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2023
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Kamati, Solomon Solly. (2023). Exploring the impact of compliance with legislation on service delivery in Municipalities[Master's dissertation, University of the Witwatersrand, Johannesburg]. WireDSpace.https://hdl.handle.net/10539/41631

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Exploring the impact of compliance with legislation on service delivery in Municipalities

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A research article submitted to the Faculty of Commerce, Law and Management, University of the Witwatersrand, in partial fulfilment of the requirements for the degree of Master of Business Administration.

Johannesburg, 2023

Protocol number: WBS/BA9813066f/261

ABSTRACT

The National government has promulgated laws that dictate how Municipalities govern their affairs. The annual Auditor-General audit outcomes show whether Municipalities are complying with these laws. The study explored the impact of compliance to legislation on service delivery in Municipalities by doing a comparative study of two Municipalities being Mangaung Metropolitan Municipality and Midvaal Local Municipality. The study further explored the challenges faced by the Municipalities in implementing the laws and how they deal with these challenges. Mangaung Metropolitan Municipality has been getting adverse audit outcomes while Midvaal Local Municipality has been getting clean audits for the past five years. The study has shown that just having the required policies and structures is not enough. The institution must implement these policies and there has to be consequence management where same are not complied with. That is the case with Midvaal. The study further showed that political interference in the administration and political instability lead to poor compliance and consequently poor service delivery. It is recommended that government, through the security services and the Auditor-General, enforce compliance with the Local government legal framework. This will do away with political interference and actions will be taken against those that transgress the law.

DECLARATION

I, Solomon Solly Kamati, declare that this research article is my own work except as indicated in the references and acknowledgements. It is submitted in partial fulfilment of the requirements for the degree of Master of Business Administration in the Graduate School of Business Administration, University of the Witwatersrand, Johannesburg. It has not been submitted before for any degree or examination in this or any other university.

Solomon Solly Kamati

Signed at Bloemfontein on the 4th day of July 2023

DEDICATION

To my daughter Lebogang Violet Kepadisa and my grandchildren Degwa and Amogelang.

ACKNOWLEDGEMENTS

I would like to thank my daughter Lebogang Violet Kepadisa who stood by me throughout my MBA program and encouraged me to study for exams even when I didn't feel like it. To my former Head of the Department Mr Mokete Duma for approving my bursary to study for MBA even though it is so expensive. To my immediate manager Mr Letshela Mokoena for his understanding for all away days when I was attending classes and having the confidence in me. To Ms Riette Venter of Free State COGTA for all the headaches I have caused you and still been patient and willing to help me during my studies. To all the Wits administrative staff who were patient with me and helped this old man to complete his studies.

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CHAPTER 1 Introduction

1.1 INTRODUCTION

Municipalities are the main establishments that provide basic services such as water, waste management, electricity network system, sanitation, roads, parking, storm water drainage, land use planning and control, streetlights, and transport planning among other services (Pieterse, Parnell, Swilling & Van Dunk, 2008:3). Schedules 4 and 5 of the Constitution outlines the type of services that can be provided by municipalities.

Chen et al. (2013) characterised service delivery as an expression which is used to describe the delivery of basic resources like water, electricity, sanitation infrastructure, land, and housing which are basic need required by people. Service delivery is different from physical products because services are intangible and cannot be owned. (Mpofu & Hlatswayo, 2015). Service delivery deals with three aspects which are value or quality of service, effects of the service and customer gratification. To achieve value or quality of service there are things that must be met. A service provider should fulfil the promises made during the period of marketing (Seth et al., 2005).

1.2 Municipal service delivery options

The White Paper states that municipalities search for inventive options to deliver and fast- track the delivery of municipal services. In order to meet its economic objectives, a municipalities should use quality, coverage and price as guidelines for selecting innovative delivery options. African National Congress Local Government Elections Manifesto (2000) stipulates that the public sector should be the ideal provider of basic municipal services. According to this document, public, private or community partners may be in-cooperated to help in consolidating the delivery of municipal services. It is the duty of local governments to supervise private sector providers so that the municipality can realise their delivery objectives.

Public sector organisations are owned and controlled by the government whilst private sector organisations are managed by individuals, groups, and business entities. Service delivery in the public sector focuses on fairness whilst the private sector is determined by market conditions. It is worth noting that even in situations where the consumers pay for the services rendered like in the case of transport or utilities, the guiding principles remain equitable treatment and allocation of resources according to need. Although the consumers will be paying for these services, the government still subsidizes them to keep the prices lower than it would have been (Ridde & Morestin, 2011).

Municipalities are allowed to form partnerships for the delivery of municipal services. These partnerships are known as Municipal Service Providers (MSP). The type of partnership can be between a public-public, public-private or a public-Non-Governmental Organisation/CBO. A lease agreement, building contract, management service agreement, or any other contract between a municipality and an MSP service provider may be outsourced through an MSP partnership.These partnerships help municipalities to achieve their objectives and goals within a given timeframe.

The White Paper on Municipal Service Partnerships (DPLG, 2000) clearly states that MSPs should not be seen as alternatives for known approaches of direct, efficient service delivery or evading accountability but should be used as partnerships that offer flexibility in dealing with service delivery needs. Some organisations like COSATU highly oppose partnership of the private sector in service delivery.

1.3 Problem statement

The Municipal Finance Management Act, Act 56 of 2003 (the MFMA) was put into place to ensure that Municipalities manage their financial affairs in an effective, efficient manner but the implementation of the Act poses challenges that were not the intention of the law makers and ultimately has posed challenges that impact on service delivery in Municipalities.

The MFMA and its regulations dictate how finances of municipalities are governed. It regulates how municipalities should deal with their budgets and how expenditure should be dealt with. The Act requires municipalities to adopt a supply chain management policy that governs how municipalities procures goods and services.

Every year after the end of the financial year of municipalities the Auditor-General (hereafter referred to as the AG) does audits on municipalities in the country in terms of the Public Audit Act, Act 25 of 2004. At every presentation of the audit outcomes of municipalities by the AG a bleak picture is painted of municipalities' performance.

The AG in her media statement of 21 June 2021 depicted the increase in the number of municipalities with adverse audit findings as the "deteriorating state of local government" (AG Media release, June 2021). There is increased pressure on municipalities to get clean audits as an indication of proper and effective management of their affairs. The promulgation of the Public Audit Amendment Act, Act 5 of 2018 has given powers to the AG to take action against officials of municipalities where there are material irregularities identified in its audits of public organisations or bodies.

The study has explored the impact of the compliance to legislation on service delivery in municipalities. In doing this the study looked at how municipalities implement the MFMA, the challenges they faced in implementing the Act and how they deal with these challenges. It further looked at whether officials become fixated on getting clean audits and drop the ball on service delivery in an effort to avoid contravening the MFMA and get favorable Audit outcomes.

1.4 Purpose statement

The purpose of the study was to explore the impact of compliance with legislation on service delivery in municipalities.

