



WITS SCHOOL OF  
GOVERNANCE

EXAMINING OVERSIGHT INSTITUTIONAL FAILURES IN THE NORTH  
WEST DEPARTMENT OF HEALTH

by

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## **ABSTRACT**

The Legislatures in the local, provincial and national governments are mandated and bestowed with the powers by the *Constitution of the Republic of South Africa of 1996* to ensure accountability by holding the executive accountable and effectively ensuring that there is oversight on the work of government. In order to execute the oversight function, the Legislatures use the Auditor General's reports, guidance from the Public Finance Management Act (PFMA) and departmental policies.

The study seeks to identify the systemic challenges faced by the oversight institutions in the North West Department of Health (NWDoH) that lead to failures in executing the oversight function.

The research methodology used in this study is the qualitative approach. The population of the study is the oversight committee members from the North West Provincial Legislature (NWPL), NWDoH Office Bearers, former national SCOPA Chairpersons and public finance experts, and data was collected from the participants by using semi-structured interviews and official reports. The data collected from the participants indicated that the oversight committees cannot enforce accountability because their powers are limited to only making recommendations and their decision-making depends on their political allegiance. Political influence and lack of political will is at the centre of the systemic weaknesses within the oversight processes, hence, there is no accountability and consequence management and the non-compliance with the PFMA prevails.

The study recommends that the standing rules be strengthened by diluting oversight committees with independent individuals so that committees can operate independently of party-political pressure. The study also recommends that the oversight committee be granted powers to enforce accountability and not just be limited to making recommendations.

## **DECLARATION**

I declare that this proposal is my work, and it has not been submitted anywhere else apart from the 'Research Proposal Development' course at the Wits School of Governance.

## **ACKNOWLEDGEMENTS**

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## LIST OF ABBREVIATIONS AND ACRONYMS

ACEPA	Africa Centre for Parliamentary Affairs
AG	Auditor-General
ANC	African National Congress
APAC	Association of Public Accounts Committees
ATC	Announcements, Tablings and Committees
CEO	Chief Executive Officer
CFO	Chief Financial Officer
CTICC	Cape Town International Convention Centre
DA	Democratic Alliance
DG	Director General
DPASA	Department of Public Service and Administration
EFF	Economic Freedom Fighters
FF Plus	Freedom Front Plus
HOD	Head of Department
IFP	Inkatha Freedom Party
KPI	Key Performance Indicator
MEC	Member of Executive Committee
MP	Member of Parliament
MTEF	Medium-term Expenditure Framework
NDoH	National Department of Health
NILS	National Institute of Legislative Studies
NP	National Party
NT	National Treasury
NW	North West
NWDoH	North West Department of Health
NWPL	North West Provincial Legislature
PAC	Public Accounts Committee
PFMA	Public Finance Management Act
PMG	Parliamentary Monitoring Group
PSA	Public Service Act
PSC	Public Service Commission
SADC	Southern African Development Community

SADCOPAC	Southern African Development Community Organisation of Public Accounts Committees
SCOPA	Standing Committee on Public Accounts
SISCD	State Institutions Supporting Constitutional Democracy
SOE	State-owned Entities
SOPA	State of Provincial Address
UDM	United Democratic Movement

## **CHAPTER 1: INTRODUCTION AND BACKGROUND OF THE STUDY**

### **1.1 Introduction**

The government plays a critical role in providing and administering public goods and services which are financed through taxes collected from its citizens. It would be unfeasible for government to play this role without financial resources. It is therefore particularly important that finance resources be effectively managed to ensure their effective use. With proper financial management in place, there can be economic sustainability, development and democracy.

Accountability and transparency are the contributing factors to democracy. Without them, the democratic system of government cannot be achieved (Yamamoto, 2007). Parliament is responsible for ensuring that the democratic system prevails through its oversight function. Parliament holds the government accountable on behalf of the citizens by ensuring that there is a positive correlation between government policy and the implementation thereof and that they should both be efficient and consistent with public needs (Yamamoto, 2007). The success of parliament committees as a form of an effective oversight tool is significant in promoting accountability, encouraging good governance in public finance management and reinstating the confidence of the public in government (Makhado, Masehela, & Mokhari, 2012).

In South Africa, the public finance management directive is based on several principles such as the Constitution of the Republic of South Africa (Republic of South Africa, 1996) and the Public Finance Management Act (PFMA) (Madue, 2007). The Constitution plays a crucial role in establishing the financial management concepts in the public sector. The PFMA was initiated through the Constitution to ascertain the effectiveness and efficiency of public financial management.

The Constitution also makes a provision for oversight committees and institutions. These oversight committees and institutions have a responsibility

to ensure that there is compliance with the set regulations and accountability thereof within the public sector by detecting mismanagement and abuse of public funds. In terms of Section 114(2) of the Constitution of the Republic of South Africa (1996), the legislature is required to ensure that each government department is held accountable by utilising oversight committees as instruments for oversight and accountability (Republic of South Africa, 1996).

The legislature plays a crucial role in ascertaining horizontal accountability by policing the executive and provides a bridge between the executive and the citizens by overseeing and administering some of the significant aspects that inform the government's decision-making. Accountability and financial oversight are significant roles also played by the legislature and this involves scrutinising the expenditure management to ensure that the policies are complied with, the provision of public goods and services is cost-effective and financial resources allocated to them are effectively managed.

Oversight of government institutions was constitutionalised to ensure the accountability of the executive to the people, and this is the reason why the concept of oversight is particularly important. This constitutionalising took place during the apartheid transformation which purposefully served to bring tremendous changes and confirmed the important role of government in negotiating the social and economic correlation in a society that is highly fragmented (Pillay, 2006).

The concept of oversight encompasses many features which include financial, ethical, political, legal and administrative elements (Fagbadebo & Ruffin, 2018). The State Institutions Supporting Constitutional Democracy (SISCD), like the Auditor-General (AG), has been established in South Africa to strengthen constitutional democracy. Oversight is a crucial governance function and to ensure improvement in the performance of public sector governance, the Performance Monitoring and Evaluation Ministry was established to drive the process of transformation and ensure the best possible performance of government.

The North West Department of Health has for the past three financial years incurred these forbidden expenditures (Auditor General South Africa, 2021). In the financial year 2018/2019 the Department of Health was one of the audited government departments that led to the 66% of the irregular expenditure in the North West Province (Auditor General South Africa, 2019). In the financial year 2019/2020 and 2020/2021 the Department of Health was one of the top three contributors to the irregular expenditure (Auditor General South Africa, 2021). This is an indication that the department has not been efficiently and effectively managing the public funds despite PFMA and oversight structures being in place. It is important that there is an investigation on what the reasons for non-compliance are, what leads to it and whether there are consequence measures in place for non-compliance.

The problem of lack of effective oversight has been a recurring issue throughout the years in the NWDoH since the 2016/2017 financial year. In the financial year 2016/2017, the AG reported on the lack of effective oversight on compliance, financial reporting and enhancing internal controls (NWDoH, 2017). In the financial year 2017/2018, the AG expressed concern about how management failed to comply with the rules and regulations (NWDoH, 2018). In the financial year 2018/2019, 2019/2020, 2020/2021 and 2021/2022 the AG again reported on the lack of effective oversight on compliance with legislation, financial reporting compliance and enhancing internal controls (NWDoH, 2019, 2020, 2021, 2022).

The AG's report for the financial year 2021/2022 indicated that the NWDoH leadership did not fulfil its oversight obligation regarding compliance with legislation and financial reporting; this led to inaccuracy in financial reporting because there were no monitoring and reviewing controls in place (NWDoH, 2022). If the oversight committees had fulfilled their oversight role by ensuring compliance, then the AG would not have raised an issue. The oversight committees have a responsibility to monitor the actions of the executive, but it seems as if they failed to carry that out because, according to the AG, there

were action plans that had been developed but those plans were not timeously implemented because there was no monitoring process in place.

This chapter discusses and identifies the research problem and shapes the research questions informing the study. It also expresses the aim and objective of the study and explains the key concepts used. The justification and rationale of this study are also provided.

## **1.2 Problem Statement**

Legislatures have a significant role of ensuring accountability by putting the brakes on the uncontrollable use of executive powers, overseeing the decision-making process of government departments and providing a bridge between the civil society and the executive (Stapenhurst, Pelizzo & Von, 2008). Legislatures also have an important financial oversight and accountability roles by ensuring that policies and acts that inform government spending are adhered to and that the funds are not misappropriated by analysing the government departments expenditure and the delivery of public services. Parliamentary Portfolio Committees and SCOPA were established as oversight committees designed to strengthen such oversight and accountability functions. The oversight committees must know the performance of each provincial department and must be able to identify the challenges faced and determine recommendations on how to deal with those challenges (Barnhart, 2000).

In this study, the problem and central argument is that in the NWDoH, despite the existence of the Health Portfolio Committee and SCOPA as oversight committees aimed at ensuring that there is effective use of public funds spending, there is a growing problem of financial misconduct, non-compliance with the regulations and misappropriation of public funds in the NWDoH. The AG's findings suggest that the legislature has failed to fulfil its oversight role of holding the executive accountable. The oversight tools are available, but the oversight role is not yielding the expected results. According to Kinyondo, Pelizzo and Umar (2015), even if the legislature has the capacity and tools to

exercise the oversight rule, it does not mean that it will use it. South Africa is struggling with methods and processing of opposing abuse of power and corruption (Van Vuuren, 2013). The effectiveness of the oversight role is questioned when there is a failure to investigate cases of non-compliance with the regulations, fraud and corruption. The government's key development programmes stated in the National Development Plan 2030 are undermined by this failure (National Planning Commission, 2011). This plan is the central point to the elimination of poverty and inequality among South Africans.

To add to the problem, there is lack of consequence management on those who have committed financial misconduct and not adhering to the financial regulations. The weaknesses and challenges in oversight became apparent in May 2018 when the cabinet decided to invoke Section 100(1)(b) of the Constitution by putting the NWDoH under administration to address problems such as failure to ensure effective financial management and supply chain management in the health sector (NWDoH, 2019). Although the NWDoH was put under administration, in the financial years ending 2020, 2021 and 2022, it continued with non-compliance with the PFMA by incurring an average irregular expenditure of R551 million, unauthorised expenditure of R441 million and fruitless and wasteful expenditure of R49.6 million (NWDoH, 2020, 2021, 2022). These expenditures were incurred because management failed to take appropriate and effective steps to prevent them.

Herein lies the need to examine the root cause of the oversight committee failures in the NWDoH considering that the department has SCOPA and the Health Portfolio Committee which are responsible for overseeing the department's performance, including its duties to ensure effectiveness and efficiency in delivering services to the citizens and the department's compliance with the prescribed regulations. This study is significant because there is a clear gap in literature on studies of lack of consequence management in the public sector, misappropriation of public funds and the abuse of power by the Executive despite the existence of SCOPA and Parliamentary Portfolio Committees.

Taking note of this pressing concern of financial misconduct and non-compliance with the regulations, the study analyses the root cause of these concerns by analysing the challenges encountered within SCOPA and the Health Portfolio Committee in the NWDoH. Considering that there are institutional instruments and mechanisms in place, the study seeks to explore the reasons for the extensive problems of non-compliance, lack of accountability and oversight within the NWDoH as this has serious implications for the health sector within the North West Province

### **1.3 Research Purpose and Objectives**

The purpose of this research is to identify the systemic challenges faced by the oversight institutions in the NWDoH that lead to failures in executing the oversight function. The objectives of the study are as follows:

- To identify the systemic weaknesses that contribute to oversight failures in the NWDoH.
- To determine the impact of political influence on the oversight function.
- To determine whether the information provided to the oversight committee enables them to execute the oversight function.
- To determine whether the oversight committee has the required skills and capacity to execute the oversight function.

### **1.4 Research Questions**

Research questions in a study consist of questions that require answering to address the essential knowledge to realise the purpose of the study (Verschuren, Doorewaard, & Mellion, 2010).

#### **1.4.1 Primary research question**

What are the systemic weaknesses that contribute to oversight failures in the NWDoH?

### **1.4.2 Secondary research questions**

The following three questions are posed:

- What is the effect of political influence on the oversight function?
- To what extent does the information provided by the department assist the oversight committee with the oversight function?
- To what extent do the skills that oversight committee members possess assist with executing the oversight function?

