament and its committees by carrying out its functions with appropriate objectivity and

with audit reports that generate interest from members of parliament because they are clear, concise, and supported by convincing evidence. The SAI should always be aware of the needs of parliament and its committees and hence take them into account when they undertake their audit responsibilities. The establishment of a dedicated capacity to co-ordinate the interface with parliament was seen as useful by some SAI's.

In South Africa, the SAI follows the Westminster model. The Auditor-General of South Africa is established as one of the institutions supporting constitutional democracy according to chapter ten of the Constitution of the Republic of South Africa wherein its independence is also guaranteed. The Public Audit Act of 2004 (PAA) and the Constitution provide for the AGSA to account to the National Assembly. The audit reports on all government departments, public entities, municipalities and public institutions are produced annually by the AGSA and tabled to legislatures with a direct interest such as Parliament, provincial legislatures or municipal councils. The audit reports are meant to support the various legislature committees that are responsible for oversight.

The SAIs are faced by a variety of challenges depending on the context in which they exist, according to Stapenhurst et al (2012) and van Zyl et al (2009). Some are confronted by institutional constraints especially in developing countries where they sometimes fall short to fulfil their functions due to being under capacitated. In addition, some SAIs have constraints in technical skills resulting in challenges during the audit of electronic transactions, gaining access to government systems and the inability to move into the field of value for money auditing. Furthermore, SAIs also face political challenges wherein they are unduly influenced politically and the failure of legislatures to follow up on audit reports. As a result of these challenges, audit reports are not released on time and tend to address financial compliance rather than broader issues of public financial management.

There are some recommendations for enabling the SAIs to achieve their desired purpose and therefore need consideration by various SAIs and parliaments according to Van Zyl et al (2009) and McGee (2002). In instances where the interface between the SAI and the legislature is poor, the SAI can collaborate with the legislature in the determination of the audit programme and priorities. In addition, the SAI can maximise on its partnership with the PAC such that the PAC regularly follows up on the implementation of the audit recommendations and arranges meetings that are following up on the recommendations to be open to the media and the public as a tactic of applying pressure for their implementation. Furthermore, the PAC could insist on corrective action within specific timelines in instances where audit outcomes are negative.

Subsequent audits by the SAI reveal the extent of the implementation of previous audit findings. The PAC can implement various interventions in instances of poor implantation of audit findings. Good practices in this regard, according to Van Zyl et al (2009, p.18), include: “

a) Regularly following up on implementation of audit findings without waiting for subsequent audit reports by calling a department back to table a progress report.
b) Making such follow-up meetings open to the media and the public as this will publicise progress on the audit recommendations and create further pressure for implementation.
c) By limiting and specifying the time that the executive has to implement the findings especially when an audit finding is particularly negative”.

From the above, it can be deduced that the Auditor General is a viable mechanism for enhancement of accountability and an effective deterrent of

unaccountable behaviour. The affairs of the respective public institutions are made known to the public. The councillors and municipal officials tend to function as efficiently and effectively as possible for fear of exposure, public criticism and disciplinary action in cases of misuse of resources and poor performance as a result of the accountability that is enhanced by the office of the Auditor-General.

2.3.5 Public Accounts Committee as an oversight mechanism

According to Hedger and Blick (2008, p.4), ”the mandate for reviewing public expenditure and for holding government to account for that expenditure is located within the framework of intra-governmental horizontal accountability and rests with the Supreme Audit Institution and the Public Accounts Committee”. Wehner (2002, p.3) asserts that parliamentary engagement with the budget takes place in several stages and these include the consideration of the budget, passing of the finance bill, monitoring of budget execution and the consideration of whether budget implementation complied with the wishes of parliament. Furthermore, Wehner (2003, p.23) suggests that the core mandate of the PAC is to review the findings of the Auditor General and ensure responses to the matters needing attention.

Pellizo and Stapenhurst (2006, p.2) assert that “the first PAC was set up through a resolution in the United Kingdom House of Commons in 1861 with a mandate to support Parliament in holding the government to account for its use of public funds and resources”. PAC’s are now in existence in many Commonwealth Parliaments and are essential for public sector accountability and governance. The existence of public accounts committees is institutionalised through various means, through a country’s constitution, a standing order of the legislature or legislation.

Uncertainty about the powers of the public accounts committee would result in significant challenges that could undermine its mandate. According to CCAF (2006, p.19), a framework of power and functions of a PAC that are formal and clearly defined are a prerequisite for a successful committee. Pelizzo et al (2005), in their discussion of key success factors for public accounts committees, concurs and highlights the following key powers that would enhance their effectiveness; “

- to investigate or review all past, current and committed expenditures of government as it provides the committee with a broad mandate and enhanced potential to discourage waste and wrongdoing, resulting in improved management of public resources;
- to choose subjects for examination without government direction and advice as this provides the PAC with the freedom of action to focus on relevant important matters beyond the audit reports;
- to make recommendations and publish conclusions as this compels the executive to respond and effect redress where necessary”.

According to May (1983) in Wehner (2003, p.25), “The [PAC] does not seek to concern itself with policy; its interest is in whether policy is carried out efficiently, effectively and economically. Its main functions are to see that public monies are applied for the purposes prescribed by Parliament, that extravagance and waste are minimised and that sound financial practices are encouraged in estimating and contracting, and in administration, generally.” Wehner (2003), Pelizzo et al (2005) and CCAF (2006) concur and refer to the policy neutrality of the public accounts committee as a unique and distinguishing feature from other committees. As a result administrative heads of government agencies are the witnesses in hearings rather than the political heads or ministers.

Jacobs (2012, p.12) asserts that the PAC cannot be effective when operating alone and therefore needs to partner with other elements of parliamentary oversight and audit. Hedger et al (2008, p.22) further assert that in addition to policy neutrality and inter-party co-operation, independence is the third fundamental and interlinked principle of the public accounts committees. Depoliticising the appointment of the PAC chairperson could enhance the committee independence as it will limit the external political influence. Some jurisdictions, according to McGee (2002), believe that appointing an opposition member as a PAC chair tends to level the playing field between governing party and opposition members in the committee thereby creating a non-partisan environment. Furthermore, a practice of making committee decisions through consensus is followed in many parliaments. Finally, members of the cabinet are not eligible to serve in the PAC as that might compromise the independence of the committee and the credibility of its reports.

Public accounts committees in various jurisdictions encounter various challenges that inhibit their effectiveness as a result of the environment, institutional factors and the behaviour of the members. Pelizzo et al (2006) identifies the following three hindrances to the proper functioning of the public accounts committee:

- partisanship where some members of the committee operate with a very partisan spirit;
- instances where some executives consider parliamentary oversight as an unnecessary interference in their work;
- and lastly, where there is tolerance for corruption and other forms of improper behaviour.

Furthermore, Wehner (2003, p.29) adds that indifference from the executives, the inconsistent quality of audit reports and the increasing institutional complexity of government also pose challenges to PAC effectiveness.

From the above, it can be concluded that the PAC is a viable mechanism for enhancement of accountability through its oversight over the finances and also an effective deterrent of unaccountable behaviour. The PAC creates a platform of engagement on the findings of the Auditor-General followed by resolutions by the respective legislatures arising from the recommendations of the committee. The affairs of the various spheres of government, including municipalities, are made known to the public.

2.3.6 Standardising PAC features

Over the last two decades, a number of organisations and authors have extensively described and analysed key features of the PAC. These include the Canadian Council of Public Accounts Committees (CCPAC), who were aiming at improved accountability as a result of PAC practices in 1991 conducted an implementation comparison of over fifty features on fourteen public accounts committees in Canada's national and provincial legislatures (CCPAC, 1991). In addition, a report on practices of PACs in 70 of the Commonwealth's member countries was produced by the Commonwealth Parliamentary Association in 2001 in which recommendations and conclusions were presented on key requirements for PAC's that are effective (McGee, 2002).

According to Stapenhurst, Sahgal, Woodley and Pelizzo (2005), the PAC was more successful as per the analysis of the data collected by the WBI when it:

- focussed on public sector financial activities rather than policies;
- had the power to investigate present and all past public sector expenditure;
- was given the power to follow up on government actions arising from the recommendations of the PAC;

- worked in partnership with the Auditor General.

According to Stapenhurst et al (p.25; 2005), some aspects of an ideal PAC were distilled into the following seventeen characteristics from the analysis (see Table 2.1):

Table 2.2: The "ideal" PAC

1. "The Committee is small; committees seem to work well with 5-11 members, none of whom should be government Ministers.
2. Senior opposition figures are associated with the PAC's work, and probably chair the Committee.
3. The Chair is a senior parliamentarian, who is fair-minded and respected by parliament.
4. The Committee is appointed for the full term of the parliament.
5. The Committee is adequately resourced, with an experienced clerk and a competent researcher(s).
6. There is clarity on the Committee's role and responsibilities.
7. The Committee meets frequently and regularly.
8. Hearings are open to the public; a full verbatim transcript and summary minutes are quickly available for public distribution.
9. A steering committee plans the Committee's work in advance and prepares an agenda for each meeting to the full Committee.
10. The typical witness is a senior public servant (the 'accounting officer') accompanied by the officials who have a detailed understanding of the issues under examination.
11. The Auditor's Report is automatically referred to the Committee and the Auditor meets with the Committee to go over the highlights of the report.
12. In addition to issues raised by the Auditor, the Committee occasionally decides to investigate other matters.

13. The Committee strives for consensus in its reports.
14. The Committee issues formal substantive reports to parliament, at least annually.
15. The Committee has an established procedure with the government for following up recommendations and is informed about what, if any, action has been taken;
16. In all its deliberations, the Committee uses the Auditor-General as an expert advisor;
17. Parliaments hold an annual debate on the work of the Committee".

Source: Stapenhurst, Sahgal, Woodley and Pelizzo (2005), p.25.

A study of the working practices, structures and responsibilities followed by PACs across Australia and New Zealand as the basis for effective public sector financial accountability and governance was published in 2006 by the Public Sector Governance and Accountability Research Centre at La Trobe University. Various structures and working practices developed by most PAC's in Australia and New Zealand that were regarded as effective for any PAC were identified by the study.

A survey on the PAC's in the ten national and provincial legislatures in South Africa followed in 2007 (APAC, 2007). These studies indicated a variety of approaches in the composition and mode of operation arising from environmental factors in specific regions. However, these emerging features gave a deeper understanding into approaches that were generally followed in various regions of the world. Botes (2011, p.32) proposed a list of 20 generally accepted PAC practices out of a comparative analysis of the documented features and characteristics of PACs by the various authors and organisations which were supported by at least three out of five eminent authors on and which were considered to be crucial for an effective functioning PAC to align with (see Table 2.2).

Table 2.3: "Generally accepted PAC Practices"

1. "The PAC is established by legislation or standing rules.
2. The PAC mandate is clear (i.e. *ex post* examination of public sector finances).
3. A written description of the PAC mandate and terms of reference exists.
4. The focus of the PAC is on policy implementation and not policy itself.
5. The PAC has power to compel any person to appear before it, or to have access to any relevant information.
6. The PAC has powers to initiate own investigations.
7. The PAC may make recommendations to the Executive via the House.
8. Membership is limited to non-executive members.
9. It is preferable for the chairman to be from the opposition.
10. The committee operates in a non-partisan manner; always strives for consensus.
11. Public hearings are the norm, giving access to the general public and the media.
12. Frequent or regular meetings take place.
13. Collaboration with other oversight committees is beneficial.
14. PAC reports are always published and made public.
15. Primary source documents are reports of the Auditor-General.
16. Has access to adequate resources – secretarial, research and audit.
17. Members are exposed to specialised training/professional development.
18. Debating on the PAC report takes place in the legislature (plenary).
19. Executive authority is required to respond to PAC recommendations.
20. Records of proceedings of the committee are kept".