1.5 Objectives of the study

1.5.1 The objective of the study was to find out how municipalities implement the Municipal Finance Management Act, Act 32 of 2000;

1.5.2 To find out if there were challenges faced by Municipalities in implementing the MFMA; and

1.5.3 To explored how Municipalities deal with these challenges they encountered in implementing the MFMA;

1.6 Research questions

1.6.1 How does the municipality implement the Act?

1.6.2 Are there challenges in the implementation of the Act, and if so, how are these challenges dealt with?

1.7 Delimitations and assumptions of the study

1.7.1 Delimitations

The delimitations of the study were that the study focused on only two municipalities and in these municipalities only senior and middle managers of the municipalities were the subjects of the study. Thus, the study was centred on the supply side of service delivery and not the demand or receiving end of the chain, who will be the members of the community. The choice of the two municipalities was due to their contrasting audit outcomes and performance in respect of service delivery.

1.7.2 Assumptions

Qualitative research aims to provide rich, descriptive data that can help the researcher to understand and interpret complex issues. However, like any form of research, qualitative research is subject to a range of assumptions that shape the way the researcher collect, analyse and interpret data. These assumptions include the idea that reality is constructed through human experience, that knowledge is co-constructed by the researcher and the participant, and that data is subjective and

context-dependent. It is important for the researcher to be aware of these assumptions and how they may influence the research process and findings.

1.8 Definition of terms

1.8.1 Public-Non-Governmental Organisation/CBO Partnership

This is partnership between a municipal council and a Non-Governmental Organisation/CBO.

1.8.2 Public to Public Partnership

This is partnership between a municipal council and another public body or organisation.

1.8.3 Public-Private Partnership

This is partnership between a between a municipal council and a private organisation.

1.9 Outline of the study

The outline of the research paper is made up of Chapter 2, which deals with Literature Review, Chapter 3 which deals with Research Methodology, Chapter 4 which deals with presentation of the results, Chapter 5 Discussion of the results and Chapter 6 which deals with Conclusion and Recommendations.

CHAPTER 2 Literature Review

2.1 Municipalities and their Organisational Structure

Municipalities are areas that are demarcated by their geographic locations and are governed via municipal councils. The structure is comprised of a political structure, administrative structure, and the community. According to the Municipal Systems Act of, 117of 1998 section 2 (b) a municipal should be constituted of twenty-one councillors. From that 21 five of them must be ward councillors and four are Proportion Representation. The National Government passes bills that ensures that municipalities can expand. One of these legislations is the Municipal Demarcation Act, Act 27 of 1998 which can create new municipal boundaries. The new boundaries are drawn and establish financially sustainable municipalities and financially sustainable municipalities can be combined with poor municipalities.

2.2 Local government

Chapter 7 of the Constitution of the Republic as well as the Municipal Systems Act of SA provides guidelines on the governance, objectives, and functions of local governments. Local government municipalities are independent establishments which practises and executes programmes independently. There are three types of local governments namely, metropolitans, district councils and local municipalities. The Constitution of the Republic of South Africa stipulates that everyone should have a right to an efficient, functional, local governments that deliver basic services, and encourage social and economic development. When a local municipality is well-governed some of the inequalities and socio-economic rights violations that were brought by apartheid will be addressed.

2.3 Municipal structures

2.3.1 Municipal council

The duties of the councillors are also stated in the municipal structures act of, 117of 1998. According to the act, the councillors' duty includes recognising and selecting what the communities in a designated municipal area need. They are also tasked with creating projects and financial and economic plans to address these people's needs (Reddy, 2016).

2.3.2 Office of the Speaker

The Speaker is the Chairperson of the Municipal Council and performs his/her duties in accordance with the authority that is given by legislation and powers that are given by the Municipal Council in terms of the Municipal Systems Act.

2.3.3 The Executive Mayor and Executive Mayoral Committee

The Executive Mayor, who has executive powers, is at the centre of the governance system and is responsible for providing political and strategic leadership. Executive power is entrusted and assigned by legislation as well as powers delegated by the Municipal Council in terms of Section 59 of the Municipal Systems Act. In order to maximise operational efficiency, the Municipal Council has delegated all powers except those that are not delegate by law to the Executive Mayor. The Executive Mayoral Committee is led by the Executive Mayor and includes the Deputy Mayor and one full time Councillor.

2.3.4 Portfolio or Mayoral Management Committees

Portfolio Committees, or Municipal Mayoral Committees (MMC's) as popularly known, are Committees selected in terms of section 80 of the Municipal Structures Act. Portfolio Committee are chaired by the Deputy Mayor, and the members of the Executive Mayoral Committee.

2.3.5 Community and Community Structures

The Constitution requires the Municipality to encourage the participation of community members and community organisations in the matters of local government. The Community play an integral role in municipal processes and decision making and our challenge is to find the most effective method of implementing two way communication and interaction.

2.4 Challenges of service delivery

The challenges of service delivery are not particular to a municipality but are spread out throughout most provinces of SA (Shafig 2012). Perceptions of the services delivery differ between rural households and urban municipalities (Statistics South Africa, 2017). Households in urban municipalities are mostly more satisfied with the service delivery as compared to their rural municipality counterparts. Residents of different South African communities have been demanding for service delivery from municipalities. These demands range from services such as basic water and electricity to houses. Some communities have resorted to protests or marches that ended in destruction of infrastructure and loss of lives. This outcome supports the observation made by IDASA (2010), who observed that poor service delivery by of municipalities can result in a negative social and economic development.

2.5 Objectives of municipalities

The primary objective for the existence of municipalities is to offer services to its communities (Constitution, 1996). For the municipality to be able to provide services as required it must have financially solvent as this will positively impact service delivery (Mbulawa, 2005).

Municipalities form an integral part of the government. The purpose or reason for the existence of municipalities is to provide service to communities within their jurisdictions. The National government enacted the Municipal Finance Management Act, Act 32 of 2000 (hereafter referred to as the Act), which forms part of the local government legal framework, to govern how municipalities should handle their financial affairs. The preamble of the Act states that there is a need to have principles and mechanisms that will assist Municipalities to uplift their communities and provide basic services to their communities. The Act is envisaged to assist Municipalities in this regard. Despite the enactment of this Act and other legislation and regulations that have been promulgated to achieve these goals most of the Municipalities in the country are still plagued by poor service delivery, mismanagement, and corruption 22 years after the promulgation of the Act in 2000. The legislatures had envisaged that the enactment of the Act will bring about efficient, effective, and transparent

municipalities. The fact is that while there are municipalities that provide good services most municipalities in the country are failing to provide basic services to their communities.

Most local governments have attributed their lack of or poor service delivery to non-payment of bills by the residents. Some councils report that they do not have adequate funds and cash in reserve to pay a month's salary bill. The central government has also reduced national subsidies for municipal infrastructure and is reluctant to bail out bankrupt local authorities. Private lending has more or less dried up, except for short-term overdrafts and a few high-interest. Municipal technical departments are reported to be failing to conform to health and safety regulations because of dilapidated infrastructure (Jaaskelainen & Lonnqvist 2011).