### **1.5 Justification and Rationale of the Study**

The study addressed a neglected but important area in public administration, namely, the failure of the oversight institutions, especially SCOPA, in playing their role of ensuring good governance and promoting accountability in the public sector. The committee achieves its role by focusing on issues raised in the audit report by the AG, compliance with the PFMA and other regulations and the investigation of cases relating to irregular, unauthorised, fruitless and wasteful expenditure. The justification for this study is that it gives an intensified and more refined understanding of the disjunction between the available mechanisms of oversight and the lack of financial accountability. This is because there are systemic weaknesses within the oversight role which are defeating the purpose of oversight.

### **1.6 Structure of the Report**

The report consists of six chapters.

#### *Chapter 1: Introduction and Background of the Study*

The study is introduced in this chapter; the focus is on the background, problem statement, justification and rationale of the study. The purpose, objectives and research questions are also specified. In addition, the chapter reviews the different legislature committees and the oversight challenges at the provincial level.

## *Chapter 2: Literature Review*

This chapter discusses the oversight and accountability concepts. It also reviews the principal-agency theory as part of the theoretical framework, the systemic weaknesses relating to oversight, causes and failures of oversight, how to enhance oversight and considers lessons from other countries. In addition, the chapter also reviews the legislative framework relating to oversight.

## *Chapter 3: Research Methodology and Design*

The research methodology, research design and the approach that was used in the research are outlined in this chapter. The chapter further outlines the sampling technique, the data collection method and the data analysis tools that were used. The ethical considerations are also discussed.

## *Chapter 4: Data Presentation*

The results and findings of the data collected from the primary and secondary sources are presented in this chapter.

## *Chapter 5: Analysis of Data*

The collected data are analysed in this chapter.

## *Chapter 6: Conclusion and Recommendations*

The conclusions and recommendations of the study are presented in Chapter 6.

### **1.7 Conclusion**

Having clearly expressed the importance of the oversight function in government, the tools available to and used by parliament to oversee the public financial management and how government departments continue with non-compliance with the PFMA even with all the oversight tools in place, the rationale for this study – to identify the factors that lead to the failures of the

oversight institutions – is justified. What arises from the research problem is the systemic weaknesses embedded in the oversight function which results in its ineffectiveness. Subsequently, the mounting problem of public financial mismanagement and non-compliance with the PFMA weakens the oversight role of ensuring and promoting accountability.

## **CHAPTER 2: LITERATURE REVIEW**

### **2.1 Introduction**

The preceding chapter provided the background and the justification for this study. It further detailed the aim and objectives of the study and presented the research questions that the study aimed to answer. In this chapter, the roles of parliamentary oversight committees, oversight and accountability concepts, systemic weaknesses relating to oversight, causes and failures of oversight, how to enhance oversight and lessons from other countries are discussed. Under the theoretical framework, the principal-agency theory is reviewed.

### **2.2 Oversight Committees**

Oversight committees are the tools used by parliament to carry out its oversight function. Committees are a habitat for legislative oversight as their focus can be on the distinct policies that are within their administration (Madue, 2012). These committees conduct oversight to ensure that public funds are not mismanaged, there is accountability for public funds expenditure and that the public has trust in the government (Mpani, 2021). The committees deal with detailed reports, and they have the powers of enquiring, investigating and monitoring the actions of the executives concerning compliance with the policies and proper public financial management (Mpani, 2021).

#### **2.2.1 Portfolio committees**

The primary focus of the portfolio committees is on service delivery; however, they also have the role of assessing the department's financial performance; this is to make sure that there is a complete understanding of the performance of the departments by the committee in exercising the oversight role (Nyathela & Makhado, 2014). The committee reviews the department's annual reports to inspect the implemented programmes indicated on their annual plan and also to examine the financial statements to check whether public funds were spent according to the budget; reasons provided for variances are scrutinised (Manona, 2015).

### **2.2.2 Public accounts committees**

The Public Accounts Committees (PACs), also known as SCOPA, are formed at the national and provincial levels for an oversight role and to ensure that there is accountability for public funds spent (Makhado, 2016). This means that SCOPA has an important oversight role in the government departments' financial and non-financial performance. SCOPA aims to ensure that public funds are efficiently, effectively and economically used, encourage accountability and transparency in the use of public funds and ensure that the public benefits from the public funds spent through quality service delivery (Makhado, 2016).

According to Siswana (2007), SCOPA is viewed as the most influential committee because the National Assembly uses it as a tool for exercising control over public funds expenditure. This committee scrutinises all government departments' financial statements and audit reports. According to Madue (2012), the role of this committee is significant, especially concerning the contractual obligation between the legislature and the executive. According to Wehner (2002), the mandate of SCOPA in all spheres of government can be narrowed by focusing on financial probity, financial performance and the value of financial audits.

SCOPA, therefore, plays a critical role in being the public fund's protector. SCOPA performs its oversight role by regularly summoning the executives of public institutions and conducting meetings with them, reporting on those meetings and making recommendations for actions to be taken to ensure accountability (Wehner, 2002).

### **2.2.3 Joint budget committees**

Monitoring expenditures against the approved budget is one way of tracking performance during the year. The budget is considered by the joint budget committee in terms of the medium-term expenditure framework (MTEF) to allow the inputs of parliament during the budget process (Quist, Certan, & Dendura, 2008). Monitoring of expenditure is the responsibility of the

committee and the oversight role on tracking that the corrective actions regarding the resolutions of SCOPA are being implemented (Quist, *et al.*, 2008).

### **2.3 Issues Affecting Oversight at the Provincial Level**

The committees' role of conducting legislative oversight is not always a smooth ride; it comes with obstacles and challenges. According to Zvoma (2010), the oversight function road is often littered with different shapes and sizes of challenges with the possibility of harming legislative committees. Madue (2012) indicates that the legislative oversight challenges range from the executive not cooperating with the legislature to the executive being accused of regulations violations, misuse of power and lack of research resources.

Ntshabeleng and Wotela (2021) categorise the provincial legislative oversight challenges into legislatures' capacity and lack of autonomy and the internal arrangements of institutions. legislature's capacity refers to the availability of members to exercise their oversight functions, knowledge and skills and the availability of financial resources (Ntshabeleng & Wotela, 2021). Internal arrangements of institutions include time allocated to the legislature to question the executive and the frequency of questioning (Ntshabeleng & Wotela, 2021).

Makhado *et al.* (2012) mention that political incentive affects the effectiveness of oversight. Committee members are unable to hold the executive accountable because they are dependent on them for political favours such as being seconded to present their political party in the provincial legislatures (Makhado, *et al.*, 2012). According to a study done by Shaick (2017), the challenges encountered by the legislatures are the executive allocating insufficient budget which results in inadequate oversight, lack of members' capacity to perform the oversight function, time allocated to deal with oversight reports and no proper mechanism in place for tracking resolutions.

Obiyo (2013) indicates that party deployment is a challenge for oversight because the executive follows the instructions of the party leaders. Lodge

(2005) indicates that majority ruling has been a constraint in exercising the oversight function. Provinces with African National Congress (ANC) majority committee members face oversight challenges. Obiyo (2013) further mentions that the oversight environment is consumed by suspicions and mistrust which hinders oversight. Another challenge pointed out by Obiyo (2013) is that there is no systematic form for providing the oversight committees with the required information which makes it difficult for the members to follow the information provided.

## **2.4 Oversight and Accountability Mechanisms**

Besides the oversight committees, the government has over the years put mechanisms in place to enhance oversight. This section looks at the different mechanisms.

### **2.4.1 Public Service Commission**

The establishment of the Public Service Commission (PSC) is in terms of Section 196 of the Constitution of the Republic of South Africa (1996). According to Kgobe and Mamokhere (2021), the mandate of the PSC is to monitor and investigate the public service's administration. Another mandate of the PSC is overseeing public administration and how the public service exercises its role of promoting good governance (Kgobe & Mamokhere, 2021). On an annual basis, a report on how the government is managing financial and human resources, how the government has implemented the policies and how good governance was promoted is published by the PSC (Kgobe & Mamokhere, 2021). Sebola (2018) indicates that the PSC has the constitutional mandate of maintaining and promoting professional ethical standards and assessing and evaluating compliance with policies and regulations.

#### **2.4.2 Office of the Auditor-General**

The establishment of the office of the AG is in line with the Auditor-General Act of 1995 which outlines the AG's powers and functions (Republic of South Africa, 1995). All public entities' accounts are audited and investigated by the AG and the findings are reported to parliament. This is consistent with Section 188 of the Constitution which specifies that the financial management and the financial statements of all three spheres of government departments including state-owned entities (SOEs) must be audited by the AG and the audit report must be submitted to the legislature that has interest in the audit (Republic of South Africa, 1996).

Nzewi and Musokeru (2014) state that the critical role that the AG plays is accountability enforcement through the audit reports and recommendations outlined in the reports. In the financial year 2021/2022, the AG reported that the oversight responsibility of financial performance was not effectively exercised by the North West Department of Health (NWDoH) (2022). This audit query also occurs in the 2019/2020 (NWDoH, 2020) and 2020/2021 (NWDoH, 2021) reports which means that oversight institutions, such as SCOPA, have not addressed the matter during these years.

According to Nzewi and Musokeru (2014), the AG is faced with many challenges and non-compliance with the legislation is one of them. It has been reported by the AG that in the financial year 2021/2022, the NWDoH did not comply with the PFMA regulations (NWDoH, 2022). This non-compliance was also reported in the 2019/2020 and 2020/2021 financial years. The AG has proved effective in revealing maladministration, mismanagement of funds and lack of accountability by the government, however, the AG lacks the authority to force the executive to act on the recommendations made (Van der Waldt, Van Niekerk, Doyle, Knipe, & Du Toit, 2002).

## **2.5 Oversight and Accountability Concept**

Legislative oversight and accountability are developed by way of the system of Westminster. According to Shephard (2008), in the Westminster system, the power of the purse existed in England during the Middle Ages when knights and burgesses were called to brief the communities about the increase in taxes. It further evolved by the focus of England's parliament on the process of the collection and spending of money. The kings in the Westminster system used legislative oversight to ensure that policies of governance were implemented by the government (Shephard, 2008).

There will always be a conflict between legislature and government when policies are not implemented appropriately. It remains the legislature's responsibility to affirm itself when exercising its function. It requires maturity and commitment from individuals and political parties to manage the conflict between the executive and legislature.

### **2.5.1 Oversight**

Oversight is defined by Yamamoto (2007) as the monitoring and reviewing of the government executive's actions by the legislatures. Makhado *et al.* (2012) defines the concept in the same way. Oversight entails how the legislature uses the mechanisms in place to oversee a government department's performance. The key parliamentary oversight functions identified by Yamamoto (2007) are detecting and preventing the government's unconstitutional conduct, holding the government accountable for the usage of public funds, ensuring the implementation of policies and improving transparency in government operations.

Govender (2013) states that for legislatures to be able to effectively achieve their overseeing function, they must understand the role they play and the authority they have. Pelizzo and Stapenhurst (2012) refer to internal and external oversight tools that the legislature uses for its oversight function. The external oversight tools identified by Pelizzo and Stapenhurst (2012) include institutions such as the AG responsible for audit, ombudsman offices that deal

with individual citizen's complaints and anticorruption agencies that specialise in addressing corruption activities. Pelizzo and Stapenhurst (2012) also refer to internal oversight tools, including legislative chambers, commissions of enquiry and committees. According to Stapenhurst, Jacobs and Eboutou (2019), the committees are the legislature's engine room where rigorous discussions materialise without any political grandstanding.

Makhado *et al.* (2012) indicate that the effectiveness of the committees depends on how they exercise their oversight role and how they hold the executive to account. Besides the committees, special commissions of enquiry may be set up by the legislature to investigate and make recommendations on issues of public concern (Stapenhurst, *et al.*, 2019). The legislative chambers have the power to exercise their oversight function by questioning the executives, both orally and in writing, as a form of traditional oversight in a legislative system where the executives are also members of the legislature (Stapenhurst, *et al.*, 2019).

According to Griner (2016), direct questions are posed to the executive to collect information and during question time, the oral questions are debated. Questions that require a written response are written and questions considered to be urgent necessitate a quicker response (Griner, 2016). The mentioned tools are there to assist the legislature with the oversight processes.

Manona (2015) claims that in the South African context, the oversight concept is misunderstood because the ruling party has the majority authority in legislative oversight committees. Manona (2015) further mentions that these committees are often seen to be protecting the executive and conspiring. This conduct leads to ineffectiveness and inefficiency in executing the legislative oversight function.