Source: Botes (2011)

The author categorised the 20 generally accepted PAC practices into the institutional design and practices of the PAC through conducting a comparative analysis between the generally accepted PAC practices as proposed by Botes (2011) and the questionnaire of potential success factors that was utilised by the World Bank Institute (Stapenhurst et al, 2005: p.33) in their analysis of PACs in 51 national and state/provincial parliaments in Commonwealth countries (Asia, Australasia, Canada and the United Kingdom). This is illustrated in Table 2.3.

Table 2.4: Institutional design and practices of PACs

Institutional Design

1. "The PAC is established by legislation or standing rules.
2. The PAC mandate is clear (i.e. *ex post* examination of public sector finances).
3. A written description of the PAC mandate and terms of reference exists.
4. The focus of the PAC is on policy implementation and not policy itself.
5. The PAC has the power to compel any person to appear before it, or to be given access to any relevant information.
6. The PAC has powers to initiate its own investigations.
7. The PAC may make recommendations to the Executive via the House.
8. Membership is limited to non-executive members.
9. Frequent or regular meetings take place.
10. Public hearings are the norm, giving access to the general public and the media.
11. PAC reports are always published and made public.
12. Primary source documents are reports of the Auditor-General.

Practices of the PAC

1. It is preferable for the chairman to be from the opposition party.
2. The committee operates in a non-partisan manner and always strives for consensus.
3. Collaboration with other oversight committees is beneficial.
4. It has access to adequate resources – secretarial, research and audit.
5. Members are exposed to specialised training/professional development.

6. Debating on the PAC report takes place in the legislature (plenary).
7. Executive authority is required to respond to PAC recommendations.
8. Records of proceedings of the committee are kept".

Source: Stapenhurst, Sahgal, Woodley and Pelizzo (2005), p.25.

2.3.7 Performance measurement for PACs

The analysis of the data on the effectiveness of PACs in 51 national and provincial legislatures in Commonwealth countries in Asia, Australasia, Canada and the United Kingdom according to Stapenhurst et al (2005, p.21) revealed that no PAC had a performance measurement mechanism in place to measure its performance despite it being a critical feature of effective oversight. Stapenhurst et al. (2005, p.23) further argues that, "in part, the reluctance to assess performance is a result of the difficulty of the questions that must be addressed, such as who should agree to the measures, who should see the results, and how they will be used". He therefore proposed a PAC performance assessment framework that entails assessing the PAC with respect to its activities, its outputs and the outcomes.

Ngozwana (2009, p.23) asserts that a PAC should assess its performance at least once every year guided by its performance management framework that specifies the PAC's goals, objectives, inputs, resources, activities, processes, outputs, performance indicators and outcomes. Ngozwana (2009, p.24) recommends the following performance indicators for consideration by the various PACs:

- Number of SAI's reports considered;
- The time elapsed between the tabling of the SAI report and the

hearing;

- Number of committees reports produced;
- Number of hearings held per year;
- Recommendations approved or accepted by government;
- Recommendations implemented by government;
- Disciplinary action taken against officials who contravene financial administration policies and laws, as pointed out by the PAC; and
- Compliance with laws and regulations subsequent to the PAC highlighting the shortcoming.

Jacobs (2012, p. 11) questions the focus on the formal and explicit performance measurement of PACs and instead argues for the recognition of the role of the PAC as a critical domain of cross-party deliberation on issues of sound public administration.

2.3.8 MPACs in South Africa

Khalo (2013, p.579) asserts that the government in South Africa utilises performance review reports of the Auditor-General (A-G) in exercising accountability and oversight on municipal financial management in terms of the Constitution of the Republic of South Africa, and consistently raises shortcomings in how they account and respond to the reports. He further asserts that, “the void created by an absence of an oversight mechanism in this sphere of government accounted for the concomitant and sporadic mismanagement of funds, corruption and other unethical practices”. He believes that the establishment of Municipal Public Accounts Committees (MPACs) are meant to close the gaps as well as deficiencies in the local government oversight and accountability mechanisms, as the MPACs will process the auditor-general’s reports and present reports with recommendations to the municipal councils. The key question therefore is whether the MPACs will succeed in closing these gaps as well as deficiencies in local government oversight and accountability.

In the general report on the audit outcomes of local government, the Auditor General (2013, p.148) noted that:

- MPACs had been established, but they were not yet providing the level of assurance required to contribute to the credibility and reliability of financial and performance reports, compliance with legislation, and effective internal controls.
- MPACs are newly established and the structures, processes, skills and experience required to perform an effective oversight function are not yet in place.
- Despite efforts by the provincial public accounts committees and other role-players to stabilise the membership of MPACs, some still experience a high turnover rate due to redeployment, which affects their continuity and effectiveness.

The Auditor-General recommended the following to strengthen the functioning of MPACs:

- The provincial leadership and oversight structures should support the establishment and work of these committees.
- MPAC hearings should be prioritised to ensure that monitoring and review contribute to the reporting timelines of municipalities and ensure that audit committees are quickly responded to.
- For the committee to be truly effective, resolutions should not only deal with purely financial matters, but also with financial management, performance reporting and compliance with legislation.
- The municipal administration should submit quarterly reports to the MPAC on the implementation of its resolutions.
- New MPAC members should attend a thorough induction session where all the concepts in the audit report are explained.
- All MPAC members should be trained continuously so that this

oversight structure can ensure accountability within local government and remain relevant.

- Councils should commit to stabilising the committees and not redeploy members.
- The speakers of provincial legislatures should include MPACs in their speakers' forums to improve their ability to carry out oversight.

2.4 LEGISLATIVE AND REGULATORY FRAMEWORK ON ACCOUNTABILITY

This section addresses the legislative and regulatory framework within which the three spheres of government operate in South Africa. The Constitution of South Africa and the various pieces of legislation are reviewed with respect to their provisions for accountability and financial oversight.

2.4.1 The South African Constitution

The Constitution of the Republic of South Africa has clear provisions for accountability and good governance due to their importance. Section 1 (d) of the South African Constitution provides for accountability, responsiveness and openness as founding values of South Africa. In addition, section 41(1)(c) of the Constitution requires effective, transparent, accountable and coherent government for South Africa as a whole by all spheres of government and all organs of state within each sphere. Furthermore, democratic and accountable government for local communities is also provided for in section 152(a) of the South African constitution.

Parliament, provincial legislatures and municipal councils are established by the Constitution as the legislative authorities of the national, provincial and municipal spheres of government respectively. In addition, national and provincial legislatures are obliged to maintain oversight over the exercise of executive authority in section 55 and 114 where they are given a responsibility to provide mechanisms to ensure all executive organs of state are accountable to them. National and provincial legislatures together with their respective committees have power to summon any person or organ to appear before it to give evidence, to report to the legislature or any of its committees or to produce document according to section 56 and 115 of the Constitution.

In their capacities as sources of executive power, sections 86 and 128 of the Constitution provide for the election of the President and the Premiers by the national assembly and provincial legislatures respectively. The national cabinet, provincial executive councils and their members are obliged by sections 92 and 133 of the Constitution to be accountable collectively and individually to their respective legislature. However, the constitution falls short of providing the same powers and obligations for local government.

2.4.2 Local Government Municipal Structures Act

The establishment of various categories of municipalities, the regulation of their internal systems, structures and office bearers of municipalities are provided for in the Local Government Municipal Structures Act of 1998 (MSTA). In particular, section 33 provides for the establishment of committees by the municipality guided by the powers and functions of the municipality, the need for their delegation and the resources to support the committee. Section 79 provides for the establishment of committees to support the performance of the municipal council's powers and functions. Section 80 provides for committees to support the executive committee or the executive mayor and are therefore accountable to the executive of the municipality.

The MSTA instructs the municipal council to attempt, within its capacity, to achieve the objectives as set out in section 152 of the Constitution. In terms of section 19(1) of the MSTA, a municipal council must annually review its overall performance in achieving the objectives outlined in section 152 of the Constitution. This provision confirms the role of the municipal council in reviewing the performance of the municipalities in achieving its objectives. This role is a critical aspect of oversight including financial oversight. Accordingly, the municipal council is obligated to establish performance measures that will inform the behaviour of the other structures of the municipality in realising the municipal objectives.

2.4.3 Local Government Municipal Systems Act

The core principles, processes and mechanisms to enable municipalities to address the socio economic upliftment of local communities is provided for in the Local Government Municipal Systems Act of 2000 (MSA). The key duties of a municipality are set out in section 6 and includes the municipal administration facilitating a culture of accountability, public service, preventing corruption and providing the local community with reliable information pertaining to the standard of municipal services they are entitled to receive, the persons in charge, the costs and the management of the municipality. Section 11(3) of the MSA articulates the monitoring of the effectiveness and impact of policies, services and programme as key functions of a municipal council but the oversight role of a municipal council is not set out clearly.

Section 4(1)(c)(i) and (ii) of the Municipal Systems Act stipulates that the municipal council has the power to finance the affairs of the municipality by charging fees for services, imposing surcharges on fees and rates on property. In addition, the municipal council is required to exercise its legislative and executive authority to use the resources of the municipality in the best interests of the local community as well as in a democratic and accountable manner.

Another profound element that illustrates the authority of the municipal council as referred to earlier is the concept of delegation. The Municipal Systems Act authorises the municipal council to delegate its functions. Provision is made in section 59(1) of the MSA for the municipal council to 'develop a system of delegation that will maximise administrative and operational efficiency and provide adequate checks and balances in accordance with that system'. The municipal council's authority to delegate indicates its ability to shape and influence the behaviour and conduct of the delegates. This implies that the delegation arrangement effectively subordinates the executive and the administrative structures to the

municipal council. Therefore, the executive structures, namely the Executive Mayor or the Mayor, Executive Committees and administrative structures, are accountable to the municipal council for how they exercise the delegated powers and functions.

2.4.4 Local Government Municipal Finance Act

The Municipal Finance Management Act No. 56 of 2003 (MFMA) is the primary statute regulating the finances of the municipality. The MFMA is aimed at securing sound and sustainable management of the fiscal and financial affairs of municipalities and municipal entities by establishing norms and standards and other requirements. In general, the MFMA further gives effect to the constitutional provisions on fiscal and budgetary issues. It specifically regulates transparency, accountability and appropriate lines of responsibility in the fiscal and financial affairs of municipalities. In addition, the Municipal Finance Management Act governs the management of revenue and expenditure, as well as the budgetary and financial planning processes.

The MFMA in section 52 and 53 provides for the general political guidance by the mayor over the fiscal and financial affairs of the municipality which include overseeing and monitoring the accounting officer and the chief financial officer when exercising their responsibilities assigned by the act without interfering in the exercise of those responsibilities. In addition, the mayor has to ensure that the annual budget of the municipality is approved in time, the approval of the service delivery and budget implementation plan within twenty eight days after the passing of the budget by the council and the signing of the performance agreements of the municipal manager and senior managers that are linked to the performance objectives of the budget and the service delivery and budget implementation plan.

The MFMA in sections 62, 64 and 65 provides for the municipal manager to be an accounting officer of the municipality who is responsible for managing the financial administration of the municipality and ensure that municipal resources are utilised effectively, efficiently and economically. Section 117 excludes the councillors of a municipality from serving in municipal bid committees and attending procurement meeting even as an observer.