According to SALGA (2005) financial sustainability of municipalities is threatened by how municipalities manage expenditure and long-term debt. Mbulawa sees the adverse fiscal framework in municipalities as one of the causes of the distress that they find themselves in. He is of the opinion that financial management and lack of the requisite skills can't be seen as the only causes. This he supports by making an example of the Systems Act which requires that tariffs charged by municipalities must correlate with the reasonable costs for providing the service which will include all the relevant costs like administration. The financial year of municipalities starts in July of each year while that of ESKOM starts in April of each year. When Eskom increases the rates it charges for electricity it does so at the beginning of its financial year. Municipalities can only change their tariffs at the beginning of their financial year as prescribed by the MFMA. This means that for the three winter months municipalities have to absorb the increases in the rates. They can't also table an adjusted budget to cater for the increase as the Municipal budget and reporting regulation 23(1) and (2) does not allow adjustment of the budget not later than February of the current year. This is before the beginning of the financial year of Eskom.

The National department released a document in which it outlines the importance of financial management and the need to implement the MFMA in order to achieve this. According to the document there are four inter-related components for municipal financial management which are planning and budgeting, revenue and expenditure

and reporting and oversight. These components work together to bring about effective and efficient financial management. The document stresses that a good foundation of financial systems and capacity is paramount to the effective function of a municipality which includes service delivery, reliability and sustainability of services. It further requires that there has to be the correct mind-set, skills and knowledge in the municipality to bring about service delivery. Failure to have these requirements will lead to the collapse of municipalities and the intervention of either the provincial or national government in terms of section 139 of the Constitution.

The MFMA does not work alone but is part of municipal framework that includes the Municipal Rates Act (2004), the Systems Act (2000) and the Structures Act (1998). Together these pieces of legislation outline the processes for municipal functioning, planning, governance and accountability. In terms of the Systems Act in section 2(d) municipalities are juristic persons. Although they are juristic person they are regarded as unique entities from the private sector juristic persons (Wright, J 2020). According to Glasser, et al the difference is that private juristic persons operate in a competitive environment while municipalities are in essence monopolies in their spheres. Municipalities generate their revenue through provision of services while private sector juristic persons get paid for the services they offer or the goods they sell. Private juristic persons are able to negotiate the terms of payments for the creditors and debtors while municipalities are bound by section 65 of the MFMA to pay creditors within 30 days of receiving invoices. This possess liquidity problems for municipalities as the collection of rates and taxes from communities is not guaranteed to be paid in full every month. Among the 7 ways to improve liquidity of a company must get rid of assets that don't generate revenue, negotiating terms of payments for accounts payables, reducing overhead costs like rent, advertising and professional expenses (Newman, P (2007)).

In terms of section 18 of the MFMA the budget of a municipality is based on projections of revenue to be collected. Section 19 prohibits municipalities from undertaking capital projects that are not included in their budgets. This means that if during the course of the year the municipality wants to spend money on a capital project that they did not budget for they are forbidden from doing so, even if the money is available for doing so. This projection is based on previous year's collection and may include any surpluses that the municipality has.

This means that municipalities have unfunded budgets, unlike entities in the private sector where their budgets are based on what they actually have in the bank or can convert to cash within a reasonable period. The Act forbids borrowing of funds for anything other than capital projects that have been budgeted for. In the event that the municipality does not have funds to pay salaries it is forbidden from borrowing money to cover this unforeseen circumstance.

Circular No: 317 forbids municipalities from advertising for services, commodities and products where it has transversal contracts “to benefit from savings where lower prices or rates have been negotiated”. This hampers municipalities from negotiating their own contracts without first considering those of national treasury.

2.6 Stakeholder Theory

The concept stakeholder theory is a framework that is to understand the relationships between organizations and their stakeholders. In respect of municipalities in South Africa, the theory gives valuable insights into the dynamics and interactions between local government entities and wide range of stakeholders they serve. The study explored the application of stakeholder theory in South African municipalities, highlighting its relevance, benefits, and challenges.

According to Freeman (1984) stakeholder theory takes the position that organizations are not solely accountable to their shareholders but also have ethical obligations to various stakeholders who can significantly influence or be affected by their actions. Stakeholders may include community members, government agencies, non-governmental organizations (NGOs), businesses, and civil society groups.

In terms of the theory as defined by Freeman (1984) the concepts of stakeholder theory include stakeholder identification, stakeholder salience, stakeholder power, and stakeholder engagement. Stakeholder identification is about identifying and categorizing the relevant stakeholders, and stakeholder salience refers to the degree to which stakeholders are deemed significant by an organization. The power of stakeholders represents the ability of these stakeholders in influencing organizational

decisions and outcomes, and engagement is about actively involving stakeholders in decision-making processes.

South African municipalities face unique challenges due to their diverse stakeholder landscape, encompassing communities with varying socioeconomic backgrounds, political interests, cultural identities, and historical contexts. Understanding and effectively engaging with these diverse stakeholders is crucial for promoting inclusive governance and sustainable development.

Applying stakeholder theory in South African municipalities offers several advantages. It facilitates better decision-making by considering the interests and perspectives of various stakeholders, leading to more inclusive and responsive policies. Stakeholder engagement enables municipalities to build trust, foster social cohesion, and enhance social accountability. Additionally, stakeholder theory helps identify and address social and environmental concerns, contributing to sustainable development in municipalities.

Implementing stakeholder theory in South African municipalities is not without challenges. Limited resources, political pressures, historical inequalities, and power imbalances can hinder effective stakeholder engagement and limit the influence of marginalized stakeholders. Cultural and linguistic diversity may also pose communication and coordination challenges. Addressing these challenges requires proactive measures, such as capacity-building initiatives, participatory decision-making processes, and equitable representation of stakeholders.

Stakeholder theory offers valuable insights and guidance for municipalities in South Africa to effectively engage with their diverse stakeholders, promote inclusive governance, and address social and environmental challenges. Despite challenges such as resource constraints and power imbalances, stakeholder theory provides a framework for building trust, enhancing social accountability, and achieving sustainable development in South African municipalities.

According to Chapter 4 of the Systems Act, Act 32 of 2000 municipalities are encouraged to have ward committees in their jurisdictions. The objective of these ward

committees is to enhance public participations in the affairs of the municipality by making recommendations on issues that affect them in their wards in terms of section 72 (3) of the Structures Act, Act 117 of 1998.

Smith and Larimer (2017) advocate having ordinary citizens brought together and allowing them to discuss and come up with solutions to problems that affect them. According to Andersen and Jaeger (1999) the Denmark “consensus conferences and scenario workshop allow the citizens to actively participate in decision making by coming with plans to solve issues at these conferences and workshops. In this way citizens and other stakeholders are able to make meaningful impact in the management of their affairs. Stakeholder analysis contributes to policy development and capacity building in municipal service delivery. Understanding stakeholders' interests and interdependencies helps policymakers design responsive and targeted policies that align with stakeholders' needs. Capacity building initiatives, such as training programs and knowledge sharing platforms, empower stakeholders to actively participate in decision-making processes and enhance their ability to contribute to improved service delivery. In terms of section 22 of the MFMA municipalities are required to make public the draft budget together with all accompanying documents where they can be easily accessed like public libraries. Submissions from members of the community and other organs of government must be taken into consideration when the final budget is passed by the municipal council in terms of section 23 of the MFMA. Other stakeholders like businesses and organised civil groups are allowed to make submission also in respect of the budget of the municipality.