Oversight is observed as an aspect of South African democracy and contributes to the effectiveness of government. The achievement of the strategic objectives of government should be beneficial to all the citizens and not exclusively to the political party, meaning that oversight should surpass the

differences between political parties and be conducted for the good of the public. The oversight role of legislatures is meant to complement and not hinder effective service delivery and those imparted with power are central to representing democracy and exercising power in the interest of the citizens by ensuring effective public administration and monitoring that legislative policies and regulations are properly implemented (Obiyo, 2013).

Executing the oversight function comes with challenges that weaken the objective of the function. Manona (2015) highlights that it is a challenge for an oversight committee whose majority is the ruling party to execute the oversight function when they must hold their comrades and seniors of the same party accountable. Madue (2012) mentions that the political power balance is unsteady with the legislature sometimes gaining or losing its power against the executive. Madue (2012) further explains that developing countries have the same problem of legislatures that are weaker than the executive.

One way for the legislature to execute its oversight function is by calling in the executive for a question-and-answer session but if the executive is not available for that then it becomes a challenge. Madue (2012) highlights that executives give excuses including scheduled hearings conflicting with prior obligations and that they are still looking for the information that the committee requested. This reluctance from the executive to cooperate with the legislature can be seen as fear of being exposed and most of them try to find ways of resisting the legislature's oversight activities because they see that as a violation of their executive power (Madue, 2012).

The oversight committee members must have the technical capacity to exercise the oversight function effectively. The oversight committee also depends on information and research to exercise its oversight function; however, most of the members do not have that expertise (Madue, 2012).

### **2.5.2 Accountability**

Accountability is when one party is obliged to answer for an action or decision taken when the authority was transferred to them by another party to act on their behalf (Bandy, 2011). This depicts the principal-agency theory, where the principal hands over authority and power to the agent. Accountability can be expressed as governments having power and authority over policy formulation and the implementation thereof. According to Gilmour and Jensen (1998), there should be accountability because citizens bestow their power on the government through their votes and in return, the legislature acts on behalf of the citizens to ensure that the government acts in their interest.

Chirwa and Nijzink (2012) argue that the definition of accountability is not simple because its meaning contains three major parts which are answerability, responsiveness and enforceability. Answerability means that the one who holds power must answer for exercising that power. According to Hyden (2010), answerability refers to the truthfulness of the agent's report on the measures taken to ensure accountability. It does not only focus on what has been done but also on how it was done. Answerability involves a high level of transparency that is not easily achievable in an environment that is politically driven (Hyden, 2010). The oversight institutions are supposed to scrutinise and question the reliability and truthfulness of the reports provided by the government departments on public funds spending.

Responsiveness is when the government uses its power to sufficiently respond to the public's needs. According to Hyden (2010), responsiveness refers to what the agent has done to meet the principal's expectations. Government departments are tasked with functions by the legislature, and they are expected to comply with the set regulations and policies in place; therefore, the legislature has a responsibility to ensure that the expectations are met by exercising the oversight function.

Accountability involves enforceability; punitive measures that are imposed if the one that holds power fails to answer for their actions. According to Burnell

(2008), enforcement includes disciplinary hearings, penalties, dismissal from office and the laying of criminal charges against the culprits. Enforceability is a form of consequence management instilled by oversight institutions. The AG's report indicates that the NWDoH contravened the PFMA by incurring irregular, unauthorised, wasteful and fruitless expenditures; however, no disciplinary action against the employees who incurred these expenses as required by Treasury Regulations has been enacted (NWDoH, 2022).

According to Griffith (2005), accountability is connected to good governance and implies that the maximisation of government effectiveness, openness, transparency and accountability mechanisms and encouragement of public participation should be observed by the government. Griffith (2005) further indicates that in public administration, maintenance of the government's integrity is part of good governance and that comes with ensuring accountability. According to Griner (2016), the legislature will effectively hold the executive accountable only if all the information required is availed because without adequate information being provided by the executive to the legislature, proper execution of the oversight and accountability function cannot be achieved.

The powers awarded to the legislature by the Constitution are further expanded by the Powers, Privileges, Immunities of Parliaments and Provincial Legislatures Act of 2004 (Republic of South Africa, 2004). Chapter 5 of this Act states that the legislative committee can summon anyone to provide the committee with the required information. The Act further indicates that it is an offence if someone is summoned by the legislative committee and does not come if they do not provide the requested documents and if they do not answer questions posed to them by the committee.

According to the Act, the consequence for the offence is a fine or imprisonment for a period not more than 12 months and this also applies to those who threaten or obstruct others when they are supposed to give evidence before a committee. Chapter 3 of the Act indicates that any evidence and information provided before a committee may not be used against that person outside

parliament or in any court unless when it is used in criminal proceedings. These provisions are critical to the oversight function as they bestow legislatures with the powers to perform oversight and hold the executive accountable, protecting those who may be afraid of giving incriminating evidence.

Legislatures are confronted with obstacles and problems in executing the constitutional mandate of conducting oversight and holding the executive accountable. According to Notshulwana and Lebakeng (2019), political parties and the executive lack the political will to ensure accountability. According to Madue (2012), the lack of political will to ensure accountability is a result of the executive's fear of being exposed, hence, the aspect of reluctance from the executive to cooperate. According to Tsheletsane and Fourie (2014), the Minister of Defence was called repeatedly to a hearing with SCOPA to account for the mismanagement of funds in the department, but the minister never made it to the hearing.

Madue (2014) indicates that party loyalty negatively affects good governance and democracy as the majority is held by one political party in parliament without the prospect of change in the future. Parliament is weakened by this system of majoritarian authority and the consequent lack of accountability because those who must hold the executive accountable have the best interests of their political parties and not of the people who elected them to government (Makhado, *et al.*, 2012).

Oversight committees mostly deal with matters that occurred in previous financial years, therefore, for an oversight function to be effective, the institutional knowledge and memory of the committee support staff and committee members become central and critical. When the committee support staff and committee members are being moved to different committees from time to time, then skills, knowledge and important information which can be used to hold the executive accountable are lost (Makhado, *et al.*, 2012). When accounting officers resign from their duties, it becomes a challenge for the

oversight committee to hold the current accounting officer accountable for issues that happened in the financial years (Makhado, *et al.*, 2012).

## **2.6 Weaknesses and Challenges Relating to Oversight**

Different challenges and weaknesses occur in the legislative oversight tools during the exercise of their oversight function. It is significant to recognise the challenges and weaknesses in the function of legislative oversight to determine processes which may assist in enhancing the oversight function.

### **2.6.1 Partisanship and political party dominance**

A political party system is a critical aspect of detailing democracy. Nwokora and Pelizzo (2015) maintain that political party systems have an influence on the overall political system, and they think that competition within parties is vital in moulding the party system. Nwokora and Pelizzo (2015) further state that party system qualities have an impact on the legislative oversight function and the stability of both the Constitution and the government.

According to Ishiyama (2014), a political party system that is strong and not easily influenced, concentrated instead of being broken into fragments of internal party politics and organised practically instead of being personalised works best. The multiparty system is the type of political system that is needed to ensure and drive effective oversight. According to Malapane and Madue (2018), the South African democracy was introduced through the multiparty system. This relates to a lot of African countries that adopted multiparty party systems when they were transitioning from a one-party political system to a democracy (Cheru, 2012).

According to Hoffman (2005), the participation of multiple political parties in elections is one of the values used to assess a country's level of democracy. In democracy, the actions and activities of the government are controlled and scrutinised; the legislature should perform the oversight function over the democratic (Pelizzo & Stepenhurst, 2006). In a multiparty system, different

political parties are expected to come together and collectively run the government (Malapane & Madue, 2018).

As much as the multiparty system has been adopted by the South African government, it has not been practised because more than one party is not actually in control (Pelizzo & Stepenhurst, 2006). This is because the National Party (NP) was dominating and controlling government during the apartheid regime and the ANC has been in power since the commencement of the democratic regime and this has caused the country to be in a dominant party system.

According to Nwokora and Pelizzo (2015), a dominant party system is when one party consecutively wins the elections. A dominant party system is not good for a democratic system because dominant parties struggle to draw the line between the interests of the party and that of the government. The dominant party's power is focused on protecting its executives and the structures of the party and does not hold them accountable; this process exacerbates the issues that weaken the oversight function (Malapane & Madue, 2018).

It was recently discovered in the Section 89 Report that President Cyril Ramaphosa may have contravened the Constitution and engaged in serious misconduct concerning the Phala Phala farm (Maganoe, 2023). When the executive violates the Constitution, the parliament is expected to hold them accountable but based on the majority vote the parliament voted against adopting the Section 89 Report, and this is because of the one-party dominance challenge in parliament.

According to Malapane (2019), the oversight function and the political process cannot be separated. There is alleged protection of the executive by members of the ruling party from answering difficult questions asked by the opposition committee members, which defeats the purpose of getting information to exercise the oversight function (Munzhedzi, 2021). Munzhedzi (2021) states that junior parliamentarians do not have the bravery to ask the executives, who

are their seniors, necessary questions and this has negative consequences for oversight. What makes matters worse is that the members of the ruling party are dominant in most legislatures.

Tsheletsane and Fourie (2014) indicate that SCOPA members who are members of the ruling party and majority members have been suspected of purposefully not expressing an opinion on issues of oversight that directly affect the ruling party to avoid putting the ruling party in a bad light. Party loyalty is disadvantageous to good governance and democracy because the majority is held by one political party.

Meyer (2014) writes about how the Democratic Alliance (DA) used its majority to compel SCOPA to remove an item that was meant to deal with irregularities in the Cape Town International Convention Centre (CTICC) expansion. According to Seeletsa (2022), another political party also flexed its voting muscles when ANC SCOPA members voted against calling in Cyril Ramaphosa before SCOPA to respond to claims that ANC campaigns were being sponsored through public funds. This type of majoritarian power leads to a lack of accountability because the very same people who are loyal to their parties are the same people who must hold the government accountable; there is a conflict of interest (Maganoe, 2023).

Tsheletsane and Fourie (2014) made an example of the Minister of Defence who refused to appear before SCOPA in 2010 to account for the department's irregularities around tenders and wasteful expenditure. With regards to partisanship, Tsheletsane and Fourie (2014) indicated that SCOPA had been accused of being biased because most members were from the ruling party. These actions negatively affect the effectiveness of the principal-agency theory in the public sector. Where the political party system is strong, members of the ruling party may be reluctant to put the government through rigorous scrutiny because they might seem disloyal or be expelled from the party and as a result lose their position in parliament (Corder, Jagwanth, & Soltau, 1999).

Lindiwe Sisulu was fired from the cabinet by President Cyril Ramaphosa; her political aspirations, her assertive opinion about Cyril Ramaphosa's presidency and her honesty in her disapproval of his leadership were regarded as the probable reasons for her being fired from the cabinet (Mahlati, 2022). Lindiwe Sisulu was one of those who accused the president of not being honest regarding the theft of a huge amount of money at his Phala Phala game farm. Lindiwe Sisulu claims that she received a threatening text message that stopped her from casting her vote in support of the endorsement of the Section 89 Report related to the Phala Phala scandal (Mahlati, 2022). She also alleged that the national chairperson ordered the ANC members of parliament (MPs) to vote against endorsing the report; those who voted against the endorsement did so to protect the president's interest and to have access to his patronage (Mahlati, 2022).

Andrew Feinstein was abruptly demoted from the National SCOPA Committee by the ANC because he refused to succumb to the political pressure of putting the interest of the party first by insisting on a thorough investigation of the arms deal (Lodge, 2001). He was not allowed to speak in the committee, and he ultimately resigned from parliament (Lodge, 2001).

According to Corder *et al.* (1999), in a majoritarian political system where the ruling party is dominant, the will and motivation to conduct oversight may come with dire repercussions. Corder *et al.* (1999) further indicate that as much as oversight is a parliamentary mandate, it also depends on the willingness of the MPs as their political party membership and well-being are affected by various challenges and threats such as being recalled from parliament.