With respect to reporting, section 121 provides for every municipality for each financial year to present an annual report to the council that must include annual financial statements, the audit report of the Auditor General and the annual performance report of the municipality. The council of a municipality must consider the annual report according to section 129 no later than two months from the tabling of the report in the council and endorse an oversight report that includes a statement on whether the annual report is rejected, approved with or without reservations, or referred back for revisions. The National Treasury may issue guidelines to support municipalities in dealing with the annual report especially with respect to the functioning and composition of any public accounts or oversight committees established by the council to assist them to consider an annual report. Section 131 obliges the mayor to ensure that matters raised by the Auditor General in the audit report are addressed by the municipality.

2.4.5 Public Audit Act

The core objective of the Public Audit Act No 25 of 2004 (PAA) is to give effect to the provisions of the Constitution by establishing and assigning the supreme audit functions to an Auditor General and also to provide for the auditing of institutions and accounting entities in the public sector. Section 4 mandates the Auditor General to audit and report on the accounts, financial statements and financial management of all national and provincial state departments and municipalities. Section 14 provides for the

submission of financial statements by the municipalities that comply with the requirements of the MFMA within the period and format determined.

Section 15 provides the Auditor General with powers to have unrestricted access all documents and electronic information which contain the financial information, performance and assets under the control of a municipality. In return, the municipalities are obliged according to section 19 to render all reasonable assistance to enable the Auditor General to complete the audit within applicable time frames and also accede to all reasonable requests of the Auditor General to facilitate the expeditious completion of the audit. The reports of the Auditor General according to section 20 must entail opinions and conclusions on whether the financial statements, results of municipal operations and cash flow for the period is fairly presented in all material aspects and as per the requirements of the MFMA. In addition, the audit report needs to express an opinion on the performance against predetermined objectives by the municipality and whether the resources of the municipality were procured economically and utilised effectively**.**

2.4.6 Guidelines for the establishment of Municipal Public Accounts Committees

In August 2011 the National Treasury together with the Department of Cooperative Governance issued guidelines aimed at providing municipalities and councillors with information on the establishment and functioning of Municipal Public Accounts Committees (MPACs) so as to strengthen the oversight arrangements in municipalities. This was done in terms of the provisions of the Local Government Municipal Structures Act 117 of 1998 and the Municipal Finance Management Act 56 of 2003 for MPACs to serve as an oversight committee to exercise oversight over the executive obligations of council. The mandate of MPACs is to assist council to hold the executive and municipal entities to account and to ensure the efficient and effective use of municipal resources. The Guidelines must be read together with MFMA Circular 32 of 15 March 2006 and address institutional, functional, composition, membership, work programme, meeting arrangements and reporting of MPAC.

The guidelines provide for the MPAC to undertake and manage similar functions and responsibilities for municipalities, as undertaken by the Standing Committee on Public Accounts in the national and provincial legislatures, except for certain powers regarding the subpoena of individuals. In addition, the MPAC is not responsible for policy formulation or prioritization matters and reports directly to Council through the Speaker of the municipality and interfaces with the other committees of council through the Speaker, where relevant. The similarity in the functions and responsibilities of MPACs for municipalities with those of the Standing Committee on Public Accounts in national and provincial legislatures of South Africa represent a step forward in bringing about clarity on the core mandate of MPACs.

The Guideline outlines the primary functions of the Municipal Public Accounts Committees as follows:

a) To consider and evaluate the content of the annual report and to make recommendations to Council when adopting an oversight report on the annual report;
b) In order to assist with the conclusion of matters that may not be finalized, information relating to past recommendations made on the Annual Report must also be reviewed. This relates to current in-year reports, including the quarterly, mid-year and annual reports;
c) To examine the financial statements and audit reports of the municipality and municipal entities, and in doing so, the committee must consider improvements from previous statements and reports and must evaluate the extent to which the Audit Committee's and the Auditor General's recommendations have been implemented;
d) To promote good governance, transparency and accountability on the use of municipal resources;
e) To recommend or undertake any investigation in its area of responsibility, after reviewing any investigation report already undertaken by the municipality or the Audit Committee; and
f) To perform any other functions assigned to it through a resolution of council within its area of responsibility.

Section 3.1 of the MPAC guidelines provides a valuable summary on the mandate of the MPAC as it has earlier been established that the mandate of the Standing Committee on Public Accounts in national and provincial legislatures of South Africa are aligned to the generally accepted practices of public accounts committees. Section 3.2(c), (d) and (f) entails the examination of financial statements and audit reports, promotion of accountability and conducting investigations where required. These

sections are therefore an elaboration of the ex-post examination of public sector finances. Sections (a) and (b) articulate the evaluation of the annual report and related follow-up exercises. These responsibilities entail examining the general performance of the municipality and are broader than the focus on financial statements and the auditor's reports

The guideline also provides for the MPAC to include councillors excluding those who are serving as Executive Mayor or Deputy Executive Mayor, Mayor or Deputy Mayor, Speaker, Chief Whip, a member of the Mayoral Committee, a member of the Executive Committee and for councillors serving on the MPAC to be appointed for a term which corresponds to the term of the sitting Council. Furthermore, in deciding on the Chairperson, the Council may consider appointing councillors from parties other than the majority parties in Council and may also consider making the position of Chairperson of the Committee full-time.

2.4.7 Summary

Unlike the municipal sphere of government, the framework for legislative oversight of executive authority actions has been provided for clearly in the Constitution of South Africa for the national and provincial spheres of government. The Municipal Structures Act adequately elaborates on the executive structures and their relationship in a municipality and is very thin on the oversight structures of the municipal council. The provisions contained in the guidelines for the establishment of MPACs are important as they provide for greater clarity on the mandate and composition of MPACs, but they remain as guidelines for various councils to consider adopting.

2.5 CONCLUSION

The theoretical and conceptual frameworks that have been discussed in this chapter will assist the researcher to discuss the findings that will emerge from the research. This means that the findings regarding how the institutional design and practices of the NMBM MPAC compare with those of generally accepted public accounts committees as well as the mechanisms for measuring the performance of the MPAC will be related to the concepts that are raised in this chapter. Theories will serve as lenses by which the financial oversight role of the MPAC will be explored.

CHAPTER THREE

RESEARCH DESIGN AND METHODOLOGY

3.1 INTRODUCTION

In the previous chapter it was established that any municipality that decides to establish an MPAC will do so within the context of the MPAC Guidelines that were jointly issued in 2011 by the National Treasury and the Department of Cooperative Governance and Traditional Affairs.

This chapter documents the design and methodology that were followed. Use of the qualitative method is motivated and the research instrument is discussed. It also sets out the rationale for electing to study the Nelson Mandela Bay Metropolitan Municipal Public Accounts Committee as well as the research methodology and approach. The NMBM MPAC was more than three years in operation at the time of the study. The objective of the research was to establish the extent to which the NMBM MPAC adheres to the generally accepted mandates and practices of a public accounts committee and to better understand the performance measurement mechanism of the NMBM MPAC.

3.2 RESEARCH DESIGN AND METHODOLOGY

Myers (2013, p.6) defines research as an original investigation undertaken in order to contribute to knowledge and understanding in a particular field. It is also a creative activity leading to the production of new knowledge. Creswell (2013, p.107) defines a research design as “a set of guidelines and instructions to be followed in addressing the research problem”. He further believes that the research design enables the researcher to anticipate the appropriate research decisions that are necessary so as to maximise the

validity of the eventual results. Lyon (2012, p.78) defines research methodology as a way to systematically solve the research problem. It may be understood as a science of studying how research is done scientifically.

Leedy and Ormrod in Williams (2007, p.65) stated “Research is the process of collecting, analysing and interpreting data in order to understand a phenomenon”. Quantitative, qualitative and mixed methods are the three approaches to conducting research according to Williams (2007, p.65). Furthermore, the selection of the appropriate method depends on the nature of the data required to respond to the research questions with numerical, textural and a combination of the numerical and textural data leading to quantitative, qualitative and mixed methods respectively.

3.3 QUALITATIVE RESEARCH

Qualitative research acknowledges that meaning is socially constructed by individuals in interaction with their world and that there are multiple constructions and interpretations of reality that are in flux and change over time. Qualitative researchers are therefore interested in understanding what those interpretations are at a particular point in time and in a particular context (Merriam; 2002: p.3). Kothari (2006, p.4) asserts that qualitative research seeks systematically to describe and interpret issues and phenomena, and to generate new concepts and theories. Qualitative methods are appropriate when the research question pertains to understanding or describing a phenomenon about which little is known, when seeking to understand the inside point of view of the study participants and when context is integral to the question.

According to Yin (2011, p.7), qualitative research is characterised by the following features: “

a) Studying the meaning of people’s lives, under real-world conditions;
b) Representing the views and perspectives of the participants in a study;
c) Covering the contextual conditions within which people live;
d) Contributing insights into existing or emerging concepts that may help to explain human social behaviour; and
e) Striving to use multiple sources of evidence rather than relying on a single source alone.”

A qualitative research method was deemed as suitable as it is followed in instances where there is a need to study a particular subject in depth, especially where there is a new topic to be explored and in an area where there is very little or no previous published research (Myers, 2013: p.7). The choice of the research design was also influenced by its ability to provide an intensive description and analysis of a phenomenon or social unit such as an individual, group, institution or community (Merriam, 2011: p.8). A qualitative approach was used to assess the extent to which the NMBM MPAC adheres to the generally accepted mandates and practices of a public accounts committee and to also understand its performance measurement mechanism.

Myers (2013, p.36) believes that interpretive researchers assume that access to reality is only through social constructions such as language, consciousness, shared meanings and instruments; and aims to understand a phenomenon within its context. For the purposes of this study, the researcher adopted an interpretive qualitative research paradigm as the core focus and characteristic was the search for meaning and understanding of the phenomenon under study. The overarching purpose of the study was to understand the powers and practices of a municipal public accounts committee and their alignment to the generally accepted

public accounts practices by national and provincial legislatures internationally as well as performance measurement mechanisms. Therefore this method of research is the most suitable.

3.4 CASE STUDY APPROACH

Salkind (2012, p.217) asserts that case study is a method used to study an individual or an institution in a unique setting or situation in as intense and detailed a manner as possible. The focus on one individual or institution enables a very close examination and the collection of a large quantity of detailed data that reveal a diversity and richness of human behaviour that is not accessible through any other method. The appropriateness of using a case study was also influenced by the intention to understand the perceptions of members of the municipal public accounts committee in promoting effective financial accountability. This approach is informed by an understanding that the municipal council has the legal authority to promote financial accountability.

A case study is an intensive description and analysis of a phenomenon or social unit such as an individual, group, institution or community that is bounded and seeks to describe the phenomenon in depth (Yin, 2013: p.8). Furthermore, a researcher may intensively investigate one case, focusing on several factors (Neuman, 2011: p.40). For the purpose of gaining in-depth knowledge of a single municipal public accounts committee, a case study approach was selected. The phenomena of interest in this study were the powers, practices and performance measurement mechanisms of the MPAC in effecting council oversight over its executive.

Kuhn (1987) in Flyvbjerg (2006, p.242) cautions that, “a discipline without a large number of thoroughly executed case studies is a discipline without systematic production of exemplars, and that a discipline without exemplars is an ineffective one”. The case study on the powers and practices of the Nelson Mandela Bay Metropolitan Municipality’s public accounts committee

is a contribution to the comprehensive body of theory and practice associated with municipal public accounts committees.

Gerring (2004, p.342) defines the case study as, “an intensive study of a single unit for the purpose of understanding a larger class of (similar) units”. The case study will not only provide knowledge about the practices of the municipal public accounts committee of NMBM, but will also improve the understanding on the features of MPACs in all municipalities in South Africa.