2.7 Management theories

The effective delivery of essential services by municipalities in recent years has become a critical concern in the country. Municipalities play an important function in providing basic services such as water supply, sanitation, waste management, electricity to their communities. It has however become apparent that achieving and sustaining efficient service delivery has proven to be a complex challenge to most municipalities and this has necessitated a comprehensive understanding of the factors that influence effective service delivery. This study aims to explore the impact of

compliance with legislation on service delivery in municipalities in South Africa, using various management theories to provide a theoretical foundation for the study.

2.7.1 Compliance theory

The compliance theory looks into the dynamics of compliance to legislation and the impact thereof on organizational performance. In respect of municipalities, compliance refers to the extent to which municipalities comply with applicable laws, regulations, and policies governing their operations. The theory puts emphasize on the importance of legal and regulatory frameworks in guiding and shaping municipal performance. It makes it clear that compliance is not only a matter of following rules but also involves establishing internal control mechanisms, monitoring processes, and implementing enforcement measures. This understanding of compliance within the ambit of service delivery in municipalities is important for identifying the potential effects on overall performance and outcomes.

There are studies that have explored the relationship between compliance and organizational performance. Koppell (2005) explored the impact of compliance with environmental regulations on organizational performance and concluded that there is a positive correlation between environmental compliance and financial performance of organizations. Verma and Nishant (2017) examined the impact of compliance with labour laws on the performance of Indian manufacturing companies and concluded that companies that were more compliant had better financial performance than those that were less compliant. These studies make it clear that it is important for companies or organizations to have high compliance levels in order to achieve favourable organizational outcomes.

2.7.2 Service delivery theory

The theory examines the factors that impact on the delivery of public services and their impact on the well-being of their communities. The theory makes it clear that service delivery is a complex process influenced by various factors, including institutional arrangements, organizational capacity, resource allocation, and community participation. It provides a framework to understand how compliance with legislation

can shape service delivery outcomes. In complying with laws, municipalities can make sure that there is delivery of services that is of high quality, accessible to all, and responsive to the needs of the communities they serve. On the other hand, non-compliance may lead to inefficiencies, poor service delivery, and negatively impact on the lives of the communities that they are supposed to serve.

Andrews, Pritchett, and Woolcock (2017) explored the role of governance and service delivery in low- and middle-income countries. They concluded that compliance with laws is important for effective service delivery and they further identified the importance of accountability mechanisms in improving service outcomes. A study by Brinkerhoff (2004) examined the relationship between compliance with laws and public service delivery in developing countries. The study concluded that compliance with rules and procedures was positively associated with better service delivery performance. These studies underscore the significance of compliance in achieving desirable service delivery outcomes.

2.7.3 Governance Theory

The theory explores the structures, processes, and relationships that shape decision-making and performance in public organizations. In respect of municipalities, the theory assist in understanding the role of compliance with legislation as a mechanism for accountability, transparency, and effective management. It highlights the importance of clear roles and responsibilities, participatory decision-making, and effective oversight mechanisms in ensuring good governance. Compliance with legislation can contribute to improved governance practices within municipalities, leading to enhanced service delivery outcomes.

A study by Moe (2005) looked at the impact of compliance with laws on organizational behaviour in respect of public governance. The study showed that compliance with laws can improve accountability and transparency and promotes effective governance. Grimmelikhuijsen and Welch (2012) explored the relationship between compliance with freedom of information laws and bureaucratic responsiveness in local government. Their conclusion was that compliance with legislation results in increased transparency and community engagement, leading to improved bureaucratic

responsiveness. The above studies signify the role of compliance in promoting good governance practices and ultimately influencing service delivery outcomes.

2.7.4 Institutional Theory

The institutional theory examines the impact of formal and informal rules, norms, and practices on organizational behaviours the resultant outcomes. In municipalities compliance with legislation can be examined by using the institutional theory. The theory acknowledges that compliance is not solely driven by legal requirements but is also impacted by social, cultural, and organizational factors. Compliance with legislation can be the result of external pressures, including public expectations, political influences, and professional norms. Understanding the institutional context within which compliance operates in municipalities is essential for comprehending the motivations, constraints, and challenges associated with adherence to legislation and its impact on service delivery.

DiMaggio and Powell (1983) came up with the institutional theory pointing out the importance of conformity to institutional rules and practices for organizational legitimacy. Their study resolved that organizations must align their behaviour with prevailing institutional norms to gain acceptance and maintain legitimacy. Within the context of compliance and service delivery, organizations, including municipalities, conform to legal and regulatory requirements to ensure their legitimacy and attain public trust. Lawrence and Suddaby (2006) studied how compliance with regulatory requirements impacts on organizational behaviour. They concluded that organizations conform to regulations to maintain their institutional legitimacy. These studies give valuable insights into the importance of compliance within the institutional context of municipalities.

2.8 Conclusion of Literature review

This chapter dealt with the literature review on the structure and objectives of Municipalities in South Africa. . It dealt with the challenges of service delivery, the stakeholder theory and management theories that are applicable to Municipalities.

CHAPTER 3 Research Methodology

3.1 Introduction

This chapter sets out the research methodology that was used to examine the impact of compliance to legislation on service delivery in Municipalities. The chapter will deal with the objectives of the study and the research method used. It will further elaborate on the sample used, the methods used for data collection and analysis of the data collected. It will cap it all by dealing with the ethical issues, limitations and assumptions made due to the limitations.

3.2 Research paradigm

This study elected to use the qualitative research method. Qualitative research method is a type of research methodology that seeks to understand the nature of human experience and the meanings that people attribute to their actions and interactions. The method is grounded in a constructivist or interpretivist paradigm, which means that it assumes that knowledge is socially constructed and that the meanings people attach to their experiences are subjective and context-dependent (Creswell. 2013) This paradigm emphasizes the importance of understanding the perspectives of the people being studied and the need for the researcher to be reflexive and aware of their own biases and assumptions.

Qualitative research methods are used in the social sciences to allow researchers to examine social and cultural experiences (Babbie, 2010). This research methodology also gave the researcher a platform to obtain answers to questions in an organized and systematic manner. A qualitative, interpretative research approach was suitable in this study because it facilitated an interpretation of social experiences through social construction (Lopez & Abod 2013).

3.3 Research design

Qualitative research methods are used in the social sciences to allow researchers to examine social and cultural experiences (Babbie, 2010). This research methodology also gave the researcher a platform to obtain answers to questions in an organized and systematic manner. A qualitative, interpretative research approach was suitable

in this study because it facilitated an interpretation of social experiences through social construction (Lopez & Abod 2013). The research design is the plan in terms of which research participants are selected and information is collected from them.

3.4 Sampling and selection

Sampling is the process of selecting a subset of individuals or units from a large population. Sampling is an important component of research design as it allows the researcher to gather data from a representative subset of the population rather than trying to collect data from everyone in the population. According to Punch (1998) the choice of the sample reflect the objective of the study and the research questions. The objective of the study is to examine the impact of compliance to legislation on service delivery in Municipalities. The research question are about how the Municipality implements the legislation, whether there are any challenges in implementing the legislation and how the Municipality deals with these challenges. Based on the objectives of the study and the research questions the sample will consist of the implementers of the legislation, who are Municipal officials. The sampling method that was appropriate, and as such used in the study, was the purposive sampling method. This method involves selecting individuals based on a specific purpose or criteria, such as expertise or knowledge about a particular topic. Purposive sampling method is often used in qualitative research or when studying a specific group. The researcher chose to interview senior and middle managers in the two Municipalities. This choice was due to the experience and knowledge of legislation by these managers. At those levels they would have had experience in implementing the legislation and would be knowledgeable about its challenges in implementing it and what methods are used to overcome these challenges.