Nkosazana Dlamini-Zuma was in a predicament after challenging the party's mandate to reject the Section 89 Report by voting with the opposition party. If this report had been adopted, President Cyril Ramaphosa would have been impeached. According to Mbolekwa (2022), Nkosazana Dlamini-Zuma was issued a letter by the ANC which stated that she had undermined the structure and there would be disciplinary proceedings. Mbolekwa (2022) further mentions that Nkosazana Dlamini-Zuma said that she read the report and

supported it by voting for it and that she would not hold it against the president if he reshuffled her from parliament.

Bethke (2011) states that a cabinet shuffle is when ministers are frequently exchanged by the president. Bethke (2011) further states that this is a mechanism used by African leaders for political power and a plan to manage ministers' loyalty and relations. By regularly shuffling the ministers, the leaders show that the authority and power is theirs.

According to Obiyo (2013), the lack of confidence and uncertainty on the oversight of committee members of the ruling party is created by the majoritarian political system, hence, the negativity on oversight and accountability. Obiyo (2013) further mentions that the oversight function has become a platform for opposition parties to selectively use information to make the government look bad.

Where there is no support from the political environment, the objective of oversight and holding the executive accountable could be compromised. According to Maganoe (2023), MPs of the ruling party do not cast their votes for the interest of the public but rather to favour the interest of the majority party, thus, hindering legislative oversight. MPs must be committed to seeing the effectiveness of the oversight role by questioning and challenging the executive even if it comes with political challenges.

According to Maine (2023), the Economic Freedom Front (EFF) members of the North West Provincial Legislature (NWPL) were escorted out by parliament security officers for disruption during the State of Provincial Address (SOPA) when they wanted to hold the Premier accountable for being dishonest about the province's status quo. Members of opposition parties are most likely to insist on harsher judgement for the Premier but due to the lack of support, members of the ruling party would not agree with the judgement. The votes of the opposition parties in significant matters are made insignificant by the one-party dominance culture which promotes the lack of parliamentary support in oversight functions (Maganoe, 2023).

According to Abah and Obiajul (2017), the Nigerian National Assembly has conducted countless investigations on cases of bribery and scams without any positive results. Omotoso and Oladeji (2019) mention that in Nigeria, there is too much interference in the oversight function by the executive because they appoint their cronies in the chambers. According to Aiyede (2005), the executive interferes with the oversight function through political channels by placing pliant people in positions of leadership so that they can control them and push their agendas and not that of the public interest. Aiyede (2005) also mentions that corruption is rife among the executive to such an extent that they can persuade the committee members to not hold them accountable by bribing them and causing cracks among the committee members. Partisanship is also a weakness in Ghana's oversight function because committee members are loyal to their political parties (Draman, 2017).

### **2.6.2 Research and information provided**

The provision of information is fundamental in ensuring accountability, therefore, the information provided should be of quality, timely and upon which oversight committees can rely. According to Madue (2012), authentic and dependable facts can contribute to the effectiveness of legislative solutions and an understanding of the problems. Information obtained from government departments shapes the foundation on which all legislative oversight can be conducted.

Better access to research and information can assist and empower legislatures to define and conduct effective legislative oversight of government. The service of legislative research includes preparing and providing information files, rigorous studying of the subject, arguments that are for and against, parliamentary briefings and other services that are the same or on the same scope whether they are published or not (Madue, 2012).

According to Datta and Jones (2011), researchers' voices are audible through legislative oversight processes in committee hearings. Good research can move discussions to a more strategic level and curtail areas of disputes. The

role of research in the processes of oversight is influenced by the capacity and support of the legislatures (Datta & Jones, 2011). Researchers provide information that relates to the legislative oversight decisions and information that is independent and not influenced by any political party (Datta & Jones, 2011). Given the demands of the oversight committee members' work, limited time and the lack of research literacy, information and research presented to the legislative committee members need to describe a captivating story with realistic recommendations; it must be summarised and, if practical, a demonstration in picture or chart formats can be done (Datta & Jones, 2011).

Shaick (2017) indicates that information and reports provided by researchers to oversight committees are not enough to hold government departments accountable and the quality of those research reports cannot be relied on because crucial financial information is omitted intentionally to avoid exposing implicating information that would lead to critical questioning by the committee. Shaick (2017) further mentions that the executive does not provide correct information to the oversight committees, and, on the other hand, the oversight committees cannot get more information.

According to Davids (2017), every quarter, SCOPA in the Western Cape Department of Health analyses the management reports of the department because the content of the reports guides the committee in exercising their oversight role concerning addressing issues pointed out in the report. In the financial year 2003/2004, the management report of the department was only reflected in the overview of the accounting officer and omitted from the department's annual report (Davids, 2017). In March 2016, SCOPA summoned the NWDoH to a meeting because SCOPA felt that the accounting officer of the department was undermining the legislature as he had failed to bring the required documents that were supposed to be used in that meeting as part of the oversight process (South African Government, 2016).

Lack of research capacity and poor research reports defeat the oversight function purpose. According to Obiyo (2013), in most of the provincial legislatures, the research staff are weak and amateurs; their capturing of

information is unsystematic, random and disorganised. When information is provided in such a manner, it becomes exceedingly difficult for the oversight committees to follow and comprehend.

According to Pelizzo and Stapenhurst (2013), the oversight committee needs reliable and understandable information to understand the activities of the executive and hold them accountable. They further state that the oversight committee's inability to hold the executive accountable is because, at times, they are unable to process the information provided to them and, therefore, cannot substantively question their activities.

Rapoo (2005) mentions that a lot of provincial legislatures lack administrative and research capacity and support staff who can record the required information and systematically report to the legislatures. Rapoo (2005) further indicates that insufficient capacity causes legislatures to have ineffective systems and mechanisms for reporting. Due to a lack of resources and capacity, the provincial oversight committees are unable to do their own independent research and end up relying only on departmental reports; this leads to the quality of the oversight committee being determined by the departments.

According to a study by Rapoo (2005), administration and research challenges were identified in the Gauteng provincial legislature. The management of the legislature left the legislators frustrated because of the internal procedures that were conducted in a disorderly manner. Rapoo (2005) further indicates that the major challenges were the lack of financial resources, skills and adequate research capacity to produce information and reports for oversight committees to oversee the activities of the departments and mentioned that in other provinces it is also a problem.

Makondo (2010) concurs that, in the Gauteng provincial legislature, continuous training is required for support and research staff in the areas of report writing, accounting, finance and auditing for the quality of their support to the oversight committee to be improved. Rapoo (2005) indicates that in the Mpumalanga

provincial legislature, the research capacity is deficient, and the oversight committee ends up depending on extremely unreliable and poor-quality information provided by the departments.

Manamela (2012) indicates that, in the Limpopo provincial legislature, there is a lack of understanding of the oversight essence, which is also associated with ignorance. According to Manamela (2012), the oversight committee relies on the research analysis provided by the research support staff, but the committee members fail to understand the research analysis documents or, at times, when they must vigorously engage the departments, they do not have research reports on which to rely. Obiyo (2013) indicates that according to the Eastern Cape Education Committee minutes and minority party members, information provided to the committee has no systematic patterns; at times, the committee is overwhelmed with information and at other times, information is insufficient.

Obiyo (2013) further indicates that there are no standard provincial legislatures to provide information; each legislature uses its own unique format. Most importantly, within a legislature, this affects the direction of the oversight function. According to Shaick (2017), the provision of information or reports by the departments to the committees lacks a systematic pattern; either the reports overflow with details or details that are not relevant to the committees are provided. According to Makondo (2010), in the Gauteng provincial legislature, the departments submitted a deluge of irrelevant information to the oversight committee and a lot of time was required to go through that information.

The provision of information is at times impeded by the factions within the governing party. Obiyo (2013) states that this occurred in the Eastern Cape Legislature where the ruling party was split into two factions during the period preceding the Polokwane conference. According to Obiyo (2013), that had a significant impact when the Eastern Cape Legislature conducted oversight in the Department of Education. Between the education oversight committee members of the different factions within the ruling party, seemingly indicative

of a divided partisanship or combat between the Department of Education and the oversight committee. A lack of confidence, mistrust and tensions is evident with committee members posing difficult questions of the senior officials and members of the executive committee (MECs) who are of different factions. Although this has elicited adequate responses and cooperation from the department under some circumstances, under other circumstances, the department's non-cooperation and concealment of relevant information is noted. This has provoked the department not to cooperate by providing inadequate responses to the questions asked and concealing information that is supposed to assist the committee with conducting oversight (Obiyo, 2013).

### **2.6.3 Lack of capacity**

Capacity requires members of a committee who can fully participate in the work of the committee. This implies that they understand the matters addressed in the legislation, have expertise and skills on these matters and are committed to the work of the committee (Barkan, 2005). According to the National Democratic Institute (2000), a legislature that cannot effectively execute its oversight function and a legislature that only exists to consent to all executive decisions cannot be seen as democratic.

Stapenhurst, Jacobs and Olaore (2016) state that having legislative oversight tools does not mean that they are effectively used; effective oversight must be encouraged and enabled by the legislature. According to Stapenhurst *et al.* (2016), the enabling factors for an effective oversight include having permanent skilled support staff, adequate skilled research staff and enough time to attend to the oversight function. Having skilled research staff and financial and human resources support are factors that influence the legislature's ability to oversee the government (Stapenhurst & Alandu, 2009).

According to Hedger and Blick (2008), the effectiveness of the PAC's oversight function in the Solomon Islands improved after the appointment of permanent support and research staff. According to Makhado *et al.* (2012), committee support staff need to be equipped with a range of technical skills and

knowledge so that they can provide committee members with technical information they can utilise to effectively execute their oversight functions. Makhado *et al.* (2012) also indicate that committee members must have the skills to interpret financial statements and analyse reports.

Lack of capacity to exercise power because of financial constraints, human resource shortage and political power or weakness severely disadvantages the capacity of legislatures. Munzhedzi (2021) states that many parliamentary committee members cannot interpret the financial statements because they do not possess the relevant academic qualifications. Ntshabeleng and Wotela (2021) mention that the number of support staff allocated to the committees also contributes to oversight failures because they deal with a large volume of information.

Makhado *et al.* (2012) agree that the number of committee support staff is inadequate, and that support staff also lack financial, information technology and public administration skills. According to Shaick (2017), the support staff for oversight committees and researchers lack the skills to carry out their duties. Shaick (2017) further indicates that the poor quality of reports being produced is because the researchers lack the necessary capacity, or they serve more than one committee because there are not enough of them. Lack of research skills and knowledge exacerbates the problem of information asymmetry between the oversight committee and government departments. If researchers do not have the capacity and skills to do their work, then government departments will not have an upper hand when it comes to information.

According to Shaick (2017), there is no academic qualification prerequisite to be a member of the legislature and academic institutions do not offer any qualifications in this regard. This is a challenge because when finances are being discussed, members are not on the same page because they do not understand, and it takes time for them to understand, or they cannot interpret the financials and end up not adding any value (Shaick, 2017).

Madue (2012) indicates that understanding research is often a challenge for committee members who have limited capacity in terms of training and being familiar with research. Obiyo (2013) reveals that party deployment to the oversight committee does not consider that responsibility; members are just placed without cognisance of their qualifications and experience.

Obiyo (2013) also mentions that a detrimental oversight environment is associated with a lack of resources, skills and knowledge among oversight committee members. Shaick (2017) indicates that legislatures offer training, but it is not sufficient in that it does not build expertise in the oversight function as the time allocated for training is normally two to three days, which is inadequate. According to Fagbadebo and Ile (2022), the ANC's cadre deployment policy poses a challenge in the public sector, asserting that loyalty is systematically prioritised over competence and merit. People who are politically connected with no competence and qualifications are regularly deployed by the ANC in senior positions.

Fagbadebo and Ile (2022) highlight that cadre deployment weakens legislative structures when cadres shadow deployment committee interests and not that of the legislature. Khambule, Nomdo, Siswana and Fokou (2019) indicate that cadre deployment adversely influences the government's capability to successfully execute the oversight function as the deployed cadres' decisions may influence not holding the executive accountable. The Inkatha Freedom Party (IFP) leader in the KwaZulu Natal Legislature, Blessed Gwala, blames the lack of skills in the KwaZulu Natal government departments on the ANC's cadre deployment policy (Inkatha Freedom Party, 2016).

According to Barkan (2005), the legislative committees' work was evaluated as 'below average' and there was a consensus that one of the challenges of the National Assembly was to have committees that could be evaluated as 'effective' and that challenges could be addressed by training committee members. Barkan (2005) further indicates that training committee members sounds like a good idea in theory but could be difficult to implement considering

that about 220 ANC MPs do not have either the competency or the educational background; they gained their seats through party deployment.