3.5 RATIONALE FOR SELECTION OF NELSON MANDELA BAY MPAC AS CASE STUDY

The selection of the MPAC of the NMBM was informed by, and based on, the following factors:

- It was the first municipality to have an MPAC to be established in the Eastern Cape Province; and
- The committee was easily accessible geographically.

3.6 DATA SOURCES AND SELECTION OF PARTICIPANTS

Merriam (2002, p.12) asserts that interviews, observations and documents are the three major sources of data for a qualitative study. Interviews range from highly structured, where specific questions and the order in which they are asked are determined ahead of time, to unstructured where one has topic areas to explore but neither the question nor the order are predetermined, and lastly the semi-structured interviews which contain a mix of more and less structured questions. Observational data represent a first-hand encounter with the phenomenon of interest rather than a second-hand account obtained in an interview, and when it is utilised in conjunction with interviewing, the term fieldwork or field study is sometimes used. The third major source of data is documents which may be written, oral, visual,

or cultural artefacts. Public records, personal documents and physical material are types of documents available to the researcher for analysis.

The documentary sources, and reports on interviews with key role-players served as the main data sources for the research.

(a) The documentary sources included:

1. the Constitution of the Republic of South Africa;
2. the Municipal Structures Act;
3. the Municipal Systems Act;
4. the Municipal Finance Management Act;
5. the National Treasury Guideline for the establishment of Municipal Public Accounts Committees;
6. the Terms of Reference of the NMBM MPAC;
7. minutes of the NMBM MPAC meetings;
8. NMBM MPAC reports ; and
9. 2011/12 Annual Report of the NMBM.

(b) Reports were compiled on the semi-structured in-depth interviews and follow up telephonic interviews with the key role players.

The participants were selected in a purposive manner, as is usually the case with qualitative research, by targeting the informants from whom, on account of their position or experience, most can be learned (Merriam, 2002: p.12). In addition, Merriam (2002, p.12) and Neuman (2011, p.222) assert that understanding the meaning of a phenomenon from the perspective of a participant is necessary, rather than how often or how much a certain response is provided. In-depth interviews were therefore conducted with the following participants:

- The previous chairperson of the NMBM MPAC;

- The chairperson of the NMBM MPAC;
- Three members of the NMBM MPAC; and
- The manager of the MPAC Secretariat (who provides support to the NMBM MPAC);

3.7 ACCESS TO DATA

The support provided by the Speaker of the NMBM Council, the co-operation of councillors and the support staff of the NMBM MPAC made it relatively easy to gain access to all sources of primary data. All the requested documents were received including minutes of MPAC meetings, the councillors made themselves available for in-depth interviews and for follow up telephonic interviews.

3.8 RESEARCH INSTRUMENT

The interview guide for the semi-structured in-depth interviews was used as the main research instrument. The interview approach was coupled with the researcher initially sharing his background so as to build trust and encourage the interviewees to open up (Neuman, 2011: p.406). Additional motivations for preferring the semi- structured in depth interviews include:

- Advance scheduling of interviews with durations that are predetermined;
- Open ended questions together with probing until the response is adequate;
- The interviewer shows interest in responses, encourages elaboration and
- Questions answered earlier can be skipped (Neuman, 2011: p.407).

The three research questions dealing with the mandate, practices and the performance assessment of public accounts committees formed a basis for

the questions in the interview guide in Appendix 1.

3.9 DATA ANALYSIS AND INTERPRETATION

Schram (2003, p. 144) understands qualitative data analysis as a mechanism for reducing and organising data to produce findings that require description and interpretation by the researcher. Two known types of data analysis are thematic and content analysis. Content analysis is a method which helps the researcher to analyse the content of the documents (Denscombe, 2004; p. 221), but thematic analysis look at the emerging themes from the data collected. While thematic analysis is described as a search for themes that emerge as being important to the description of the phenomenon, themes are defined as a pattern in the information that at minimum describes and organises the possible observations and at maximum interprets aspects of the phenomenon according to Ehrich (2005; p. 11) For the purpose of this study, the thematic analysis was deemed appropriate by the researcher.

The written notes made by the researched during the in-depth interviews and follow up telephonic interviews with participants were typed within forty eight hours so as to capture all the details whilst they were still fresh in the mind. The review of the documents together with the interview notes followed wherein various theme aligned to the research questions were identified. The themes were then linked to the literature review.

The interview notes in conjunction with the documents were then reviewed in order to identify themes relevant to the research questions. This was done mainly by word analysis, i.e. identifying words that were used repeatedly, or key words in the context of the research topic and by coding. Throughout the process, the themes, words and codes were identified within the 20 generally accepted international PAC institutional features and practices as the main reference framework and the broader conceptual

framework provided by the literature review. The findings arising from the document were compared with the findings from the interviews so as to assess the extent of convergence and also the validity of the findings. The researcher noted some alignment between the findings from the documents and those from interviews. The findings were further linked with the literature, research questions, the analysis and conclusions.

3.10 ETHICAL STATEMENT

Salkind (2012, p. 85) asserts that human beings serve as participants in research and therefore their dignity needs to be maintained at all times. He further identifies protection from harm, privacy, informed consent, confidentiality and honesty as basic principles underlying ethical research. A letter was presented to the Nelson Mandela Bay Metropolitan Municipality introducing the researcher and requesting the institution to conduct the research. Permission in the form of signed consent forms was obtained from the various participants before interviews took place. These undertakings ensured that the researcher operated within the university's research code of conduct.

3.11 CONCLUSION

This chapter discussed the methodology and the related data collection techniques. A detailed explanation and justification for the methodology, case study, data collection and analyses have been outlined.

CHAPTER FOUR

ANALYSIS OF FINDINGS

4.1 INTRODUCTION

The aim of this chapter is to present, analyse and discuss the findings and to correlate them with the conceptual framework in chapter two and the generally accepted features of public accounts committees. The data were generated through semi-structured interviews and documentary analysis. This chapter is structured as follows:

4.1 Introduction
4.2 Background of the NMBM MPAC
4.3 Institutional design of the NMBM MPAC
4.4 Practices of the NMBM MPAC
4.5 Measurement of the performance of the NMBM MPAC
4.6 Discussion of findings
4.7 Conclusion

The focus of the investigation was on the composition of the committee, the powers in relation to the investigation of municipal expenditure, its focus, and the relationship with the external auditor. In addition, it examines the conduct of the committee members, the committee's relationship with the public and the media, and how it keeps its records. Furthermore, the mechanisms for assessing the effectiveness of the NMBM MPAC were reviewed.

4.2 BACKGROUND OF THE NMBM MPAC

The Nelson Mandela Bay Metropolitan Municipality services approximately 1.2 million people and was established in the year 2000. It comprises the city of Port Elizabeth and the towns of Uitenhage and Despatch. Port Elizabeth is the second oldest cities in South Africa after Cape Town. The council has a budget of more than R 7 billion, one hundred and twenty councillors and employs approximately 10,000 staff (NMBM Annual Report, 2007/08, p. 32).

The legislative powers of the NMBM municipality are vested in the council (Section 151 of the Constitution of South Africa, 1996). In terms of this provision, the Municipal Council has the Constitutional Authority to pass by-laws as well as ensure that they are implemented in accordance with the Councils' intent. The results of the case study research on the various institutional features, practices and performance measurement mechanisms of the NMBM MPAC are presented below.

4.3 INSTITUTIONAL DESIGN OF THE NMBM MPAC

4.3.1 Establishment of Committee, mandate and terms of reference

All participants stated that in 2010, the Nelson Mandela Bay Metropolitan Council passed a resolution that established its first Municipal Public Accounts Committee (MPAC) together with its terms of reference and operating guidelines. The Council previously had an oversight committee whose chairperson was the Speaker and its main focus was to consider the annual report of the municipality and present an oversight report for consideration by the council. After the 2011 local government elections, a new MPAC was established based on the NMBM terms of reference. As a result of the death of the MPAC chairperson, the committee was led by an interim chairperson from February 2012 and was later reconstituted in April 2013. The minutes of the NMBM MPAC had a copy of the NMBM Council

resolution dated 29 October 2010 establishing the MPAC with its terms of reference and operational guidelines.

All the participants stated that the NMBM Council did not pass another resolution updating the NMBM MPAC terms of reference following the issuing of MPAC Guidelines on 17 August 2011 by National Treasury as per section 129(4)(b) of the Municipal Finance Management Act of 2003. With respect to the mandate of the NMBM MPAC, the participants unanimously stated that it was the production of the oversight report as well as ensuring transparency and accountability in the municipality. The existence of the written description of the NMBM MPAC mandate and terms of reference was confirmed by all the interviewees and a copy of the NMBM Council resolution was provided to the researcher. The institutional context, mandate and delegated authority of the NMBM MPAC is contained in paragraphs 1.1 and 1.8 of the NMBMM Terms of Reference and Operational Guidelines that were adopted by the Council.

The main annual output of the NMBM MPAC according to all the participants is the oversight report during the February and March of every year. The process of producing the oversight report entails examining the annual report, receiving inputs on the Auditor General's audit report that forms part of the annual report, receive inputs from the City Manager and the staff of the municipality elaborating on the various components of the annual report, considering inputs from stakeholders and the public and finally crafting and tabling the oversight report. There is no focus on the audit report from the Auditor General during examination of the annual report for the purpose of producing an oversight due to the overarching nature of the annual report of the NMBM. A further consideration of the audit report in the annual report after the tabling of the oversight report by the NMBM MPAC was viewed as a duplication by two of the participants.

4.3.2 The NMBM, MPAC and policy matters

The participants stated that the NMBM MPAC does not delineate between policy and policy implementation in their oversight. For instance, when the committee reviews the annual report for the purpose of producing an oversight report as per section 129 of the MFMA, it would be difficult to delineate between policy oversight and policy implementation oversight. In addition, the examination of the annual report by the NMBM MPAC provides the only opportunity of oversight for the councillors and the public as the NMBM council does not have section 79 committees that are mandated to carry out policy oversight.

Section 1.2(x) of the NMBM MPAC Terms of Reference and Operational Guidelines provides for the MPAC:

> To ensure that the policies and programmes of the Nelson Mandela Bay Metropolitan Municipality are implemented in an effective, efficient and economical manner in accordance with the principle of value for money (Best Business Practice) (NMBM, 2010: p.2).

4.3.3 Membership of the NMBM MPAC

All participants stated that members of the NMBM MPAC are non-executive councillors. In addition, the NMBM MPAC Terms of Reference and Operational Guidelines in paragraph 1.4 state that the Executive Mayor, the Deputy Executive Mayor and other members of the Mayoral Committee are not eligible to serve in the NMBM MPAC.

4.3.4 Access to information

The participants confirmed the authority of the MPAC to have unlimited access to relevant information and the regular appearance of the City Manager when required by the MPAC. Some participants highlighted some

delays in accessing information from some departments dealing with specific matters therefore necessitating an intervention by the City Manager. Furthermore, the support staff in the City Manager's office and the office of the Chief Operations Officer play a supporting role in following up on departments who are supposed to provide information and responses as per the requests of the NMBM MPAC.

4.3.5 MPAC work programme

With respect to the powers of the NMBM MPAC to initiate its own investigations, 50 % of the participants were not sure whilst the other 50 % were certain about the NMBM MPAC having powers to initiate its own investigations.

Paragraph 1.2 of the Terms of Reference and Operational Guidelines provides the following with respect to investigations by the NMBM MPAC:

> (xii) To recommend any investigation in its area of competence to Council.
> (xvii) To investigate unauthorized, irregular, fruitless and wasteful expenditure and submit reports and make recommendations based on its findings to Council.