Participant	Gender	Age	Work Title	Division	Work Experience
A	Male	44	Manager	Housing	16
B	Female	47	Manager	Legal Services	18
C	Male	36	Manager	Accounting	12

				& Reporting	
D	Male	43	General Manager	Internal Auditing	16
E	Male	48	Director	Roads & Storm Water	22
F	Male	54	Director	Water & Sanitation	28
G	Female	35	Assistant Director	Roads & Storm Water	9

The researcher was able to seek the participants through his colleagues. At first there were fifteen participants but eight of them were not able to give the researcher time for the interview and time constraints also meant that there was not enough time to accommodate them later. The participants were from the two Municipalities, being Midvaal and Mangaung Metro and a combination of senior and middle managers.

3.5 Instrument

The researcher used a questionnaire as a research instrument. The questionnaire contained the questioned that were asked to the participants. This research instrument has been attached as an annexure.

3.6 Data collection

Data collection is the process of obtaining information to address the research problem (Van der Waldt, 2007). The data was collected by interviews using questionnaire that has been prepared prior to the interview. According to Kumar (2011), a questionnaire is a written set of questions, in which the respondents will read the questions, interpret what is expected and then write down answers. The questionnaires had both open and closed questions. Semi-structured interviews were conducted with the senior and middle managers. A semi-structured interview is

flexible in that it allows additional questions to be asked during the interview. Further probing from respondents can be done when using a semi-structured interview (Qu & Dumay 2011).

The researcher only got his ethics clearance on the 3rd of February 2023 and thus only started collecting data during this month. The researcher contacted the Mangaung participants by contacting them face to face and requesting their consent to participate in the study and the Midvaal Municipality ones were contacted by email to elicit their cooperation. The researcher spend four days in Midvaal to interview the participants. One of the Midvaal participants was already known by the researcher through phone calls, after an introduction by a colleague from the researcher's workplace. This participant assisted the researcher in getting the consent of the other participants at his work place. The researcher then emailed the questionnaires to the Midvaal participants for them to have sight of the questions before the interviews. As the researcher works in Bloemfontein, which is the headquarters of Mangaung Metro, the researcher was able to visit the Municipality and talk to the participants to arrange interviews. The researcher filled in the forms while interviewing the participants and also recorded the interview using his smart phone. The researcher was unable to structure the interviews through a schedule due to the fact that the participants were always busy and the researcher had to be around in the premises to steal time in between their hectic work. The interview was conducted through a questionnaire that had been drafted beforehand, as already stated above. A pilot interview was done with the participants in Mangaung and the contact participant in Midvaal to introduce the study and allow the participants to have a say on the questions and objective of the study prior to the main interview. The researcher has not included the pilot study data into the analysis of the data. All the participants were given the questions prior to the main interview so they could read through the questions prior to the interview.

3.7 Interview

The interviews conducted using semi-structured questions that were put together in a questionnaire. The Semi-structured interviews provided some structure but allow for open-ended responses. They provided a framework for the conversation or interview, but also provide more detailed and nuanced answers. The interviews were a valuable

tool for gathering information and insights from the individuals about the research questions. While structured questions have their advantages they can also be limiting as they tend to prioritize predetermined responses rather than allowing for open-ended discussion. In contrast, semi-structured interviews provide a framework for the conversation while still allowing for flexibility and depth in responses.

Semi-structured interviews provide more flexibility than structured interviews, allowing the interviewer to follow-up on interesting points or dig deeper into specific areas of interest. This helps to ensure that all relevant information is captured and provides a more nuanced understanding of the topic being discussed. They further prioritize the participant's perspective and experiences, which can help build trust and rapport between the interviewer and participant. Semi-structured interviews provide rich data that can be analysed and used to gain insights into a variety of topics, from product development to social research.

3.8 Data analysis

Qualitative data analysis involves the systematic and iterative process of organizing, categorizing and interpreting the data. The researcher used the thematic data analysis to analyse the data. This process is used primarily when analysing questionnaires, interviews or transcripts of said interviews. Braun and Clarke (2006) have observed that thematic analysis is the most used method of qualitative analysis. They see thematic analysis as being flexible and therefore suitable to be used in "epistemological and theoretical perspectives". They further see thematic analysis as a form of "looking at what the participant says with the objective of addressing the research problem". The writers see thematic analysis as being helpful in identifying "the underlying ideas and assumptions that informed the semantic content of the data".

Thematic data analysis involved preparing the data collected, and organizing it into a format that is easily accessible and manageable. Then the data is coded through the systematic identification and labelling of meaningful units within the data. This can involve the identification of words, phrases or sentences that relate to the research question. Having coded the data the researcher identified themes within the coded data. Themes are patterns or recurring concepts from the data that emerge from the

data and may be identified through a process of comparison, grouping and interpretation. The researcher used the abductive method to identify the themes. The abductive method is a combination of the inductive and deductive methods. The inductive method involves allowing themes to emerge from the data without preconceived categories or frameworks while the deductive method involves using pre-existing theories or frameworks to guide the identification of themes. The next step involved interpreting the themes and making sure that the data made sense. This involved analysing the relationships between the themes and developing an overall understanding of the data in relation to the research questions.

3.9 Credibility and trustworthiness

It is important to ensure the trustworthiness of data in qualitative research. This is because it enhances the credibility and quality of the study. This was done by sharing the findings of the study with the participants to ensure accuracy and authenticity of the data. Transparency of the research process helps to build trustworthiness and credibility of the data collected (Yin. 2011). The researcher outlined and attached the documents that are part of the study and also described the research processes in order to enable the study to be credible and trustworthy.

The researcher also did a self-reflection of his biases and assumptions that could have impacted on the study, in order to enhance the quality and trustworthiness of the study (Creswell, 2009). To further increase the quality and trustworthiness the researcher recorded his interviews with the participants. Through this he was able to revert to the recordings to ensure that the data was correctly reflected in the study.

Establishing credibility involves having a transparent and detailed audit trail of the research process that will include the selection of participants, data collection, and analysis techniques. The findings of the study there are quotations from raw data as part of the audit trail. This will allow other researchers to evaluate the trustworthiness of the research and thus support the reliability of the findings (Tracy, 2010).

3.11 Ethical consideration

Ethics is very important in research because it defines what is and is not permissible to do when carrying out research. Social research contains ethical issues because it is the gathering of sensitive, intimate, or private information from individuals about themselves and others. Researchers need to follow some principles and guidelines in conducting research. According to Creswell (2009) ethics are the standard of principles the must be followed and adhered by the researcher when conducting research. The respondents to the interviews have the right to confidentiality of their information. Their freedom to express themselves, criticize and disagree will be always protected. Names of officials, or personal identification will not be mentioned as it will be considered a violation of confidentiality.