#### **2.6.4 High turnover of committee members and accounting officers**

A high turnover rate is a challenge for oversight committees as government departments cannot properly account for their activities. According to Theletsane (2014), the high turnover rate of committee members, such as SCOPA members, poses a risk as there is discontinuity and inconsistency within the legislative oversight committee to ensure that government departments implement the recommendations and make follow-ups on issues of oversight.

To execute the oversight function, legislative committees question government senior officials to get clarity on issues with the expectation of getting feedback in the next meeting. In the next meeting, some new members are not conversant with the matters and need to be allowed time to get familiar with the matters, do their own investigations and draw their own conclusions on what is needed from the department (Theletsane, 2014).

The consistency and continuity of the legislative oversight committee have an impact on the committee's institutional memory and capacity and such high turnover has an adverse impact on the information needed (Zonke, 2016). The high turnover of SCOPA members affects the effectiveness of the legislative committee as it does not assist with ensuring accountability. According to Twum-Darko (2016), between 2006 and 2009, the turnover rate of SCOPA members was low. The national elections took place in 2009 and changes started showing in 2010 when the turnover rate started increasing (Twum-Darko, 2016). According to Twum-Darko (2016), this finding implies that the turnover rate is influenced by leadership changes because in 2004, which was the year of national elections, SCOPA had a high turnover rate.

Director generals (DGs) are the accounting officers and that makes them accountable for how they spend public funds in their respective departments. If the oversight committee needs clarity on any administrative issues or matters

relating to public finance, the accounting officers are called in to provide clarity. According to Tsheletsane and Fourie (2014), the accounting officers' high turnover rate is a hindrance to accountability and good governance as it poses a challenge for the oversight committees.

Tsheletsane and Fourie (2014) further mention that new DGs are unable to account for and provide information on the previous financial years when called in by the oversight committees and they use their duration in office as a reason for that incapacity. A new DG who is appointed comes up with new plans and strategies which require changes in the department, and this becomes a problem when the handover procedure is not properly executed (Public Service Commission, 2008).

Legislative oversight committees provide reports to government departments with recommendations upon which accounting officers are supposed to act. Theletsane (2014) argues that it becomes difficult for accounting officers to implement the recommendations when they are new to the office; according to Cameron (2009), it takes about a year for a new DG to settle into the new office. Theletsane (2014) further states that most DGs are acting in their positions and that when people are in acting positions, they rarely make tough decisions because some of them are hoping that they will be permanently appointed to those positions.

According to Zonke (2016), the Department of Public Works has always had a controversial reputation on matters of mismanagement of funds. In the last 15 years, it had an unacceptably high turnover rate of 11 DGs, which requires considerable attention to ensure accountability and sustainability. DGs are appointed for a period of 3 to 5 years. Zonke's (2016) study found that 42% of the DGs studied were in the office, either permanently or acting in the position, for less than one year; 2.6% of the DGs had occupied their position for five years and 7.3% had been in the position for three to four years. Cameron (2009) argues that the three- to five-year contract is a problem. Even though the contracts are renewable, they still create uncertainties for the DGs, leading to some of them leaving prematurely, which affects oversight and institutional

knowledge and memory. The Department of Public Service and Administration (DPSA) reported to the parliamentary committee that the North West (NW) province has a high turnover of Head of Department (HOD) positions (PMG, 2021).

According to Cameron (2009), the politics-administration boundary is another reason for the high turnover. Cameron (2009) further mentions that 89% of the DGs believed that what dictates the occupancy of the DGs is not their competency but rather the relationship between the DG and their executing authority. In 2023, the NW Premier suspended the Social Development MEC and HOD for their failure to work together (Ditabo, 2023).

## **2.7 Theoretical Framework – Principal-agency Theory**

It is important to employ theory in a study and the choice of a theory is therefore crucial. Leedy and Ormrod (2015) define theory as a body of ideas systematically formulated and organised to analyse and understand a particular situation. For this study, the choice of theory is the principal-agency theory.

The principal-agency theory is used in studies that analyse the correlation between the executive and the legislature. According to Gailmard (2014), this theory is dominantly and widely used to analyse public accountability. Poth and Selck (2009) indicate that the principal-agency theory is not only dominantly used but is also commonly used in different disciplines, mostly public administration. According to Mitchell and Meacheam (2011), the relationships of principal-agency theory are influenced by economics. Miller (2005) agrees that the theory is derived from economics.

At this stage, it is imperative to understand the principal-agency theory from a public administration perspective. According to the theory, the agent is contracted by the principal to carry out the duties assigned by the principal. The principal requires the agent to execute the duties as the principal would have done if they were required to do so. The principal has the authority to obtain the required performance-based information from the agent.

From the perspective of public administration, Madue (2014) states that the contract could be between the public and government or the legislature and executive. Regarding contractual relations and as part of the constitutional obligation, the legislature is expected to hold the executive accountable. The contractual relations refer to the agents who exercise authority on behalf of the principals, the accountability concept which indicates who is supposed to account to whom.

Miller (2005) raises another point which states that the principal-agency theory can be linked to Max Weber who defines the theory and connects it to political, social and other related fields of study with an emphasis on the information asymmetry between the parties. Gailmard (2014) states that the principal-agency theory represents accountability issues that arise between the principal and the agent.

### **2.7.1 Partisanship**

Miller (2005) indicates that for principal-agency theorists, congressional dominance has an impact on the independence of legislators and government officials. Miller (2005) argues that a political system that has highly competitive partisan politics warrants that the agencies are in a controversial setting of principals that oppose one another. Staddon (2007) argues that the capability of the principal to hold the agent accountable becomes a challenge when the agent dominantly holds the position of power on the proceedings of the principal.

Tsheletsane and Fourie (2014) identify the challenges of partisan and power play that are faced by oversight committees. The principals can influence their juniors by offering them a system of suitable incentives which will result in the juniors' making decisions in the best interest of their political seniors. The executives, who are senior political party members, refuse to account before their juniors who are committee members. According to Madue (2014), in the public sector, for a smooth principal-agency relationship and accountability, neutrality in the political platforms is required; this is currently a challenge

because of the power play of political executives (agency) who apply their influence on the legislature (principal).

In a bid for competitive exertion, politicians impose pressure on one another to protect their own political interests from the interventions of the opposite parties (Miller, 2005). Moral threat is a principal-agency problem identified by Miller (2005). Legislators are caught in a dilemma when it comes to voting; they cast their votes in a way that guarantees that they will be re-elected by not voting against the interest of their political party even if the political party is in the wrong. By doing so, they tend to ignore the laws and regulations that affect the rest of the nation (Miller, 2005).

Koto and Kanjere (2021) claim that principals with high power may intimidate weak agents to disregard what is right and this may lead to weakening their accountability. Whitford (2002) claims that in the principal-agency theory relationship, incentives can sufficiently act as an alternative to oversight.

### **2.7.2 Information**

Bovens (2007) states the relationship between the principal and agent is important in that the agents are compelled to enlighten the principals about their conduct by furnishing the principals with information about the process, performance and outcomes and providing clarifications and reasoning in cases of failure. According to Casson (2007), the principal and agent do not hold perfect information. The agent, the one responsible for carrying out the daily duties, has the advantage of being more knowledgeable than the principal. Casson (2007) explains that when both the principal and agent, or either one of them, has access to or is aware of information to which the other party is not privy, the information is called asymmetric information.

Lubk (2017) mentions that examples of information asymmetry are hidden intentions, actions and information. Information asymmetry creates opportunism in the principal-agency relationship. The information asymmetry is significant between the principal and the agent because of the information and authority that is set on opposing sides of this relationship. Yallew, Juusola,

Ahmad and Törmälä (2018) state that possible conflict in the goal between the principal and the agent will not be a problem if the principal knows all about the agent's activities and there is no information asymmetry. Oversight committees are likely to reduce information asymmetry by enhancing the monitoring function of financial activities and assurance provided that the financial information presented is accurate and valid.

Leruth and Paul (2006) argue that the principal-agency theory will always generate an accountability problem when the agents choose to withhold information from the principal to serve their own interests and generally avoid being held accountable. In terms of the principal-agency theory, a weak legislature (principal) often results in the executive (agent) not adequately responding to questions asked to solicit information on how it (the agent) has carried out its mandate of policy implementation. Madue (2014) identifies the challenge as the agent not cooperating with the principal.

### **2.7.3 Lack of capacity**

According to Miller (2005), the principal can fail to effectively execute the oversight function due to the lack of skills and expertise of the principal and their support staff. Tekin and Polat (2020) state that a lack of capacity occurs when principals do not have the required skills to do their jobs.

According to Dawson, Watson and Bourdeau (2010), when information asymmetry exists, the agent becomes opportunistic even if the principal maximises this opportunism through an appropriate contract. Opportunism from information asymmetry occurs when the agent is a professional with specialised skills and knowledge; this type of calibre can prevent principals from effectively exercising an oversight function because the principal does not possess the required knowledge and skills (Dawson, *et al.*, 2010).

According to Matkin (2010), financial management can be technical and complex, hence, the prevalence of information asymmetry resulting in principals not being able to understand the content of financial reports and having difficulty in exercising the oversight function. Makhado *et al.* (2012)

indicate that oversight support staff could lack the financial management skills to provide the oversight committees with the required technical support that assist in the oversight function. Oversight committees are created to decrease information asymmetry and, thereby, improve the principal's control over financial agents (Matkin, 2010).

#### **2.7.4 High turnover rate**

A problem raised by Bovens (2007) is that of many hands; agents are faced with the challenge of many possible principals. Bovens (2007) further states that it is difficult to determine who has contributed in what manner and who is supposed to account because new committee members and departments obey set rules and regulations and at times make rules and policies but frequently leave before those policies can be implemented or before it becomes evident that they were not implemented. Legislative committee members are appointed on a contract basis and their contracts end before they complete their mandate of oversight.

The high turnover of accounting officers is another principal-agency problem. Cameron (2010) also indicates that a sour political-administrative relationship between the executive and HODs is a contributing factor to the principal-agency problem.

### **2.8 How to Enhance Oversight**

There are ways to enhance the oversight function to deal with the challenges and the weaknesses within the function. These will also improve the efficiency and effectiveness of the legislative oversight role.

#### **2.8.1 Capacity-building**

Committee members and support staff should continuously be capacitated through study opportunities, skills development programmes and training. These capacity-building interventions will assist with efficient and effective oversight by the committee members. According to Ambasa (2019), the

capacity of the oversight committee members should be reinforced particularly in terms of qualifications.

Ambasa (2019) further mentions that legislators assigned to different oversight committees should have academic qualifications which are relevant to the committees to which they have been assigned. Through such training, the committee members will be able to detect and prevent fraudulent activities, track the implementation of resolutions and interpret financial statements (Makhado, *et al.*, 2012). The committee's work is voluminous and requires that more staff with technical skills and knowledge of research, finance, public administration, auditing, information technology and law be appointed to assist with the committee functions (Makhado, *et al.*, 2012).

According to Campbell and Corley (2012), research can be a solution to the problem of information asymmetry. This means that skilled researchers should be appointed to assist the government with the information asymmetry challenge. There should be more than one researcher for a committee and not one researcher servicing more than one committee. In Uganda, PAC members are professionals and qualified accountants with financial management expertise which is beneficial because they are not easily misled by government officials on technical points (Hedger & Blick, 2008). The committee also earned a reputation for their tough questioning of the executive and government officials.

Non-parliamentarians who have financial expertise can form part of oversight committees. According to Hedger and Blick (2008), this practice could be beneficial to PACs in countries which battle to find enough committee members with the desired level of financial skill and expertise; these non-parliamentarians can take part in PACs as expert advisers. PAC in Papua New Guinea includes both MPs and non-parliamentarians who are experts; in the Solomon Islands, the AG is the senior adviser and the secretary of the PAC (Hedger & Blick, 2008).

The Nigerian government established the National Institute of Legislative Studies (NILS) to improve the capacity of members of the legislature and improve the technical capacity of support staff and secretaries of committees (Stapenhurst, *et al.*, 2016). According to Stapenhurst *et al.* (2016), the research capacity in the Nigerian legislature is weak but since the establishment of NILS, the quality of the research done by the support staff has improved significantly. The training offered by NILS is based on different disciplines of legislative procedures and processes (Stapenhurst, *et al.*, 2016).