With respect to whether the NMBM MPAC makes recommendations to the executive through the NMBM Council, all the participants reported that when the NMBM MAPC has concluded its report with findings and recommendations, it is tabled in the Council for debate and approval, followed by its referral to the executive. Furthermore, paragraph 1.9 of the Terms of Reference and Operational Guidelines provides the following with respect to the reporting of the NMBM MPAC:

1.9.1 The Committee must discuss and adopt its report for Council in accordance with the procedures for tabling matters in Council as defined in the Rules of Order of Council.

1.9.2 The Municipal Public Accounts Committee should report to full Council at least quarterly on work and challenges and may bring items before Council as and when necessary.

1.9.3 Council must evaluate the performance of the Municipal Public Accounts Committee on an annual basis.

With respect to whether all NMBM MPAC reports are published and made public, all participants confirmed that all Oversight Reports that are produced by the NMBM MPAC are published as per the provisions of section 129(3) of the Municipal Finance Management Act of 2008. However, the NMBM MPAC Terms of Reference and Operational Guidelines are silent on always publishing and making public all the MPAC reports.

4.3.6 Committee meetings

With respect to the NMBM MPAC having regular meetings where public hearings are the norm, giving access to the general public and the media, 100 % of the participants reported that regular meetings are held where some committee meetings are closed to the general public and the media. 50 % of the participants do not support the current practice of closing some of the meetings to the general public and the media as this contradicts with the principle of transparency in the financial affairs of the municipality; the other 50 % of participants support the practice of closing some meetings to the general public and the media as it makes the municipal officials to respond fully to committee questions without being defensive. The NMBM MPAC terms of reference and operational guidelines are silent the NMBM MPAC having regular meetings where public hearings are the norm, giving access to the general public and the media,

4.4 PRACTICES OF THE NMBMM MPAC

4.4.1 NMBM MPAC leadership and committee co-operation

The participants stated that the first chairperson of the NMBM MPAC was a member of one of the opposition parties, the Pan African Congress. A majority party chairperson was appointed at the start of the 2011 term of local government who subsequently died in 2012 and was replaced by an interim chairperson from the majority party in 2012. The current chairperson of the NMBM MPAC was appointed on 25th April 2013 and is a member of the majority party. The majority party candidate for the chairpersonship of the NMBM MPAC contested with two other minority party candidates and won the majority of the votes in the Council. Furthermore, it became clear during the interviews that minority party members believe that the NMBM MPAC would be more effective if the chairperson is not a member of the majority party as majority party chairpersons are easily intimidated by the executive. Other participants believed that having a majority party chairperson would improve the implementation rate of MPAC resolutions by the executive.

The NMBM MPAC operates in a highly partisan environment and as a result, various measures were put in place to achieve a non-partisan approach to business. During the interviews, it emerged that some MPAC meetings were preceded by multi-party caucuses and bilateral engagements between the majority party and minority parties. These efforts in inter party co-operation and bi-partisan approach have resulted in very few instances where decisions are made by means of a vote. According to one participant, “the recent vote for the chairperson of the MPAC in the NMBM Council demonstrates that non-partisanship as an accepted practice in the MPAC business is still fragile and not yet entrenched in the NMBM Council in general and the committee in particular”.

With respect to the MPAC operating in a non-partisan manner and always striving for consensus, the NMBM terms of reference and operational guidelines are silent, Paragraph 1.5 of the Terms of Reference and Operational Guidelines provides the following for the chairperson of the NMBM MPAC:

> 1.5.1 The Chairperson of the Committee must be appointed by Council Resolution.
> 1.5.2 During the appointment of the Chairperson of the Committee by Council, Council must take into consideration the requirements of transparency, ethics and general good governance prescripts as well as local government legislation.

4.4.2 Committee resources

According to the participants, the NMBM MPAC is currently being supported by the secretariat which is made up of two staff members who are responsible for preparing the agenda, issuing the meeting packs and drafting the minutes of the meeting. In addition, the personal assistants in the offices of the City Manager and the Chief Operations Officer follow up with all directorates to comply with submitting reports to the NMBM MPAC. Furthermore, the Administration Officer in the office of the Chief Operations Officer prepares the Annual Oversight Report using minutes produced by the secretariat. The NMBM MPAC currently does not receive support from dedicated staff members as required by the provisions of the NMBM MPAC Terms of Reference and Operational Guidelines. The NMBM MPAC chairperson is a full-time councillor whilst the rest of the members are part-time and also serve in other council committees.

Paragraph 1.3 of the Terms of Reference and Operational Guidelines provides the following with respect to the resources in support of the NMBM MPAC:

In order for the Municipal Public Accounts Committee to be effective in executing its functions, Council must ensure that the Municipal Public Accounts Committee is supported by sufficient resources and dedicated staff members listed below:

- Committee Co-ordinator / Researcher
- Committee Services
- Internal Audit
- Legal Division.

4.4.3 Council debates on NMBM MPAC reports

All participants confirmed that the adoption of the NMBM MPAC reports by the NMBM Council are preceded by debate in the NMBM Council and the extent of the debate is influenced by the issues raised in the report.

Paragraph 1.9 of the Terms of Reference and Operational Guidelines provides the following with respect to reporting for the NMBM MPAC:

a) The Committee must discuss and adopt its report for Council in accordance with the procedures for tabling matters in Council as defined in the Rules of Order of Council.
b) The Municipal Public Accounts Committee should report to full Council at least quarterly on work and challenges and may bring items before Council as and when necessary.
c) Council must evaluate the performance of the Municipal Public Accounts Committee on an annual basis.

4.4.4 Follow-up actions

All the participants confirmed that the minutes of the NMBM MPAC serve as the main record of the proceedings. In addition, the NMBM MPAC keeps on its agenda all the issues that need to be resolved that arise from its reports as a mechanism of monitoring the implementation of the corresponding Council resolutions. The NMBM 2011/12 Oversight Report (2013, p.1) reflects as follows:

> The committee also wishes to record its concern at the number of items that appeared from last year on its agenda and throughout the year under review, without the relevant issues having been resolved.

Paragraph 1.10 of the Terms of Reference and Operational Guidelines provides the following with respect to monitoring by the NMBM MPAC:

a) The Committee shall develop a monitoring mechanism in line with the approved work programme to determine if actions have been taken to implement its recommendations.
b) The responses to reports are to be provided to the Municipal Public Accounts Committee within 14 days after the date of the resolution of the Committee together with the recommendations to which they relate.

Beyond keeping the outstanding issues on the agenda, there appears to be no monitoring mechanisms that have been developed by the NMBM MPAC. There is also no clear requirement for the executive to report to the Council on the resolutions arising from the MPAC reports that have been adopted.

4.4.5 Collaboration with other oversight committees

All the participants confirmed that the NMBM Council does not have other oversight or non-executive committees. The NMBM Terms of Reference and Operational Guidelines are silent on the collaboration of the MPAC with other oversight committees.

4.4.6 Capacity building

All participants confirmed that two capacity building workshops for the NMBM MPAC have been facilitated thus far by the Eastern Cape Department of Local Government & Traditional Affairs and the.in 2011 and the Association of Public Accounts Committees of South Africa in 2012. However, there is no annual capacity building programme for NMBM MPAC members and officials as the recent training according to the participants was viewed as a once off intervention.

Paragraph 1.9 (xv) of the Terms of Reference and Operational Guidelines provides the following with respect to capacity building for the NMBM MPAC:

- To facilitate capacity building programmes for Committee Members and Officials to enable them to perform their duties.

4.5 MEASUREMENT OF THE PERFORMANCE OF THE NMBM MPAC

All participants confirmed that the NMBM MPAC does not have a formal mechanism for measuring its performance. In addition, the evaluation of the performance of the MPAC by the Council as provided for by the NMBM MPAC Terms of Reference and Operational Guidelines has not yet been operationalised and no external assistance has been requested for assessing the MPAC performance.

4.6 DISCUSSION OF FINDINGS

The findings emerging from the data are discussed in this section and are related to the literature that was reviewed in Chapter 2. The researcher divided this section into the following themes: institutional design, practices and performance measurement.

4.6.1 Institutional design

a) Establishment, mandate and terms of reference

Regarding the establishment of the NMBM MPAC, it emerged from the data that the MPAC was established by means of a council resolution in 2010 with terms of reference and operational guidelines. The NMBM MPAC terms of reference did not take into account the MPAC guidelines that were issued by the National Treasury in 2011 as per section 129(4)(b) of the Municipal Finance Management Act of 2003.

The generally accepted public accounts committee practices (Botes, 2011) require the PAC to be established by means of legislation or standing rules. The NMBM MPAC was established by means of the standing rules of the NMBM Council is therefore aligned with the generally accepted institutional features of public accounts committees. This is consistent with the assertion that public accounts committees can be institutionalised by various means which are a country's constitution, a standing order of the assembly and legislation (Pelizzo and Stapenhurst, 2006: p.4).

Regarding the MPAC mandate and the terms of reference, it emerged from the data that a written description of the NMBM MPAC mandate and terms of reference exists. The generally accepted PAC practices require a written description of the PAC mandate and terms of reference to exist (Botes, 2011). In addition, CCAF (2006, p.19) and Khalo (2013, p.593) assert that

a formal and clearly defined framework of powers and practices of a public accounts committee is key to a successful committee. The institutional context, mandate and delegated authority of the NMBM MPAC is contained in paragraphs 1.1 and 1.8 of the NMBMM Terms of Reference and Operational Guidelines that were adopted by the Council. It can be deduced that the NMBM MPAC mandate and terms of reference are aligned to the generally accepted PAC practices.

Regarding the mandate of the NMBM MPAC, it emerged from the data as the production of the annual oversight report as well as ensuring transparency and accountability in the municipality. In addition, the primary source document for the NMBM MPAC is the annual report. It also emerged that the MPAC scrutinises the entire annual report rather than focussing on the municipal finances or the report of the Auditor General. Some participants asserted that a further consideration of the audit report in the annual report after the tabling of the oversight report by the NMBM MPAC was viewed as a duplication. The NMBM MPAC Terms of Reference and Operating Guidelines are too broad and hence do not succinctly articulate the core mandate of the NMBM MPAC.

The generally accepted PAC practices according to Botes (p.32, 2011) require “the PAC mandate to be clear (i.e. ex-post examination of public sector finances) and the reports of the Auditor General to be the primary source documents. According to Khalo (2013, p.588), CCAF (2004, p.2), Wehner (2003, p.24) and CCAF (2006, p.8) the mandate of the public accounts committee is to provide an ex-post examination of public sector finances by reviewing the Auditor-General’s reports and identifying the appropriate steps to address any shortcomings. It can be deduced that the mandate of the NMBM MPAC is not clear and the annual report is the primary source document of the NMBM MPAC instead of the reports of the Auditor General.

b) The NMBM MPAC and policy matters

Regarding the policy matters of the municipality and the NMBM MPAC, it emerged from the data that the focus of the NMBM MPAC is on all policy aspects of the municipality instead of policy implementation in their oversight. The NMBM MPAC terms of reference and operating guidelines only provide for the MPAC to ensure that the policies and programmes of the Nelson Mandela Bay Metropolitan Municipality are implemented in an effective, efficient and economical manner in accordance with the principle of value for money.This may be related to the mandate of the NMBM MPAC that is not clear and the utilisation of the annual report of the municipality as the source documents instead of the reports of the Auditor General.