The researcher submitted his research proposal to the University's ethics committee before gathering or collecting data. Same was approved by the committee and a copy of the ethics approval is attached as an annexure. The participants gave voluntary consent to participate in the study. A participation consent form was filled in by each of the participants in which the participants were guaranteed that their identities would be held confidentially and not even revealed in the study. A pro-forma copy of the participation consent form is attached as an annexure.

3.12 Limitations of the study

The use of qualitative research allows the researcher to have valuable insights into complex issues, and enabling an in-depth understanding of the experiences of individuals, perspectives, and behaviours. As much as it does provide this a common limitation in qualitative research is the use of a small sample of participants. In this study the researcher will look at the limitations and challenges brought about by the use of small sample sizes in qualitative research and will further elaborate on the strategies used to mitigate these limitations.

Limited generalizability is one of the primary limitations of small sample sizes in qualitative research. In terms of the limitation a small sample may not be representative of the broader population or applicable to other contexts. This leads to challenges for the researcher to make broad claims or draw conclusions that can be

generalized beyond the study participants. The use of a small sample size may limit the diversity and variation among participants. This limitation result in the reduction of the breadth of experiences and perspectives of the participants represented in the study, and thus may limit the depth and richness of the findings.

3.13 Conclusion

The chapter dealt with the research methodology that was used by the researcher. It further dealt with the method used to collecting data, sampling and selection of participants, ethical considerations and the limitations of the study. Lastly the chapter deals with ensuring and enhancing the validity and credibility of the data collected.

Chapter 4 Presentation of findings

4.1 Research question 1

How does the Municipality implement the Municipal Finance Management Act?

4.1.1 Finding

4.1.1.1 Mangaung Metropolitan Municipality

The Municipality relies on its Chief Financial Officer to manage the financial affairs of the Municipality in accordance with the MFMA. The City Manager has delegated his financial duties to the Chief Financial Officer. The Primary function of the City Manager in relation to implementation of the MFMA is oversight over the duties of the Chief Financial Officer in implementing the MFMA. The Municipality has policies like the Supply Chain Management policy and credit control policies that guide officials in their functions of implementing the MFMA.

"*The Municipality has a City Manager who has delegated financial functions to the Chief Financial Officer whose primary duty is to manage the finances of the Municipality in accordance with the MFMA. The Metro also has policies like Supply Chain Management policy and credit control policies that outline the steps that must be followed in line with the MFMA*"

4.1.1.2 Midvaal Local Municipality

The Municipality has a Municipal Manager whose primary function is oversight over the affairs of the Municipality. This includes the financial functions that are governed by the MFMA. The Chief Financial Officer of the Municipality is primarily responsible for the management of the finances of the Municipality.

"*Our Chief Financial Officer is responsible for the finances of the Municipality. Her fiduciary responsibilities in respect of the finances of the Municipality are contained in the MFMA. The Municipal Manager plays oversight over the Chief Financial Officer. There are various policies in place on how the finances of the Municipality should be managed. These include the Supply Chain policy, credit control policy, internal audit charter, Audit committee charter and also National Treasury guidelines and circulars"*

4.2 Research question 2

Are there any challenges encountered by the Municipality in implementing the MFMA?

4.2.1 Findings

4.2.1.1 Mangaung Metropolitan Municipality

The Municipality has problems with political interference in the management of its affairs. There are instructions that officials receive in respect of which service providers to appoint by politicians. These instructions are always verbal and these leave officials at danger of being compromised. There is corruption by officials who act in cahoots with politicians. According to section 117 of the MFMA councillors are prohibited in being part of the municipal tender committees and section 118 of the Act makes it clear that no person, political or otherwise, may interfere with the tender processes of the municipality. The Municipality has poor revenue collection and this has led to financial problems for the Municipality. There is political instability due to in-fighting between politicians of the ruling party. Appointments are not on merit and this lead to poor management of the finances of the Municipality.

"We have been having political instability in the Metro for a long time now. The councillors of the ruling party fight among each other and this has led to poor oversight on the affairs of the Municipality"

"These politicians of the ruling party want money from the Municipality. They frequently give us instructions on tenders. They know this is contrary to the MFMA but don't care as long as they can get money from the service providers they nominate for appointment"

"We are told not to bar residents who are not paying for services. When you do so you get an angry call from a councillor instructing you to remove the freezing of electricity purchases. We collect about 54% of revenue per month. Just enough to pay salaries but not enough to maintain our infrastructure"

"Appointments of middle and senior managers are decided by the deployment committee of the ruling party, and usually these people are not competent to do their jobs"

4.2.1.2 Midvaal Local Municipality

The Municipality, like any other Municipality in the country, has challenges of meeting the targets of conditional grants. These grants have targets that need to be met failing which the National Treasury takes back the funds leading to projects being left unfinished. There are pockets of disregard for policies and National Treasury guidelines and circulars. The budgets of Municipalities are unfunded as they are based on projections of collections so there is pressure or challenges in respect of revenue collection.

"We annually receive conditional grants which have set targets. There is pressure to be on target as failure to do so will lead to the remaining grants funding being returned to National Treasury"

"There is pressure to ensure that we maintain our infrastructure and this need money which we can only get from collection of revenue. As such poor collection leads to problems of not maintaining all of our infrastructure"

"There are officials that take chances of not conforming to our policies and this has a bearing on the proper functioning of the Municipality"

4.3 Research question 3

How does the Municipality deal with challenges faced as a result of compliance of the MFMA?

4.3.1 Findings

4.3.1.1 Mangaung Metropolitan Municipality

The Municipality has policies in place to deal with any challenges. The problem is in implementation and oversight. The political instability has led to poor oversight which in turn lead to poor implementation of the policies. In respect of political interference there is nothing much that the Municipality is doing. The National government has put the Municipality under administration since around April 2022. The intervention has not helped much as there has not been any improvements in the management of the Municipality. Senior Management posts are still vacant even though the last contract

of a senior manager ended in September 2022. There are some contracts that ended in April 2022 but have not been filled.

"The Metro has been placed under administration but things are still the same. The intervention team has failed to rectify the problems of the Municipality. National has proved that it is useless!"

"Where are the senior managers? Contracts ended last year but have not been filled. The acting City Manager and the acting senior managers are part of the intervention team. Why are they still here? They are supposed to turn the Municipality around but they have failed us"

"The ruling party's councillors are fighting among themselves. They are bringing their fights from outside into the Municipality"

"There is no way we can deal with political interference. Try to do so and you will lose your job. These people don't care firing you without following processes, after all the money that will be wasted fighting you is that of the Municipality"

4.3.1.2 Midvaal Local Municipality

The Municipality strives to adhere to their policies. The supply chain management policy has timelines that ensure that there is no waste of time to appoint service providers. All the officials from the Municipal manager to the general worker have Key Performance Indicators and these must be met. There must be an explanation for failure of not meeting Key Performance Indicators. These are assessed on a three months bases to ensure that everyone does their job. The Municipality has a compliance office that ensures that there is compliance with the policies and the National Treasury guidelines and circulars, including the MFMA. There is a good relationship between management and the unions which ensures that there is harmony in the workplace. Consequence management is applied where there is transgressions.