Obiyo (2013) recommends that the requirements for independent evaluation reports be included in the legislature rules, which will move information collection control from the government departments to oversight committees and their support staff. This will necessitate capacitating and strengthening support staff who are not familiar with research.

### **2.8.2 Non-partisanship**

The committees' decision-making and proposal of recommendations should be based on the public interest and not on political party loyalty. The committee members should avoid being power played by their political seniors, evade any political pressure that poses a challenge to the oversight function and act in the best interest of the public. Committee members must uphold their integrity, good ethics and principles to promote accountability and oversight (Auditor-General of British Columbia, 1989).

Monstad (1999) argues that to mitigate the system of majoritarian, political parties should be balanced. A political party must not govern for the long term and must not control the balance of the party. If a political party governs for a long time, it becomes dominant and creates a dominant political system in which the likelihood of another political controlling the government is unlikely.

Malapane and Madue (2018) state that dominant party systems are not ideal for democratic systems because they do not allow for rotation in the office; it becomes difficult for the dominant to differentiate between the interests of the party and of the government. Re-elections are always a priority for the

dominant party and the executive overpowers the legislature, resulting in accountability weakness.

The ANC has been dominating the government since 1999. Monstad (1999) further states that the political party balance could compel the ruling party to be thoughtful and responsible. According to Griffith (2005), in New South Wales, the political composition has revived legislative oversight and accountability. The balance of political power is in the minority parties' hands and the legislative oversight committee ensures that the chairperson of the committee or most committee members are not from the ruling party (Griffith, 2005). According to Hedger and Blick (2008), having non-parliamentarians who are expert advisers taking part in the oversight committees can strengthen non-partisanship within PAC.

Manona (2015) suggests a review of the legislative committee voting system and further states that there must be consensus in the process of making decisions so that it accommodates the minority parties' contrasting views. According to Arowolo (2010), an oversight mechanism must be in place to address the interaction between the governing party and the opposition parties. The governing party is within its natural rights to govern but, on the other hand, opposing parties must be able to express their opinions, disapprove and come up with alternative policies.

All members of the legislature or committee should have a common goal when it comes to oversight and accountability; participatory parliament must be encouraged, particularly for opposition parties (Arowolo, 2010). According to Manona (2015), the effectiveness of executive oversight necessitates that members of the legislature fully recognise and understand the Constitution's reasoning behind accountability and its purpose in government.

### **2.8.3 Retain institutional knowledge**

Intervention is necessary to decrease the turnover rate of accounting officers and legislative committee members. Continuity will be ensured and there will be improvement in financial accountability; subsequently, good governance

will be achieved. According to Theletsane (2014), the continuity of the DG's office will ensure that there is someone in the office who will be held accountable and who will provide information and clarity to the legislative oversight committee when required. Theletsane (2014) further claims that there will be a retention of institutional memory and knowledge.

According to Tsheletsane and Fourie (2014), legislative committee members and the president's term of office should run parallel and the appointment of DGs should not be political but be handed to the DPSA. Additionally, the appointment of DGs should be permanent and not on a contractual basis of three to five years. Glicksman (2007) states that in the United Kingdom, the Permanent Secretary who is the permanent HOD is an accounting officer who is appointed permanently. The Permanent Secretary has the power to ensure that accounts are properly prepared, financial resources are efficiently and effectively used in line with the set policies, laws and regulations and that there is accountability for those financial resources used (Glicksman, 2007).

The Deputy Speaker of the National Assembly, Lechesa Tsenoli, requested the Southern African Development Community Organisation of Public Accounts Committees (SADCOPAC) members, particularly those who serve in SCOPA, to come up with strategies to retain knowledgeable, experienced and skilled MPs and members of the provincial legislatures after the elections. The Deputy Speaker further said that this would strengthen accountability and guarantee continuity in the oversight of public finance (Parliament of South Africa, 2023).

## **2.9 Conclusion**

After having consulted numerous sources and case studies, the systemic challenges faced by the legislature concerning exercising the oversight function are clearly substantiated. Numerous scholars place more emphasis on the importance of effective oversight and accountability and how it affects governance and service delivery to all citizens. The literature demonstrates that political party dominance and partisanship are the major challenges within

the oversight function as they are direct how the members of political parties vote in oversight committees. According to the literature, other countries have overcome this challenge by appointing non-parliamentarians to oversight committees.

The literature also demonstrates the importance of research and information derived from research and how it assists oversight to hold the executive accountable. This is the reason it becomes a challenge when support staff and committee members lack knowledge, technical skills and research capacity. The literature has also indicated how committee members' lack of knowledge and skills affects the principal-agency relationship. If the principal does not know and understand the work done by the agent, then information asymmetry challenges results. The principal will not be able to hold the agent accountable if the principal does not know the agent's work. The literature also indicates that South Africa can learn from other countries by ensuring that committee members are professionals and qualified accountants.

## **CHAPTER 3: RESEARCH METHODOLOGY AND DESIGN**

### **3.1 Introduction**

A discussion on research methodology and design is important because that is where the answers on exactly how the researcher plans to conduct the research are found. Brynard and Hanekom (2006) state that research methodology and design are a part of the study that is very crucial, and its presentation should be precise. This chapter starts with the research methodology and design definition and its significance in a research study. The chapter further indicates the research design used in the study and how the study population was sampled. There is also a discussion on the method that was used in data collection and data analysis and measures taken for ethical considerations.

### **3.2 Research Methodology**

Research methodology is about how data collection will be conducted and how the analysis of that data will take form. According to Brynard and Hanekom (2006), research methodology is concerned with the method used to conduct research and highlights that the approaches taken by the researcher in addressing the research problem are entailed in the research methodology. Mackenzie and Knipe (2006) define research methodology as a general approach to research connected to the methods and tools that will be used in the data collection and analysis of the data.

### **3.3 Research Approach**

Research approach formulates the required data and collection methods. It lays out a plan for how the research is going to be undertaken. According to Almalki (2016), the research design is important because it directs the researcher on the planning and implementation of the research study, and it helps to obtain the expected results.

The approaches for research that are typically used are quantitative and qualitative (Rahi, 2017). For this research, a qualitative approach using purposive sampling and in-depth interviews was adopted as the data collection method to answer the research questions. Semi-structured interviews were conducted to discover themes and allow for in-depth knowledge to be gleaned from the participants' open-ended responses.

According to Tewksbury (2009), the qualitative approach provides important interpretation, in-depth contexts and concepts to understand and provide different views to the people. The approach includes data collected using different collection methods such as interviews, discussions with focus groups, document analysis and observations (Patton, 2015).

Isaacs (2014) states that the qualitative research approach is an investigation process done in a natural setting, which involves understanding a human or social problem by drawing a holistic picture and reporting the participants' detailed views. This approach gives the researcher a chance to document human experiences and where they take place. For Marshall and Rossman (1999), some characteristics of qualitative research are features such as participants' views, a holistic picture and a natural setting. These characteristics assisted in giving the researcher reasons for choosing to use the qualitative approach in this study.

The researcher addressed the research questions by collecting data from the different participants through interviews and analysing documents. The data collected from the interviews were transcribed and examined for patterns and responses that were repeated. The patterns and responses were categorised into themes. The study examined the failures of oversight institutions from the participants' detailed views and perspectives to assist in drawing a holistic picture of why these failures occur in the NWDoH.

### **3.4 Study Area**

The study area is the NWDoH which is situated in Mahikeng.

### **3.5 Population, Sample Sampling Technique**

A sample is individuals chosen from the population to represent the population. Sekaran (2016) defines sampling as selecting a section of the total population to be participants in a study. Probability and nonprobability sampling techniques are the core forms of sampling. Ilker, Sulaiman and Rukayya (2016) describe probability sampling as a technique in which every individual has an equal likelihood of being selected from the population whereas nonprobability selection of a sample to use in a study is subjective because it is not randomly selected. The target population for this study was the 24 participants made out of oversight committee members from the NWPL, NWDoH Office Bearers, former national SCOPA Chairpersons and public finance experts.

Purposive sampling was the nonprobability sampling technique that was used in this study. The participants who were purposefully sampled in this study included a legislative oversight expert from an academic institution and a public finance expert from an academic institution, a former national SCOPA chairperson, a former administrator of the NWDoH and NW SCOPA members and Health Portfolio committee members who are part of the ANC, DA, EFF and Freedom Front Plus (FF Plus). The sample size for this study was 11 participants.

According to Sekaran (2016), purposive sampling is selecting individuals who can provide the preferred information. Ilke *et al.* (2016) explain purposive sampling as intentionally choosing participants because of the qualities they possess and further say that a researcher decides on the topic to be explored and finds people who are well-informed, experienced, knowledgeable and willing to provide information on that topic.

The participants for this study were purposively selected based on their position, role, experience and knowledge of the topic. The former national SCOPA chairperson, the former administrator of the NWDoH, NW SCOPA members and Health Portfolio Committee members who are part of the ANC, DA, EFF and FF Plus, the legislative oversight expert from an academic

institution and the public finance expert from an academic institution all fitted the requirements.

SCOPA is a legislature committee that is empowered with the oversight role of investigating reports issued by the AG and calling for accounting officers to account for public funds. The Health Portfolio Committee is responsible for the oversight of the department. An expert is someone who has acquired expertise through experience or education. The Former Administrator of the NWDoH was appointed as a form of intervention by the national government when the NWDoH failed to fulfil its provincial functions. Table 1 below provides a breakdown of the populations and sample size in relation to this study.

*Table 1: Population and Sample*

<b>Population and Sample</b>		
<b>Category</b>	<b>Population</b>	<b>Sample</b>
ANC SCOPA and Health Portfolio Committee Members	8	2
EFF SCOPA and Health Portfolio Committee Members	2	1
DA SCOPA and Health Portfolio Committee Members	2	2
FF Plus SCOPA and Health Portfolio Committee Members	2	2
NWDoH Office Bearers	2	1
Public Finance Experts	2	2
Former national SCOPA chairpersons	6	1
	24	11

Source: Provincial Government of South Africa (2023), Google Wikipedia and North West Department of Health (2023)

### **3.6 Data Collection Method**

Different data collection methods were used by the researcher to collect data. According to Hox and Boeije (2005), in the qualitative research approach, the strategy of data collection includes purposeful sampling, collecting data whether much or little, using methods such as interviews, document analysis and observation. Researchers have the option of collecting their own data or looking for data that already exist and are relevant to the research. Hox and Boeije (2005) state that collecting own data has its own benefits and one of

them is that the research design and data collection method can be customised to the research questions, which ensures that the data collected assists in answering those questions.

Two types of methods, primary and secondary, can be used to collect data. Mazhar, Anjum, Anwar and Khan (2021) explain the primary method as originally collecting data for the first time directly from the source and the secondary method as collecting data that already exists and is readily accessible. In this study, interviews were used as the primary data collection method and document analysis was used as the secondary data collection method.

### **3.6.1 Semi-structured interviews**

The study used semi-structured interviews as the form of collecting data from the participants. According to Pathak and Intratat (2012), semi-structured interviews have set questions and are used to obtain information from the participants by applying an informal two-way communication between the researcher and the participants, allowing participants to diverge and the researcher to ask follow-up questions to obtain more details on the subject. This study used semi-structured interviews to collect primary data to obtain information on the failures, challenges and weaknesses of legislative oversight in exercising the oversight function. The semi-structured interviews that were conducted were significant to discover the extent of participants' knowledge on the subject.

According to Brynard and Hanekom (2006), the interviews employed in a qualitative research method allow a researcher to obtain first-hand knowledge from the participants who are experts on the topic. This was possible by considering the sampling technique used in this study to identify the participants who had knowledge and experience in the legislative oversight function.

As deliberated in Section 3.5 of this chapter, purposive sampling was the technique that was used to ensure that relevant data would be collected from

the right participants. The interviews were critical in this study to make certain that extensive primary data was collected through the questions that were designed to probe and explore the content of this study on the failures of oversight institutions.

### **3.7 Research Limitations**

The researcher wanted to interview two National Treasury (NT) staff members who were responsible for an oversight role on government departments as per the provisions of the PFMA and two of the AG staff from the NW to participate in this study. Permission was sought from NT and the AG; however, permission was denied. This led to a reduction in the sample size.