The generally accepted public accounts committee practices require the PAC to focus on policy implementation and not policy itself (Botes, 2011). There is broad agreement among the various authors about the stance of the public accounts committee towards government policy. Stapenhurst, Sahgal, Woodley and Pelizzo (2005, p.24) assert that PACs should focus on governments' financial activity and accountability rather than evaluating or assessing the content of the governments' policies. Blick and Hedger (2008, p.22) also point out that one of the key principles is for the PAC to focus on the way in which resources have been disposed of in pursuance of policy rather than focus on the merits of a particular policy. It can be deduced from the above that with respect to policy matters, the NMBM MPAC is not aligned to the generally accepted features of public accounts committees.

c) Membership of the NMBM MPAC

Regarding the membership of the NMBM MPAC, it emerged from the data that membership is limited to non-executive councillors. The generally accepted public accounts committee practices require the membership of the PAC to be limited to non-executive members (Botes, 2011). Stapenhurst et al (2012, p.6) further asserts that the freedom of the

committee to exercise its mandate is achieved when there is no interference from cabinet members and therefore cabinet members have to be excluded from the committee. Pelizzo et al (2006, p.11) believes that the cabinet members need to be excluded from the committee for the following reasons:

- They might slow down or mislead the committee in order to protect the cabinet;
- Governing party members would feel under pressure to act in a partisan manner, thus weakening the committee;
- Having cabinet members serving in the committee would affect the credibility of the PAC and its deliberations.

It can be deduced that the membership of the NMBM MPAC is aligned to that of the generally accepted features of public accounts committees.

d) Access to information

Regarding access to information by the NMBM MPAC, it emerged from the data that the NMBM MPAC has adequate authority to access any relevant information from the municipality and for any person to appear before the MPAC. The generally accepted public accounts committee practices require the membership of the PAC to have the power to compel any person to appear before it or to be given access to any relevant information (Botes, 2011). Khalo (2013, p.592) asserts that the public accounts committee must have the power to call whichever witness it deems necessary and as required. CCAF (2006, p.27) concurs and adds that an effective committee needs access to credible, factual and non-partisan information as it is vital for holding the government to account.

It can be deduced that the NMBM MPAC is aligned to the features of generally accepted public accounts committees with respect to access to information and compelling anyone to appear before the committee.

e) MPAC work programme

Regarding investigations, it emerged from the data that the NMBM MPAC does not have the power to initiate its own investigations as that power resides with the NMBM Council. The generally accepted public accounts committee practices require the PAC to have the power to initiate its own investigations (Botes, 2011). Stapenhurst et al (2012, p.7) asserts that the power of the PAC to investigate all past, present and committed government expenditure is one of the five formal powers that emerge as most important. In addition, the power of the PAC to conduct investigations should not be limited to issues referred by the legislature or included in legislative audit reports (CCAF, 2006: p.21). Furthermore, Pelizzo et al (2006, p.13) asserts that the power of the PAC to choose the topics for investigation should be exercised freely without having to accept orders or suggestions from the executive.

From the above discussion, it can be deduced that the NMBM MPAC does not have the power to initiate its own investigations but can only recommend to the Council and therefore it is not aligned to the generally accepted public accounts committee practices on investigations.

Regarding the MPAC recommendations to the executive, it emerged from the data that when the NMBM MPAC has concluded its report with findings and recommendations, it is tabled in the Council for debate and approval, followed by its referral to the executive. The generally accepted public accounts committee practices require the PAC to make recommendations to the executive via the House (Botes, 2011, p.32). Ngozwana (2009, p.28) asserts that final public accounts committee reports should be tabled in parliament for debate and approval before being presented to the executive. The executive will then be required to respond to the recommendations, with

the committee following up on the implementation of the recommendations. It can be deduced that the NMBM MPAC is aligned to the generally accepted public accounts committee practices with respect to making recommendations to the executive via the House.

Regarding the public access to the MPAC reports, it emerged from the data that all Oversight Reports that are produced by the NMBM MPAC are published as per the provisions of section 129(3) of the Municipal Finance Management Act of 2008. However, the NMBM MPAC Terms of Reference and Operational Guidelines are silent on always publishing and making public all the MPAC reports. The generally accepted public accounts committee practices require the PAC reports to always be made public and be published (Botes, 2011, p.32). With respect to public access to PAC documents, Khalo (2013, p.592), Ngozwana (2009, p.27) and Wehner (2002, p.14) recommend that the minutes of the PAC hearings as well as the reports should be kept in official records, be made available to the public and be published. It can be deduced that the publishing and making public of reports by the NMBM MPAC is aligned to the generally accepted practices of public accounts committees, but is not codified in the NMBM MPAC Terms of Reference and Operational Guidelines.

f) Committee meetings

Regarding the committee meetings, it emerged from the data that regular meetings of the NMBM MPAC are held where some are closed to the public when discussing sensitive matters. The Terms of Reference and Operational Guidelines of the NMBM MPAC are, however, silent on public hearings that give access to the public and the media being the norm for committee meetings. The generally accepted public accounts committee practices require the PAC to hold regular meetings in a format of public hearings that are accessible to the public and the media (Botes, 2011, p.32). Hearings are the principle mechanism by which officials from

departments, agencies or other relevant bodies answer to the PAC with preparation by committee members and witnesses being crucial for quality hearings (Wehner, 2002, p.13). Several writers (Stapenhurst et al., 2005; Pelizzo et al., 2006; Wehner, 2003; McGee, 2002; Blick and Hedger, 2008) recommend that opening up of PAC hearings to the public and the media improves their effectiveness and any exceptions to this rule need to be thoroughly justified and limited to exceptional circumstances.

It can be deduced from the above discussion that the NMBM MPAC is aligned to the generally accepted public accounts committee practices with respect to holding regular meetings. However, with respect to holding committee meetings in a public hearings format where the meetings are open to the public and the media, the NMBM MPAC is not aligned to the generally accepted practices of public accounts committees.

4.6.2 MPAC practices

a) Leadership and committee co-operation

Regarding the leadership of the NMBM MPAC, it emerged from the data that the first MPAC chairperson who was appointed in 2010 was a member of the opposition party but as from the start of the 2011 term of local government, chairpersons were appointed from the majority party. Some members believe that the NMBM MPAC would be more effective if the chairperson is not a member of the majority party as majority party chairpersons are easily intimidated by the executive. Other believed that having a majority party chairperson would improve the implementation rate of MPAC resolutions by the executive. The terms of reference of the NMBM MPAC are silent on whether the chairperson should be a member of the majority party or one of the minority parties. The generally accepted

public accounts committee practices prefer the chairperson to be from the opposition party and for the committee to operate in a non-partisan manner and always strives for consensus (Botes, 2011, p.32).

Two thirds of the PACs that were studied by McGee (2002, p. 66) had chairpersons who were members of the opposition. The practice of having opposition members as chairpersons of PACs arises as a result of:

- The underlying non-partisan tradition that underpins the work of the PAC (Blick and Hedger, 2008: p.22; Wehner, 2002: p.16; Stapenhurst et al, 2012: p.6).
- The willingness of the government to promote transparency through independent scrutiny (Blick and Hedger, 2008: p. 22; Pelizzo et al, 2006: p.6; Khalo, 2013: p.588); and
- To re-equilibrate the balance of power between the government and the opposition (Stapenhurst et al, 2012: p.6), (Pelizzo et al, 2006:p.6).

From the discussions above, it can be deduced that the NMBM MPAC is not fully aligned to the generally accepted practices of public accounts committees as it once had an opposition member as a chairperson but presently has a majority party member as the MPAC chairperson.

Stapenhurst et al (2012, p.25) asserts that, “PAC members must act in a non-partisan fashion and should try to have a good working relationship with other committee members in spite of possible partisan differences”. Wehner (2003, p.26) concurs and further asserts that the mandate of being neutral to government policy by the PAC tends to facilitate its non-partisan operation, and this is demonstrated by the regular tendency to operate on a basis of consensus and to strive towards unanimous conclusions. Blick et al (2008, p.22) argues that the non-partisan tradition of the PAC is prevalent in many countries and is a formal requirement in some countries. Blick et al (2008, p.22) and Wehner (2002, p.11) posit that unanimous reports are

more likely to be taken seriously by the government and other actors within the accountability environment such as the media.

From the above discussions, it can be deduced that the non-partisan mode of operation and unanimity in decision-making by the NMBM MPAC is still emerging and not entrenched in the NMBM Council; therefore the NMBM MPAC is not aligned to the generally accepted practices of public accounts committees.

b) Committee resources

Regarding resources supporting the NMBM MPAC, it emerged from the data that the MPAC has inadequate access to support resources as it is currently being supported by the secretariat which is made up of two staff members and no research and audit support capacity. The generally accepted public accounts committee practices require the PAC to have access to adequate resources i.e. secretarial, research and audit (Botes, 2011).

The lack of staff and facilities is one of the greatest constraints on PAC effectiveness in many developing countries (Blick et al, 2008: p.17). CCAF (2006, p.26) asserts that information and good advice are key requirements for the PAC to select the right issues and to be able to follow them through to an appropriate conclusion. In addition to the committee clerk, PACs require research staff who are highly knowledgeable in public administration and accountability (CCAF, 2006: p.26). Furthermore, a PAC must have a budget that is adequate to cover its personnel and other operational costs (Ngozwana, 2009: p. 27). From the above discussions, it can be deduced that the NMBM MPAC does not have access to adequate independent capacity and support and is thus not aligned to the requirements of the generally accepted public accounts committees.

c) Council debates on NMBM MPAC reports

Regarding debates on the MPAC reports, it emerged from the data that the adoption of the NMBM MPAC reports by the NMBM Council are preceded by debate in the NMBM Council and the extent of the debate is influenced by the issues raised in the report. The generally accepted public accounts committee practices require the PAC report to be debated in the legislature plenary (Botes, 2011). CCAF (2006, p.22) asserts that the debate on the PAC report following its presentation to a legislature provides added value to the recommendations and to the whole work of the committee. Ngozwana (2009, p.28) and Khalo (2013, p.592) further assert that following the debate on the PAC report, the reports should then be approved by Parliament during the plenary sessions, thereby giving it the endorsement of the whole House.

From the above discussions, it can be deduced that the NMBM MPAC practice of presenting their reports to the NMBM Council for debate and approval is aligned to the generally accepted practices of public accounts committees.

d) Follow up actions

Regarding follow up actions of the NMBM MPAC, it emerged from the data that the minutes serve as the main record of proceedings and the NMBM MPAC keeps on its agenda all the issues that need to be resolved that arise from its reports as a mechanism of monitoring the implementation of the corresponding Council resolutions. Beyond keeping the outstanding issues on the agenda, there appears to be no monitoring mechanisms that have been developed by the NMBM MPAC. There is also no clear requirement for the executive to report to the Council on the resolutions arising from the MPAC reports that have been adopted. The generally accepted public accounts committee practices require the records of PAC proceedings to

be kept and for the executive authority to respond to PAC recommendations (Botes, 2011).

Stapenhurst et al (2005, p.25) asserts that PACs should keep the transcripts of their meetings and also publish their conclusions and recommendations. Wehner (2003, p.29) adds that the ultimate value of the PAC arises when the executive addresses the issues raised in the PAC reports through implementing committee recommendations. The CCAF (2006, p.22) argues that having follow-up meetings with witnesses and establishing a systematic follow-up process and procedures is a crucial final step for closing the accountability loop. It can be deduced from the above discussions that with respect to keeping the records of the PAC proceedings and requiring the executive to respond to PAC recommendations, the NMBM MPAC is not aligned to the generally accepted practices of public accounts committees.

e) Collaboration with other oversight committees

Regarding the collaboration of the NMBM MPAC with other oversight committees, it emerged from the data that the NMBM Council does not have other oversight or non-executive committees. The generally accepted public accounts committee practice views the collaboration of the PAC with other oversight committees as beneficial (Botes, 2011). Wehner (2002, p.17) asserts that for the purpose of improving integration in oversight, including the subject expertise and also dealing with the increased volume of audit outputs, other parliamentary committees can also be involved in the consideration of relevant audit reports, if this is done in a way that does not lead to a politicisation of the audit process. With respect to the collaboration between the PAC and other oversight committees, the NMBM MPAC is not aligned to the generally accepted practices of public accounts committees.

f) Capacity building

Regarding capacity building, it emerged from the data that two capacity building workshops for the NMBM MPAC have been facilitated thus far by the Eastern Cape Department of Local Government & Traditional Affairs and the.in 2011 and the Association of Public Accounts Committees of South Africa in 2012. However, there is no annual capacity building programme for NMBM MPAC members and officials as the recent training can be viewed as a once off intervention by outside agencies. The generally accepted public accounts committee practices require members to be exposed to specialised training and professional development (Botes, 2011).