"At the beginning of the financial year all the officials without exceptions are given key performance indicators that they must meet and all of them are assessed every three months"

“If you fail to meet your targets you are required to explain yourself and if your explanation is not accepted you are put through the disciplinary process”

“Here the union calls you to order as a member if you are out of order. They also expect you to comply with the policies of the Municipality”

“There is no interference with the administration and our revenue collection is very high. If you don’t pay we stop you from buying electricity and there is no politician who will interfere with that”

“Here order is maintained unlike one Municipality where I used to work”

4.4 Conclusion

From the results it is clear why Midvaal has been getting clean audits while the Metro has not. Midvaal hires the right people, is very serious about playing oversight and holds its officials accountable when they don’t meet their key performance indicators. The Metro is lacking in oversight and holding its officials accountable.

Chapter 5 Discussion of the results

5.1 Introduction

This study was examining the effect of compliance to legislation on service delivery in Municipalities. The researcher did a comparative study of two Municipalities that have had different audit outcomes for the past five years. The two Municipalities are governed by the same local government legal framework. The study examined how each of the Municipalities implemented the local government legal framework. It further looked at whether there were challenges in implementing the framework, and if so, how they deal with these challenges.

The two Municipalities, being Mangaung Metropolitan Municipality and Midvaal Local Municipality have all the policies that are prescribed by the MFMA. These policies have been enacted to provide effective administrative and financial management of the Municipalities. They also have compliance committees whose primary function is to ensure that there is proper adherence to the provisions of the MFMA. Although there are similarities in the policies and structures in both Municipalities the annual audit outcomes are poles apart. The Mangaung Metro has been receiving adverse audit findings for the past five years. In actual fact the Metro has been placed under administration by the National Government in terms of section 139(7) of the Constitution. At the same time Midvaal has been getting clean audits for the same period. Although Midvaal is far smaller than the Metro that is not the reason for the difference between the two. The difference emanates from implementation.

5.2 Implementation of the MFMA

5.2.1 Mangaung Metropolitan Municipality

The Municipality has a City Manager and senior managers reporting to the City Manager, who include a Chief Financial Officer. The City Manager has delegated financial duties to the Chief Financial Officer who is responsible for managing the finances of the Municipality. The City Manager has responsibility to play oversight over the senior managers. As the accounting officer the City Manager is ultimately responsible for what is happening in the Municipality. The Municipality has put in place policies such as the supply chain management policy and credit control policies, etc.

These policies are unfortunately not completely adhered to, as they should. This lack of implementing the MFMA has led to the collapse of the Municipality leading to the national government invoking section 139(7) of the Constitution. This section empowers the national government to put the Municipality under administration As the Municipality is currently under administration since April of 2022. This is also a clear indication of the failure of the Chief Financial Officer to efficiently manage the finances of the Municipality and the City Manager failing in his oversight role. The same is also true of the Executive Mayor and the Municipal Council who ultimately have oversight responsibility over the Municipal officials. The MFMA has been put in place to ensure that Municipalities manage their affairs effectively and efficiently. The Auditor-General's responsibility is to check whether spheres of government comply with legislation. The adverse annual audit outcomes are a clear verdict on the Municipality's failure to comply with the MFMA.

5.2.2 Midvaal Local Municipality

The Municipality has been getting clean audits for the past five years. It has clear policies in place that the officials of the Municipality are bound to comply with. It takes implementation and compliance very seriously and expects the same from its officials. The Municipal Council also takes its role of oversight very seriously and all its committees meet regularly to make sure that the officials are performing their duties as expected. The commitment of the officials and the Council in abiding by the law was apparent during interviews. The adherence and insistence on compliance by the Council promote a climate of effective performance by its officials. This can be seen in the quality of service delivery that is offered by the Municipality to its residents.

5.3 Challenges as a result of implementation of the MFMA

5.3.1 Mangaung Metropolitan Municipality

There are governance issues that ultimately affect service delivery. There are two compliance committees in existence but these no enforcement powers. The compliance committees function as advisory bodies whose recommendations are ignored by management. The standard operating procedures are outdated and have not been reviewed for a long-time. There is political instability in the Metro and it has had three Executive Mayors in the past two years. There are regular community

protests due to poor service delivery. There are limited public participation in the affairs of the Metro and where there is same, like in the budget process, there are few people who attend these road shows. Outside the compliance public participations there is no other participation. Thee ward committees are functioning. The only mechanisms available for lodging of complaints are the telephone hotlines and going to the Municipality to report same. Complaints that are lodged are not resolved speedily, if at all. The Metro does not have partnership with academic institutions within its jurisdiction. There are two of them but their presence has no impact on the Metro as their skills and knowledge are not utilised. Other stakeholders like business forums are not utilised also.

There is no strategy for service delivery. There are no targets for service delivery and refuse removal collection days are not adhered to. The Metro is paying a lot of money to workers for overtime, using scares financial resources that could be used where needed most. The allocation of financial resources is not adequate to cater fully for service delivery. This leads to poor maintenance of infrastructure. The poor rate of revenue collection of 54% exacerbates the situation as the Metro does not have enough financial resources to deliver services to its community. There are no strategies for improving the collection rate.

5.3.2 Midvaal Local Municipality

The Municipality faces the same challenges that are faced by other Municipalities in the country, like Mangaung Metro in this case. Its oversight is done by politicians just like others. There are possibilities of corruption by officials and politicians. With the economy being in the dire state that it finds itself, unemployment has risen up. The emergence of COVID-19 has made an already bad situation worse. The persistent load shedding implemented by ESKOM has meant that businesses are suffering and the first thing business do when there is a crisis of finance is to lay down people. Unemployment has risen to the highest levels in history. People don’t have money to pay for services. This poses financial problems for Municipalities like it as it relies on revenue collected from the residents. As such when the residents don’t have money it means that there will be challenges in respect of collection of revenue. Midvaal

Municipality relies on the collection of revenue to fund its budget and offer services to its people.

5.4 Dealing with challenges

5.4.1 Mangaung Metropolitan Municipality

The National Government instituted section 139(7) intervention in the Metro. This is done where the Provincial Executive fails to intervene or its intervention is not effective. The ruling party has tried dealing with the political infighting by dismissing some of its councillors. The National Intervention brought its officials to act in the senior management positions as the contracts of the previous ones had ended. The problem is that the intervention seems not to be effective. Yes there are policies and committees as required by the local government legal framework but these are not functioning as they should. The intervention has not brought about any meaningful changes. Things are just deteriorating. It is expected that there will be another adverse audit finding again this year.