The researcher also wanted to collect data from National SCOPA members but due to their busy parliamentary schedule, their availability was another limitation. Some of the members indicated that they were unable to assist because, based on the focus area being the NWDoH, data should be collected at the provincial level and not at the national level.

### **3.8 Data Analysis**

Records from interviews provide a narrative of the research but not an explanation, which is why the researcher must analyse, interpret and bring meaning to the data collected. According to Burnard, Gill, Steward, Treasure and Chadwick (2008), data analysis involves thematic content analysis which is the identification of themes, categories and patterns that surface from the interview transcripts. Cohen, Manion and Morrison (2007) mention that there are many ways of analysing data but what is important in analysing data is the fitness for purpose which recommends that the researcher must know the data analysis goal because that is what determines the type of data analysis conducted.

Priest, Roberts and Woods (2002) allude to three approaches to conducting analysis: grounded theory, qualitative content analysis and narrative analysis. In this study, the researcher used qualitative content analysis which involved

examining the data collected for ideas, patterns, constructs and themes. Because the research approach used in this study was qualitative, data analysis could include the literature review to do a comparison, contrasting the results by referring to the literature.

The data collected from the interviews was organised, prepared and transcribed. The data analysis was done to categorise the participants' common experiences into patterns and themes. These commonly identified experiences, patterns and themes also assisted in ensuring that the data collected was credible and had high quality.

### **3.8.1 Document analysis**

Document analysis is a process that involves reviewing and evaluating electronic and printed documents (Bowen, 2009) and requires the examination and interpretation of data to acquire understanding, expand extensive knowledge and obtain meaning (Rapley, 2007). Document analysis was used as a form of secondary data collection in this study. Primary and secondary data can be collected from published and unpublished documents.

In this study, the documents that were analysed are official public documents such as NWDoH annual reports and AG reports. These documents assisted the researcher with what was reported by the AG concerning the weaknesses of the oversight function within the department and the report by the department on how the oversight function had been exercised. The document analysis also guided the researcher in structuring the interview questions. All these documents are accessible on the NWDoH and AG websites. The only document that was not available on the NWDoH's website was the annual report for the financial year 2018/2019; the researcher requested the document directly from the department.

### **3.9 Ethical Considerations**

Arifin (2018) states that ethical considerations are important during all qualitative research stages to maintain the balance between the likely research benefits and the possible research risks. Arifin (2018) further mentions that ethics guide researchers on how to conduct research ethically. According to Govil (2013), the reason for defining an ethical code of conduct is to ensure that the responsibility for honesty and commitment to morality is upheld by forcing the researcher to respect the privacy and dignity of the participants.

#### **3.9.1 Approval from institutions**

Permission to conduct research was granted by the NDoH, ANC, DA, EFF and FF Plus.

#### **3.9.2 Confidentiality and anonymity**

According to Govil (2013), participants have a right to be protected by the researcher; their privacy, guaranteeing confidentiality and anonymity, must be maintained. In this study, the researcher guaranteed that the records of interviews were stored confidentially, and the names of the participants were not mentioned as pseudonyms were used.

#### **3.9.3 Disclosure**

Participants must be provided with information relating to the study. They must know why the study is being conducted, its purpose and benefits, the risks involved, if any, and whether there is any compensation for participating (Govil, 2013). In this study, before the collection of data, all the participants were provided with detailed information relating to the purpose of the study.

#### **3.9.4 Voluntary participation**

Voluntary participation means that participants must not be pressured or forced into taking part; they must first give informed consent. According to Govil (2013), the crux of the informed consent principle is that the participants

must be allowed to make an informed decision on their own regarding agreeing or refusing to participate in the study. In this study, the participants were furnished with consent forms (Annexure 1) that they signed before data collection.

### **3.10 Conclusion**

This chapter outlined the adopted research methodology and provided a view of the design used to address the research problem of the study. The study used qualitative research which allowed the researcher to use semi-structured interviews as the primary data collection method and document analysis as the secondary data collection method. NWDoH annual reports and AG reports were the documents that were analysed. Themes and patterns were identified from the semi-structured interview questions. Participants with experience and knowledge in legislative oversight were chosen by using the purposive sampling method.

## **CHAPTER 4: DATA PRESENTATION**

### **4.1 Introduction**

The preceding chapter outlined the significance of the research methodology, the data collection process that was followed and the process followed to analyse the data. The presentation and analysis of the data collected through the semi-structured question interviews (Annexure 2) are presented in this chapter. The presentation of data is based on the themes which were identified in response to the objectives of the study.

Data was collected through semi-structured interviews conducted with a former national SCOPA chairperson, a former administrator of the NWDoH, NW SCOPA members, Health Portfolio committee members who are part of the ANC, DA, EFF and FF Plus, the legislative oversight expert from an academic institution and the public finance expert from an academic institution. Hence, the approach of the study was qualitative. Interviews consisting of fifteen questions were scheduled for the eleven participants. All eleven participants were virtually interviewed via Microsoft Teams.

### **4.2 Data Coding and Themes**

In this study, the participants are named as follows: former National SCOPA Chairperson, former Administrator, Expert 1 and 2, Ruling Party Members 1 and 4, Opposition Party Members 2, 3, 5, 6 and 7, Expert 1 and 2. The collected and transcribed data were coded to identify themes for further discussion. The themes that were identified and used to analyse the data are presented in the following sub-sections.

#### **4.2.1 Politics and oversight process**

The oversight process is highly affected by politics. The decisions of the oversight committees are intercepted by the political structures. Political deployments lead to a lack of accountability and consequence management because of the shielding offered by political leaders to their cadres.

#### **4.2.2 Proportional representational political system**

The dominant party system allows the ruling party to use its muscle to advance its political agenda. The system undermines the oversight function because decisions are not based on what is presented but on what the party wants. The lack of political will is prevalent within the oversight function.

#### **4.2.3 Quality of support and reports**

The oversight committee needs to have support to assist in executing the oversight function. The support they get is supposed to be outstanding, which implies that research reports and minutes of the oversight meetings are meant to assist with the execution of the oversight function. The department is also expected to provide the oversight committee with reports that will assist the oversight committee's decision-making process. If all these reports are not of good quality, the oversight function will be negatively affected.

#### **4.2.4 Capacity and competency of oversight committee members**

The capacity and competency of the oversight committee members are important in the execution of the oversight function. The role of members includes scrutinising and analysing information and that requires certain skills. If members are unable to analyse information, the decision-making process is flawed. Such flaws can be corrected by providing training for members.

Table 1 presents a summary of the identified themes and sub-themes.

*Table 2: Themes and sub-themes identified*

<b>Theme</b>	<b>Sub-themes</b>
Politics and oversight process	<ul style="list-style-type: none"> <li>• Consequence management</li> <li>• Lack of accountability</li> <li>• Delays in dealing with matters</li> </ul>
Proportional representation political system	<ul style="list-style-type: none"> <li>• Political muscle</li> </ul>
Quality of support and reports	<ul style="list-style-type: none"> <li>• Research and administrative support</li> <li>• Value of the reports and information received</li> </ul>
Capacity and competency of oversight committee members	<ul style="list-style-type: none"> <li>• Skills challenges for committee members</li> <li>• Capacity-building programmes</li> </ul>

### **4.3 Thematic Analysis**

The four themes and sub-themes are presented in the following sub-sections.

#### **4.3.1 Theme 1: Politics and oversight process**

During the interviews, the participants were asked questions (Annexure 2), and follow-up questions were also posed to enable them to assert their understanding of the issues. The participant's responses revealed that the systemic weaknesses that lead to non-compliance in the NWDoH are due to problems associated with politics and administration.

In theory, accountability mechanisms are in place but, in practice, they are not being implemented, which is exactly why the department experiences problems of non-compliance with the PFMA. The lack of political will by the members of the legislature presents a challenge to effective legislative oversight.

Oversight committee members must have the will and dedication to be ready to hold the executive accountable, although it may be politically challenging.

Even though the legislature through the oversight committees has the constitutional mandate to hold the executive accountable, it is not simple for the committees to enforce accountability because of their limited powers and the lack of political leadership to enforce the implementation of the committee's recommendations. These avert the execution of effective oversight.

According to the experts, the problems within the oversight function exist because of political party loyalism and political appointments. Expert 1 said:

*"I do not think that government departments are held liable and accountable because of political party loyalism because of Members of Parliament put the interests of the party before the interest of the people."*

The political party members from the ruling party and the former National SCOPA Chairperson agreed that a lack of political will to implement and enforce consequence management where non-adherence with the regulations to ensure accountability existed. This is what Ruling Party Member 4 had to say:

*"The problems have more to do with the level of political decision-making and also the inability for consequences management because most of the issues raised are repetitive and, therefore, they tell you there is very little efforts that have been applied to deal with issues as raised by both the Auditor-General and the internal audit."*

Ruling Party Member 1 added:

*"Generally, problems, limitations and failures in the department are to a great extent lack of political will to implement and enforce consequence where there is non-adherence to the policies of the department."*

Recommendations of the oversight committees that were not being implemented were a weakness in the oversight function and this was highlighted by the political party members from the opposition parties. Opposition Party Member 5 made the following comment:

*“If you can look at all our committee reports, they make very good recommendations, but none of those are implemented because they never get to be passed. If they get to be passed, there is no one who monitors that they are implemented.”*

Ruling Party Member 4 added by saying:

*“At the end of the day, that we can make recommendations as much as we can and if they are unable to implement what we have recommended, it means there will not be accountability.”*

Opposition Party Member 6 stated the following:

*“The committee can make the best recommendations in the world but it’s not being implemented, and the departments just ignore most of the recommendation, therefore political oversight over the PFMA compliance is a weakness and I think that would be my biggest concern.”*

#### *4.3.1.1 Consequence management*

Committee members have lost confidence in the system and the current political leadership. It has become a futile exercise to trust that the leadership will ensure that consequence management is applied. Despite numerous mechanisms including law enforcement bodies being in place, non-compliance with the regulations is prevalent and there is no application of consequence management for those who have transgressed because of a lack of political will.

According to Brinkerhoff (2001), a culture of impunity contributes to a lack of political will to confront corruption and issues of accountability by creating a culture of acceptance of corrupt practices. This culture is also encouraged when the legislature undermines the oversight function by not investigating matters presented to them and applying consequence management techniques. Expert 1 said the following:

*“It is basically a tick box exercise to say we got this report, and we are going to have an investigation. Parliament is always investigating but you will never hear an of an outcome. I think the investigation is just a tick-box exercise to keep the public quiet.”*

Members from the ruling party and opposition parties indicated that the oversight committees did not have the powers to enforce consequence management because their powers were limited to only making recommendations.

The political party members explained that when the recommendations of the committee are reported to the House for adoption and the House accepts the committee report, the recommendations are considered the formal House resolutions per the constitutional function of executing the oversight function. It becomes the responsibility of the Speaker to ensure that those recommendations are implemented by the departments. Most of the political party members from the opposition parties added that a lot of the oversight committee recommendations are adopted but they are not implemented and there is no enforceability from the political leadership. Opposition Party Member 3 indicated the following:

*“Because the political leadership are part of dominant party, it means they implement decisions that favours them. Recommendations that are not in their favour, they just brush them off and put it under the carpet.”*

Opposition Party Member 6 added by stating that:

*“One of the biggest challenges I think we face is for example in the North West Provincial Legislature now for the previous financial year, we actually have an audit finding saying approximately 50% of resolutions made by committees and which are cemented in the House as well are not being implemented”.*

The accounting officer has the obligation of ensuring that prescribed disciplinary action is imposed on officials who transgress. If the accounting

officer fails to execute their duties, it is the responsibility of the executive authority to subject the accounting officer to the necessary disciplinary action (National Treasury, 2000). The AG reported that Treasury Regulation 4.1.1 requires that disciplinary hearings must be held for those who have committed financial misconduct but there is no audit evidence that is sufficient and appropriate to show that disciplinary hearings were conducted, which is an indication that consequence management has not been fully applied (NWDoH, 2017, 2018, 2021, 2022, 2023).

Opposition Party Member 3 agreed with the AG's report by mentioning that if consequence management were visible, people would be going to jail for fraud and corruption and others would be dismissed for not adhering to the legislation. According to Expert 1, sometimes it is difficult for management to apply consequence management, such as disciplinary action, on employees who have transgressed because of the role that the trade unions play when protecting their members.