CCAF (2004, p.8) holds that legislators may need orientation to understand the complex procedures of government as well as in navigating the corridors of power when first elected, as oversight is not the key reason for voters to elect them. CCAF (2006, p.24) asserts that the unique parliamentary oversight role of the public accounts committee requires membership with expertise and experience.

From the above discussions it can be deduced that the NMBM MPAC exposes its members to some once off capacity building workshops which are not necessarily specialised training and professional development; therefore the NMBM MPAC is partially aligned to the generally accepted practices of public accounts committee.

4.6.3 NMBM MPAC performance measurement

Regarding the measurement of the performance of the NMBM MPAC, it emerged from the data that from inception, the NMBM MPAC has not yet engaged in a mechanism for measuring its performance. In addition, the NMBM MPAC terms of reference and operational guideline provide for the Council to evaluate the MPAC performance on an annual basis.

Furthermore, the NMBM MPAC does not have a formal mechanism for measuring its performance.

In his analysis of the data collected in 2002 from 51 national and state/ provincial parliaments in Commonwealth countries by the World Bank Institute, Stapenhurst et al (2005, p.21) establishes that no PAC had a mechanism in place to measure its performance and argues that this is surprising, given that performance reporting is a critical feature of effective oversight. Stapenhurst et al. (2005, p.23) further argues that, “in part, the reluctance to assess performance is a result of the difficulty of the questions that must be addressed, such as who should agree to the measures, who should see the results, and how they will be used. He therefore proposed that a framework for assessing PAC performance would entail assessing the PAC with respect to its activities, its outputs and the outcomes.

Ngozwana (2009, p.23) concurs with Stapenhurst (2005) and asserts that a PAC should asses its performance at least once every year guided by its performance management framework that specifies the PAC’s goals, objectives, inputs, resources, activities, processes, outputs, performance indicators and outcomes. Ngozwana (2009, p.24) recommends the following performance indicators for consideration by the various PACs:

- Number of SAIs reports considered;
- The time elapsed between the tabling of the SAI report and the hearing;
- Number of committees reports produced;
- Number of hearings held per year;
- Recommendations approved or accepted by government;
- Recommendations implemented by government;
- Disciplinary action taken against officials who contravene financial administration policies and laws as pointed out by the PAC; and

- Compliance with laws and regulations subsequent to the PAC highlighting the shortcoming.

However, Jacobs (2012, p.11) questions the focus on the formal and explicit performance measurement of PACs and argues for the recognition of the role of the PAC as a critical domain of cross-party deliberation on issues of sound public administration.

From the above discussions, it can be deduced that the NMBM MPAC has no mechanism in place to measure its performance and has never obtained external assistance in reviewing their success in informing the NMBM Council about the accountability of the Municipality. The state of affairs in the NMBM MPAC is consistent with the findings of Stapenhurst (2005, p.22) where very few committees published reports dealing with their own performance, or assessed their success in informing their legislatures about the accountability of the government.

4.7 CONCLUSION

With respect to the institutional design, the establishment of the NMBM MPAC was not informed by the guidelines that were issued by the National Treasury; the terms of reference were too broad and include aspects that go beyond the mandate of generally accepted public accounts committees; and the committee did not have a mandate to initiate its own investigations.

With respect to the practices of the NMBM MPAC, there was no clear requirement for the executive to report to the Council on the resolutions arising from the MPAC reports that have been adopted. In addition, the NMBM MPAC does not have access to adequate independent capacity and support and hence is not aligned to the requirements of the generally accepted public accounts committees. Furthermore, the NMBM MPAC has no mechanisms for measuring its performance. The NMBM should thus

take steps to rectify the limitations in its institutional design and practices.

CHAPTER FIVE

CONCLUSIONS AND RECOMMENDATIONS

5.1 INTRODUCTION

The financial management deficiencies in local government, especially with regard to lack of accountability, unauthorised expenditure, under-spending, regular negative audit outcomes and recent instances of civil unrest in a number of municipalities, have necessitated the need to enhance financial oversight over the execution of the budget.

This study assessed progress in the establishment and operationalisation of a financial oversight mechanism called the municipal public accounts committee by the Nelson Mandela Bay Metropolitan Municipality. This was accomplished by assessing the alignment between the NMBM MPAC and generally accepted public accounts committees with respect to institutionalisation and practices. In addition, the performance evaluation mechanisms of the NMBM MPAC were also assessed.

The aim of this chapter is to present a summary of the findings and recommendations to the NMBM and policy makers on measures to close the gaps identified on the basis of the lessons learnt during the case study and the theoretical framework derived from the literature study.

5.2 FINDINGS AND RECOMMENDATIONS

5.2.1 Establishment of NMBM MPAC

In October 2010, the Nelson Mandela Bay Metropolitan Council passed a resolution that established its first ever Municipal Public Accounts Committee (MPAC) together with its terms of reference and operating guidelines. Therefore, the NMB MPAC was established by means of the standing rules of the NBM Council and therefore aligned to the generally accepted PAC's across the world. However, the NMBM MPAC terms of reference and operating guidelines were not informed by the MPAC establishment guidelines that were jointly issued by National Treasury and the Department of Cooperative Governance in August 2011. These guidelines were issued in terms of section 129(4) of the MFMA which provides for the issuance of guidance on the manner in which councils should consider the functioning and composition of public accounts committees that will assist council to consider the annual reports.

The following recommendation is therefore made:

- The Nelson Mandela Bay Municipal Council should revise the MPAC Terms of Reference and Operating Guidelines that were approved in October 2010 and take into account the MPAC establishment guidelines that were jointly issued by National Treasury and the Department of Cooperative Governance on 17 August 2011.

5.2.2 Mandate of the MPAC

The NMBM MPAC Terms of Reference and Operating Guidelines are too broad and hence do not succinctly articulate the core mandate of the NMBM MPAC. This lack of focus on the mandate of the NMBM MPAC is demonstrated by the responsibility of examining the municipality's annual

report for the purpose of producing an oversight report and also to scrutinise the report of the Auditor General on the municipality as well as investigating instances of unauthorised, irregular, wasteful and fruitless expenditure. In practice, the NMBM MPAC tends to focus on the production of the MFMA section 129 oversight report and neglect the mandate of reviewing the report of the Auditor General and financial statements. It is clear that the NMBM MPAC focusses on a responsibility that is not at the core of its mandate and hence needs to fundamentally shift its focus to its core mandate.

The MFMA does not prescribe the establishment of a single committee with a dual role of being an oversight committee and a public accounts committee. Furthermore, the guidelines for the establishment of MPACs (p.5, 2011) assert that, “MPAC will undertake and manage similar functions and responsibilities for municipalities, as undertaken by the Standing Committee on Public Accounts in the national and provincial legislature”. Assigning the responsibility of producing of an oversight committee to a different committee will afford the NMBM MPAC an opportunity to focus on reviewing the financial statements and the audit report from the Auditor General.

The following recommendations are made in this regard:

a) The core mandate of the NMBM MPAC should be to scrutinise the report of the Auditor General and scrutinise the annual financial statements and discontinue the function of producing the oversight report.
b) The NMBM council should establish a stand-alone committee that is responsible for examining the annual report and producing the oversight report as per section 129 of the MFMA.

5.2.3 MPAC Terms of reference

A written description of the NMBM MPAC terms of reference and mandate exists and this is in alignment with the features of the generally accepted public accounts committees.

5.2.4 MPAC Role in relation to policy

The NMBM MPAC Terms of Reference and Operational Guidelines are silent on whether the MPAC concerns itself with the policies of the council or whether it is concerned only with policy implementation. The NMBM MPAC role in relation to policy is therefore not aligned to the generally accepted features of public accounts committees.

The following recommendation is made:

- The NMBM MPAC Terms of Reference and Operational Guidelines should succinctly state that the focus of the NMBM MPAC is on how policy is implemented and not on the merits of the policy.

5.2.5 Access to persons and information

With respect to access to information, the NMBM MPAC Terms of Reference and Operational Guidelines provide the MPAC with power to have unlimited access to relevant persons and information. There is a requirement for more clarity on the operational arrangements between the MPAC and the City Manager.

The following recommendation is made in this regard:

- The operational arrangements in the form of a protocol should state that the executive director of the city department

under review by the NMBM MPAC be always present at any meeting at which matters affecting his or her department are being addressed. It should further be understood that the relevant person is in attendance as a representative of the City Manager and on the understanding that he or she will provide the NMBM MPAC with all information required without delay.

5.2.6 Power to initiate own investigations

The NMBM MPAC Terms of Reference and Operational Guidelines empower the committee to conduct investigations pertaining to instances of unauthorised, irregular or fruitless and wasteful expenditure. The committee is also empowered to recommend investigations that are in its area of competence to Council. The NMBM MPAC does not have the power to initiate its own investigations but can only make a recommendation to the Council and is therefore not aligned to the generally accepted public accounts committee practices on investigations.

The following recommendation is made:

- The revised Terms of Reference should clearly empower the NMBM MPAC to initiate own investigations into matters that fall within its remit.

5.2.7 Council endorsement for recommendations to the Executive

The NMBM MPAC Terms of Reference and Operational Guidelines require the NMBM MPAC to report to the NMBM Council at least quarterly and may bring items before Council as and when necessary. The NMBM MPAC Terms of Reference and Operational Guidelines do not explicitly articulate the power of the MPAC to present recommendations for consideration by the Council before presentation to the executive. However, all interviewees

reported that when the NMBM MPAC has concluded its report with findings and recommendations, it is tabled in the Council for debate and approval; followed by its referral to the executive. In practice, the NMBM MPAC presents its reports with recommendations to the executive via the Council but this practice is not codified in the NMBM Terms of Reference and Operational Guidelines.

The following recommendation is made:

- The requirement for the NMBM MPAC reports to be tabled in the Council for debate and approval before being presented to the executive should be included in the revised terms of reference of the NMBM MPAC.

5.2.8 Membership

The membership of the NMBM MPAC excludes members of the executive arm of the municipality as per the provisions of the Terms of Reference of the NMBM MPAC and this is aligned to the generally accepted features of a public accounts committee. The Terms of Reference also provide for the appointment of members for a term of a sitting Council. The majority party recently transferred seven of its members serving in the NMBM MPAC to other Council committees and replaced them with seven new members. These changes are not consistent with the provisions of the NMBM MPAC Terms of Reference.

The NMBM MPAC Terms of Reference also provide for a committee of thirteen members with nine, three and one members for the African National Congress, Democratic Alliance and Minority Parties respectively. However, the basis for fixing the proportions of membership on the basis of the specific political parties does not take into account the likely change in the representation of various political parties arising from the regular local

government election. This is not consistent with the generally accepted features of a public accounts committee.

The following recommendations are made in this regard:

- The membership of the committee is strictly limited to non-executive members as per the provisions and terms of reference of the NMBM MPAC should be retained.
- The membership from various political parties in the NMBM MPAC should be proportional to their representation in the NMBM Council.
- The provisions for appointing members to the NMBM MPAC for a term of a sitting council should be retained and be enforced.