5.4.2 Midvaal Local Municipality

Midvaal seems to start first by employing officials with the requisite qualifications and experience. It then allocates KPI's for each of official, from the Municipal Manager to the general worker. Performance assessments are done every three months and where there are shortcomings an explanation is sought and if there is no satisfaction, consequence management follows. There are no excuses accepted for poor performance. This also does away with persistent "improper" overtime that is very prevalent in most Municipalities. It is very strict in revenue collection and those residents that are not paying face consequences. This converts to enough money to do maintenance and to pay salaries of staff. During December they do projections of how much revenue they need, which will include projections on possible ESKOM and Water Boards tariff increases, and thus cater for these possibilities in their adjustment budget. Their budgets are realistic and grants, both conditional and non-conditional grants are used for what they are intended for. There is strict compliance to their Supply Chain Policies with timelines to ensure that they appoint on time to meet the performance requirements of conditional grants. Senior Managers are involved in

formulation of budget where they are able to advance the financial needs of their units. The Municipality rarely uses consultants, especially in the engineering department. They do their own business plans for sourcing of conditional grants. Service providers are paid within the stipulated 30 days and this saves interest payments which will result in irregular expenditure. They also don't source award tenders without having the budget for the project. There is proper financial management systems and the oversight committees like MPAC and Audit Committee seat regularly and play an important role in the Municipality. All the senior and middle management positions are filled. There is continuous and effective service delivery in the area of its jurisdiction.

5.5 Conclusion

There is a clear contrast between the two Municipalities. Although they have the same policies Midvaal seems to have made their policies to promote efficiency in the performance of its employees. This clearly shows that having policies is not enough. Municipalities must have policies that are geared to ensure that there is efficiency in performance by officials. Consistent and fair consequence management where there are transgressions of policies play an important part in ensuring adherence to the policies.

The role of political oversight is very important in that it ensures that officials are held to account for their performance. Political instability breeds instability in the administration as the Council will fail in playing its oversight role. There are reasons for the MFMA forbidding any political interference in the administration of the Municipality. This ensures that officials are left alone to perform their functions without politicians leading them astray. A Council that is stable and promotes compliance to legislation gives officials assurance that they are free to perform their functions. That as long as they perform their functions their jobs are secured, not where job security is dependent on towing the political line of parties in Council. A Council that promotes compliance to legislation leads to an efficient and functioning administration and this ultimately leads to quality and effective service delivery.

CHAPTER 6 Conclusion and recommendations.

6.1 Conclusion

The study has revealed that the local government legal framework has been promulgated to encourage good governance and good financial management in Municipalities. The intentions of the legislature, although noble, create challenges to the very institutions that it is supposed to help. The Supply Chain Management Policy requirements have caused an albatross on municipalities through the requirements of going on tender if a Municipality wants to procure services. Most of the time the costs of these services are double the cost if the Municipality had procured them straight from the manufacturer.

The reporting requirements themselves are cumbersome as Municipalities not only report to Municipal Councils but also to Provincial and National Treasury and also the Auditor-General. All these reporting requirements have time limits and these sometimes cause problems to Municipalities. Politicians seem to be the main root cause of problems as they are firstly the ones that fire officials and play oversight over them. Many a political party have used this to hire people who will finance the political parties with the finances of Municipalities. Some of the politicians use the officials to line their pockets. What the writer has realised is that political interference in the administration of Municipalities inevitably lead to maladministration and poor service delivery to residents. This is also the results of political infighting of ruling political parties. The model used by Midvaal to hire the best people irrespective of political affiliation, having the right key performance indicators in their performance agreements and consequence management where same are not met, have all produced a Municipality that is functioning well and offers services to its people. The Midvaal is aware of the constraints posed by the legal framework and have devised systems that allow them to deal with these challenges. It is of no purpose having the right policies if they are not going to be implemented or where there is no oversight to make sure that they are implemented, and where they are not implemented by officials

or politicians themselves, dealing with them appropriately. It is worrying that the Metro is under National control but it is continuing with its downward spiral.

6.2 Recommendations

Although Midvaal Municipality is performing very well there is room for improvement. As such the action plans set out below are applicable to both Municipalities to deliver optimum service delivery to its residents. The Metro needs to take immediate action to stem the tide of poor service delivery. There must be an assessment of the current level of compliance in the Municipality. This should be done by identifying the areas in which there are short-comings in respect of compliance and then put up plans to arrest those short-comings.

There must be an audit done of the two compliance units of the Metro to establish the level of skills and capacity to perform their functions. The functions and enforcement competence of the compliance committees must be reviewed to ensure that they have the requisite powers to perform their functions. It will not be enough that they have advisory role only as that will defeat the purpose of the committees. The compliance committees' reports must be a standing item on the agenda of the Council to ensure that there is authority on its functions and further that the Council is always aware of any non-compliance issues as they happen.

There must be review and update, where required, the current standard operating procedures to ensure that there is efficient and effective systems in place. The monitoring and evaluation unit must be capacitated to ensure that they function optimally in monitoring the performance of the municipality. Conduct regular inspections and audits at working sites like current construction sites, to assess compliance and working progress. Formulate clear service standards, targets, and metrics for each service municipal official. There must be allocation of adequate resources in finance and equipment set realistic budgets necessary for attainment of service delivery goals. Management must conduct regular public consultations and meetings to foster dialogue and exchange of information.

The Metro must put into place clear roles and responsibilities for service delivery at all levels of governance. Establish mechanisms for residents to report issues related to

service delivery and ensure that these are timeously resolved. The organizational structure of the Municipality must be reviewed to identify areas of inefficiency or duplication of roles. The current organizational culture must be evaluated and any barriers to effective service delivery identified, such as lack of collaboration or resistance to change within the Municipality. The Metro must have partnerships with academic institutions and experts to draw their technical skills to impart their knowledge to the Municipality.

6.3 Further Study

It is the submission of the researcher that there is a need for further study on the topic. In this study this research used the qualitative research method and this means that there is a need for a study using the quantitative research method. The study was focused on two Municipalities but this created limitations on its own. A study that will include all the Municipalities in the country is needed to get a full picture of the impact of compliance with legislation on service delivery. This will also cover rural municipalities as the Municipalities that are the focus of this study are in the urban areas.

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ANNEXURE A PARTICIPANT CONSENT LETTER

The purpose of this research study is to explore the impact of compliance to legislation on service delivery in Municipalities. I understand that the research is being carried out in part fulfilment of the requirements leading to the award of Masters in Business Administration.

I ……. Agree to be interviewed and take part in this study about my experience of implementing legislation in Municipalities. I understand that my participation is on a voluntary basis and I am free to withdraw from the study at any time. I also understand that all the information I provide will be confidential and my name will be anonymous throughout.

I agree to have the interview recorded.

ANNEXURE B

INTERVIEW GUIDE

Names_____ (optional)

Position _____ (optional)

Name of Municipality _____

1. Does the municipality have policies that have been passed to ensure compliance with the implementation of the MFMA, and if so, please list them?

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2. Are there any measures that have been put in place to monitor the implementation of the MFMA?

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   _____
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   _____

3. Does the municipality have a compliance officer/s that monitors compliance with the MFMA?

4. What action, if any, is taken where there is a transgression of the MFMA?

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5. Does the municipality comply with the reporting requirements of the MFMA and what measures have been put in place to ensure that these reporting requirements are met on time as required?

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6. Does compliance with the Act impact service delivery, and if so, which aspects of the Act impact service delivery?

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7. What measures, if any, have the municipality put in place to mitigate the impact of compliance on service delivery?

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8. Do the requirements of compliance affect the finances of the municipality, and if so which aspects of the Act puts a strain on the finances of the municipality?

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9. Does the municipality have any measures in place to mitigate the effect of compliance on the finances of the municipality?

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10. What aspect of the MFMA do you think needs to be revised or amended and if there are any, how would you like them to be?

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