5.2.9 Frequency of meetings

The NMBM MPAC Terms of Reference provide for a minimum of 10 meetings in a year or as may be necessary in accordance with the work programme. In practice, the NMBM MPAC meetings are convened at least once a month and three or four times a month during the consideration of the annual report. In addition, special meetings are held when the committee deems it fit.

The following recommendation is made:

- The existing provision for regular NMBM MPAC meetings is consistent with the generally accepted features of a public accounts committee and therefore should be retained in the revised terms of reference.

5.2.10 Public hearings

The meetings of the NMBM MPAC take place in the City Hall and are open to the public. The practice of holding meetings that are open to the public is not contained in the NMBM MPAC Terms of Reference.

The following recommendation is made:

- The Terms of Reference of the NMBM MPAC should provide for committee meetings to be open to the public and the media with public hearings being the norm.

5.2.11 Publication of reports

The NMBM MPAC Terms of Reference do not have a provision that specifies the period within which reports have to be published. The reports of the NMBM MPAC are produced quickly and are published widely in practice, including on the NMBM website.

The following recommendation is made:

- The NMBM MPAC Terms of Reference should state that the reports of the NMBM MPAC must be printed and made public within thirty days after adoption of the report by the NMBM Council.

5.2.12 Reports of the Auditor-General

The primary source document for the NMBM MPAC is the annual report of the NMBM and not only the report of the Auditor-General. This is not consistent with the generally accepted practices of public accounts committees in which the primary focus is on the report of the Auditor-General.

The following recommendation is made:

- The Terms of Reference of the NMBM MPAC should specify that the primary source documents for the NMBM MPAC be the reports of the Auditor-General.

5.2.13 committee chairperson

There is no formal requirement that the chairperson of the The NMBM MPAC Terms of Reference and Operational Guidelines do not specifically require the MPAC chairperson to be from an opposition party. This was however the case in 2010 when the MPAC was established.

The following recommendation is made:

- The NMBM MPAC should not formally require a member of the opposition to be the chairperson of the committee as the NMBM Council is not as yet ready.

5.2.14 Non-partisan operations

The NMBM MPAC operates in a highly partisan environment and as a result, various measures were put in place to achieve a non-partisan approach to its business. Various measures aimed at achieving inter-party co-operation include some MPAC meetings being preceded by closed multi-party caucuses and bilateral engagements between the majority party and minority parties. The principle that the NMBM MPAC should operate in a non-partisan manner is not provided for in the NMBM MPAC Terms of Reference.

The following recommendation is made:

- The principle of consensus decision-making and a non-partisan approach to the NMBM MPAC operations be included in the revised terms of reference.

5.2.15 Collaboration with other oversight committees

.The NMBM MPAC does not collaborate with other oversight committees and therefore the NMBM MPAC is not aligned to the generally accepted practices of public accounts committees. The NMBM council has an Audit Committee and does not have section 79 oversight committees. The NMBM MPAC collaboration could be in the form of sharing reports.

The following recommendation is made:

- The NMBM MPAC Terms of Reference should provide for the sharing of reports between the MPAC and the Audit Committee.

5.2.16 Adequacy of resources

The NMBM MPAC Terms of Reference and Operational Guidelines provide for dedicated staff members which are the Committee Co-ordinator/Researcher, Committee Services, Internal Audit and Legal Division. It is not clear how Committee Services, Internal Audit and Legal Division are referred to as dedicated capacity for the MPAC whereas these are stand-alone components with specific mandates that are broader than the MPAC in scope. In practice, the NMBM MPAC is currently supported by the secretariat which is made up of two staff members who are responsible for preparing the agenda, issuing the meeting packs and drafting the minutes of the meeting. The NMBM MPAC is currently not receiving adequate support and as a result the support staff in the offices of the City Manager and the Chief Operations Officer augment the existing

capacity. There is a misalignment between what is provided for by the NMBM Council in the NMBM MPAC Terms of Reference and the practical reality.

The NMBM MPAC requires professionally qualified staff throughout the year that will provide it with the capacity for addressing the core business of the MPAC, to review annual financial statements and the report of the Auditor General. Furthermore, the NMBM Chairperson is now a full-time councillor focussing on the MPAC responsibilities.

The following recommendations are made in this regard:

- The current level of resourcing of the NMBM MPAC as provided for in the terms of reference must be retained.
- The NMBM should urgently attend to the leadership of the dedicated capacity that will provide direction to the entire team. An appointment of the Committee Co-ordinator/Researcher needs to be prioritised and be charged with a mandate of leading and co-ordinating the rest of the team.
- The staff from the Committee Services, Internal Audit and Legal Division that are allocated to support of the NMBM MPAC should administratively report to the heads of those respective divisions, but should functionally report to the chairperson of the NMBM MPAC pending the appointment of the Committee Co-ordinator/Researcher.

5.2.17 Capacity building for members

The NMBM MPAC Terms of Reference provide for the MPAC to facilitate capacity building programmes for committee members and officials to enable them to perform their duties. Two capacity building sessions have been facilitated thus far by the Association of Public Accounts Committees

and the Eastern Cape Department of Local Government & Traditional Affairs. However, there is no annual capacity building programme for NMBM MPAC and officials.

The following recommendations are made in this regard:

- The provision for the MPAC to facilitate capacity building programmes for committee members and officials in the current Terms of Reference of the NMBM MPAC should be retained.
- The NMBM MPAC Terms of Reference to stipulate that the annual plan of the MPAC to entail an annual capacity building programme for NMBM MPAC and officials.

5.2.18 Council debates on committee reports

The NMBM MPAC Terms of Reference do not provide for a debate or discussion on the MPAC reports by the NMBM Council. In practice, debates do take place depending on the content of the report or the existing mood of the Council. The discussion of the MPAC reports by the council provide an opportunity for all members of the council to be aware of the key governance and accountability issues arising from the report.

The following recommendation is made:

- The current practice for the NMBM MPAC reports to be tabled in the Council for debate and approval should be included in the revised terms of reference of the NMBM MPAC.

5.2.19 Executive responses to Committee reports

The NMBM MPAC Terms of Reference do not provide for responses to the MPAC reports by the Executive Mayor or the City Manager. In practice, the NMBM officials are responsible for responding to the NMBM MPAC

reports with the timeliness and quality of responses being inadequate. The NMBM MPAC is not aligned to generally accepted public accounts committee features with respect to executive responses to PAC recommendations.

The following recommendations are made in this regard:

- The requirement for the City Manager to provide formal responses to the NMBM council on the MPAC reports be included in the revised terms of reference. The responses to MPAC reports be provided within two months after the adoption of the MPAC report by the NMBM council. The responses will have a standing referral to the NMBM MPAC by the speaker.

5.2.20 Records of meetings

The NMBM PMAC Terms of Reference do not provide for the keeping of detailed minutes or transcripts of MPAC proceedings. In practice, however, the records of proceedings in the form of minutes are kept by the NMBM MPAC in practice. However, no transcripts of the meetings are produced. The NMBM MPAC is not aligned to generally accepted public accounts committee features with respect to the keeping of the records of MPAC proceedings.

The following recommendation is therefore made:

- .The requirement for the keeping of records of MPAC proceedings in the form of minutes and transcripts to be included in the revised MPAC Terms of Reference.

5.2.21 Performance measurement

The NMBM MPAC has no mechanism in place to measure its performance and has never obtained external assistance in reviewing its success in informing the NMBM Council about the accountability of the Municipality. The situation in the NMBM MPAC is consistent with the findings of Stapenhurst (2005, p.22) where very few committees published reports dealing with their own performance, or assessed their success in informing their legislatures about the accountability of the government.

The following recommendations are made in this regard:

- The NMBM MPAC should adopt a formal performance measurement mechanism to measure its success as a catalyst in improving the financial accountability of the municipality. The framework of this mechanism would entail an assessment of the MPAC performance with respect to its activities, outputs and outcomes.
- The NMBM MPAC should assess its performance once per annum guided by its performance measurement mechanism. In addition, the NMBM MPAC should annually publish the report dealing with its performance.

5.3 CONCLUSION

The study supports the view that legislative structures such as the municipal councils delegate some of their authority to the executive of the municipality which is accountable to the municipal council for exercising its delegated powers and functions. The municipal council has to ensure that the responsibility conferred on the executive is properly fulfilled and that the executive has an obligation to account for how it exercises the delegated powers and functions. In addition to other critical roles and responsibilities, municipal councils are required to be the custodians of public resources at

the local government level and therefore they need to provide leadership on the stewardship of these resources.

The findings of this study are expected to contribute to the body of knowledge regarding efforts to strengthen the role of the municipal councils in financial accountability. More importantly, the role and responsibilities of the non-executive oversight committees to enhance the council oversight ability to hold the executive and the administrative structures accountable will improve service delivery and financial governance in municipalities.

The study highlighted the significant role of the municipal public accounts committee in assisting the Council to promote financial accountability. The research findings indicated that without adequate clarity on the mandate and the powers of the MPAC, the council will be unable to undertake all the necessary activities to enable effective financial accountability. Similarly, the study revealed the inadequacy of the NMBM Terms of Reference and Operational Guidelines that provide for the institutionalisation of the NMBM MPAC.

The study highlights the importance of the proper establishment and institutionalisation of the MPAC as a financial oversight mechanism of the council. The committees must be endowed with adequate authority to realise their purpose. The requisite authority must be formally delegated to empower the committee and be sufficiently comprehensive to enable it to fully discharge its financial oversight mandate.

A number of gaps in the practices of the NMBM MPAC were also identified by the research. Measures meant to close the gaps in practices would go a long way in improving the effectiveness of the MPAC. The study confirmed the need for the assessment of the performance of the MPAC with respect to its activities, outputs and outcomes.

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APPENDIX

Interview guide for the NMBM MPAC

Name of Interviewee	Designation	Contact details
		Mobile: E mail:

Introduction and purpose

Introduction– Researcher and participant introduce themselves

Purpose – summary and objectives of the interview – the participant to feel free to share experience about the NMBM MPAC, to assess progress and lessons in the operations of the MPAC, results to help NMBM and other SA municipalities, no answer is wrong, the interview to take approximately an hour; the thematic areas to be covered.

Discussion topics	Prompts
Background of the NMBMMPAC: When and why was the MPAC established?	In hind sight, was it a good idea to establish the MPAC?
What is the mandate of the MPAC? What is the relationship of the MPAC with the NMBM Council?	*What is the relationship of the MPAC and the Mayoral Committee?* *How does the MPAC relate with the Finance Committee and the Audit Committee?* *Is the public and the press allowed to attend MPAC sittings?* Is the council interested in MPAC reports?

What are the gains or achievements of the MPAC?	*Are there any benefits for having an MPAC in NMBM? If so, what are they?*
Is the role of the MPAC clear to all members of the NMBM Council?	*Do other councillors who are not members attend MPAC meetings?*
Are there any challenges faced by your committee? If so, what are those challenges?	How do councillors from different parties relate to the MPAC mandate? Is the City Manager available for MPAC meetings? Does the committee have access to all the relevant people and information?
What are the plans to address the challenges?	Are there any capacity building initiatives for committee members and the support staff? Are there adequate resources allocated to the committee? Has the Office of the Auditor General provided support to the committee?
Who should be the leader or chairperson of the MPAC? Give reasons	
What is the mechanism for measuring the performance of the MPAC?	Is the mechanism effective? What are means of measuring MPAC performance should NMBM consider?
Conclusion Thank you for availing yourself for the interview and for sharing useful information and perspectives about the MPAC. I might make a follow up call in case there are significant gaps in my records	