The former Administrator mentioned that there have been improvements in terms of consequence management, and she used the example of the former Chief Financial Officer (CFO) who was charged with financial misconduct, found guilty of misconduct and subsequently dismissed. This is however contradictory to what has been reported by the Audit Committee and the AG. It is indicated in the Audit Committee Report that 10 material irregularities were raised by the AG and the Audit Committee recommended to management that they resolve these irregularities with necessary consequence management (NWDoH, 2023).

According to the 2023 annual report of the NWDoH, the AG reported that management had not implemented the recommendations of the Audit Committee, investigations conducted had not been finalised on time and there had been no full implementation of consequence management (NWDoH, 2023). This is an indication that there is no improvement in terms of consequence management as stated by the former Administrator.

The former National SCOPA Chairperson commented by saying the following:

*“The absence of consequences for wrongdoing has created an atmosphere of impunity. I think it becomes worse when you realise that the Auditor-General provides Standing Committee on Public Accounts with a lot of detailed information of what went wrong and what could be corrected and the fact that the Auditor-General meets on a continuous basis with the MEC and the administrative leadership of the department to say to them these are the areas of weakness, these are the things that you must correct and yet no correction happens”.*

#### 4.3.1.2 Lack of accountability

The objective of the PFMA is “[to] secure transparency, accountability, and sound management of the revenue, expenditure, assets and liabilities of the institutions to which this Act applies” (PFMA, 1999, p.12). The PFMA is a vital part of the improvements of the systems of managing public funds. The accountability chain is the most crucial element in terms of improvement of public financial management as it represents a punitive action of last ditch-effort should political leaders and accounting officers not succeed in taking appropriate action (National Treasury, 2000).

The Guide for Accounting Officers on PFMA issued by NT outlines the steps put in place by the PFMA for the accountability chain which is the performance agreement between the MEC and the HOD and the role of SCOPA (National Treasury, 2000): “Performance agreement between the MEC (executive authority) and the HOD (accounting officer): The performance agreement should include one key performance indicator (KPI) that relates to the financial management of the department and should be monitored by the MEC.”

The PFMA asserts the significance of accountability and sheds light on the accountability chain by explaining that both the accounting officer and the executive officer are responsible for preventing irregular expenditure, fruitless and wasteful expenditure, losses emanating from delinquency and non-compliance with the regulations and operational policies of the department

(National Treasury, 2000). However, the accounting officer is accountable to the executive authority and the executive authority is accountable to the legislature (National Treasury, 2000).

Normally public servants represent their ministers by appearing before the parliamentary committees to support them in their accountability (Aucoin & Jarvis, 2005). When the committee poses questions to them, they are expected to respond but they are not to account or account on behalf of their minister because they do not have that power (Aucoin & Jarvis, 2005). Ministers must account to parliament by defending and explaining their actions or the actions of their officials (Aucoin & Jarvis, 2005). The former National Chairperson of SCOPA indicated that there is a reluctance to say that accountability to the legislature lies with the accounting officer and not the executive authority. He used the following example to illustrate the point made:

*“When there is accountability on how the budget has been used, the MEC says that it is the job of the officials; the bug of accountability is being passed to the HOD.”*

The PFMA clearly states that the MEC has the power to act against the HOD but has failed to hold the accounting officer accountable as indicated by political party members. Opposition political party members indicated that there are challenges faced with holding the executive accountable with Opposition Party Member 5 stating that no MEC has ever been held the HOD accountable when non-compliance was raised by the AG. In addition, Opposition Party Members 5 and 7 indicated that senior management officials would resign and move to other departments to avoid accountability.

The Constitution bestowed SCOPA with expansive powers to investigate issues, summon the accounting officer and the executive for questioning and make recommendations on how to deal with issues raised (National Treasury, 2000). In extreme cases, SCOPA may also make recommendations about financial misconduct (National Treasury, 2000). The committee may also recommend punitive action against the accounting officer to the executive

authority, varying from deduction of salary and demotion to dismissal (National Treasury, 2000).

SCOPA is expected to attend to those issues that the preceding steps in the accountability chain were unsuccessful in resolving (National Treasury, 2000). When the accounting officer or executive authority appears before the committee, there is an expectation of their accounting for failing to take appropriate steps and remedial action earlier (National Treasury, 2000). It becomes a futile exercise on the accountability chain if the committee makes recommendations that are not going to be implemented.

From the responses of the participants, it can be deduced that no monitoring process is in place to ensure that the recommendations are implemented. Opposition Party Members 5 and 7 indicated that the committee reports make incredibly good recommendations for remedial action to be taken by the department and the executive but none of those are implemented because they are never approved and if they get approval, no one monitors that they are being implemented. Ruling Party Member 4 disagreed, mentioning that there have been consistent follow-ups and there has been cooperation from the NWDoH as compared to other departments as far as accountability is concerned.

To ascertain whether an accounting officer is responsible, the committee may decide to examine whether they had implemented the recommended best practice systems to prevent the problem. The committee should be able to ask the accounting officer questions to determine culpability. The objective of these questions is to determine the extent to which the accounting officer can exhibit efforts to inhibit unauthorised expenditure by complying with the regulations and policies of the department.

Expert 2 indicated that the oversight committees are not asking the correct questions because of party loyalty or political party loyalty. The structures are aware of what they are supposed to be doing but they are not doing it because they are afraid of either being victimised by the parties to which they

are affiliated, or they are not asking the right questions because of political party loyalism. Hence, there is no accountability. Expert 2 and Ruling Party Member 1 provided the following example to justify the lack of accountability:

*“The department had a scandal at Mahikeng Provincial Hospital that involved newborn babies that were kept in cardboard boxes. Due to unavailability of incubators or cribs in the hospital, nurses used those boxes to keep the babies warm after birth.”*

According to Ruling Party Member 1, the NWPL discovered this situation after a picture of those babies in boxes was circulated on social media and the MEC of Health attempted to defend that situation. The impression that Opposition Party Member 2 and Expert 2 got from the situation was an element of a cover-up by the MEC because instead of getting to the root of the problem by holding someone accountable, he wanted to know who had said that the babies must be kept in the boxes.

#### *4.3.1.3 Delays in dealing with matters*

Delays by the committee in dealing with matters can contribute to compromising accountability. When matters brought forward to the committee are not being resolved that implies that those who have transgressed will not be held accountable or it will take time before they are subjected to accountability. On 8 May 2020, the CFO and Director of Supply Chain Management of the NWDoH was suspended because of allegations of supply chain irregularities arising from a security tender and financial misconduct (NWDoH, 2023). On 06 November 2023, the disciplinary hearing outcome found the CFO guilty, and she was dismissed (NWDoH, 2023). Based on the above, it took almost four years for the allegations against the CFO to be investigated and concluded.

This is one of the concerns raised by political party members who indicated that oversight committees focus on matters that have long passed instead of current matters. According to Opposition Party Member 3, current matters raised are not given the attention they deserve and that causes delays in

resolving matters. Ruling Party Member 1 and Opposition Party Member 2 provided an example to demonstrate the delay in dealing with matters: in December 2023, they were forced to approve the unauthorised expenditure that occurred in 2013/2014, 2014/2015 and 2015/2016. Ruling Party Member 1 further indicated that when they questioned why the approval was only obtained now, the MEC responded by saying that they were doing investigations and had to clear that unauthorised expenditure. Table 2 shows that matters were not attended to as and when they were raised.

*Table 3: Summary of SCOPA meetings held with the NWDoH*

<b>Financial year</b>	<b>Date of meeting</b>	<b>Financial year of matter</b>	<b>Matters discussed</b>	<b>Matters resolved</b>
2016/2017	25 August 2016	2014/2015	Matters relating to unauthorised, fruitless, wasteful and irregular expenditure. Implementation of consequence management.	No No
2017/2018	25 August 2017	2016/2017	Matters relating to unauthorised, fruitless, wasteful and irregular expenditure. Implementation of consequence management.	Yes No
2018/2019	16 March 2019	2016/2017	Recording of fixed assets. Implementation of consequence management.	No No
2019/2020	Not specified	Not specified	Poor status of the accounting records of the NWDoH. Irregularities that were reported to have been committed by the Accounting Officer and investigations.	No No
2020/2021	No Meeting			
2021/2022	26 November 2021	2019/2020	Irregular, fruitless and wasteful expenditure. Accruals and payables not recognised.	Yes Yes No

Financial year	Date of meeting	Financial year of matter	Matters discussed	Matters resolved
			Investigations of the irregularities of the Accounting Officer.	
2022/2023	No meeting			

Source: NWDoH (2017, 2018, 2019, 2020, 2021, 2022, 2023)

According to Table 2, the unauthorised, irregular, fruitless and wasteful expenditure matters raised by the AG in the financial years 2017/2018, 2018/2019, 2020/2021 and 2021/2022 were not dealt with by the committee. In the following financial years, the AG reported that irregular expenditures that occurred in the previous financial years had not been resolved. According to Ijeoma and Sambubu (2013), recommendations on reports are often repeated every year without improvements, resolutions are retained from prior years without completion and there is a tendency to ignore resolutions for compliance.

The former National SCOPA Chairperson thought that the weakness in all legislatures, including the national, is the lack of a follow-up mechanism because, in the following year, the report came back with the same issues that were raised before. Ruling Party Member 1 and Opposition Party Member 6 claimed that because of this weakness, the department simply ignores the resolutions and just makes promises to implement which they never carry out.

According to Table 2, the matter of the consequences of management that were raised in 2014/2015 and 2016/2017 have not been resolved and in the following financial years, there was no indication that the committee had even addressed them. Opposition Party Member 3 indicated that in most cases the recommendations and the findings of the oversight committees did not find expression at the Office of the MEC, nor were those findings attended to on time, hence, the delays.

Delays in dealing with matters make the work of a successor difficult because they are forced to deal with matters with which their predecessor should have

dealt. While the successor is dealing with those matters, they also must deal with matters that are currently occurring. All these matters must be dealt with in the five-year period which is a legislator's term of office. The oversight committee's term of office plays a critical role in dealing with matters raised. There is not always adequate time for committee members to go back to where things went wrong and thoroughly interrogate and follow through. When the term of office starts, new committee members start from scratch by trying to understand their role.

The former National SCOPA Chairperson mentioned that during the first two years, members struggle to properly understand their mandate and by the time they start to grasp and understand it, they are already in their third year. Opposition Party Members 2 and 5 added that while the process of understanding the mandate is unfolding, the committee members delay attending to the issues that are being raised.

Ruling Party Member 4 indicated that the current legislature tried its best to ensure that all outstanding matters were accordingly dealt with and that those matters had been finalised over the past two months; it was expected that there would not be recurring matters in the next new term of office.

On the contrary, in the financial year 2022/2023, the AG reported on the matters of the irregular awarding of tenders which happened in 2013, 2014, 2018 and 2021 that were still under investigation (NWDoH, 2023). This meant that the current legislature would not be able to close these matters considering that their term of office ended that year. Ruling Party Member 1 and Opposition Party Member 2 indicated that they had attempted to address matters through law enforcement authorities by opening cases, but the law enforcement authorities themselves were not familiar with what was being raised or they were deliberately stalling.

### 4.3.2 Theme 2: Proportional political system

The Provincial Government of South Africa (2023) indicates that the NWPL has a total of 33 seats which includes 21 seats for the ANC, six seats for the EFF, four seats for the DA and two seats for the FF Plus. The vote weights for each political party are determined by the number of seats they have. Table 3 illustrates how the legislature is structured and shows the vote weight percentage that each party has. The ANC is on 64% vote weight, with the EFF on 18%, the DA on 12% and the FF Plus on 6%.

Table 4: NWPL seat allocation

NWPL seat allocation		
Political party	Number of seats	Vote weight %
ANC	21	64%
EFF	6	18%
DA	4	12%
FF Plus	2	6%
	33	100%

Source: Provincial Government of South Africa (2023)

When the oversight committees address the department's non-compliance with the PFMA, they are dealing with issues that have already been determined by the AG. It is not as if they must decide on what is wrong or right because that determination has already been made. All that is required from the committee is to investigate why processes have not been followed and ensure accountability.

Expert 1 and the former National SCOPA Chairperson agreed that political influence had a huge impact on the oversight function, especially in the NW, because the province is ANC-led. Expert 1 stated the following:

*“The political party dominance is exactly the reason why there is no accountability because when they vote in parliament, the ruling party will always win and that is the thing that I was saying about democracy that just because it is a majority, it does not make it right. The ruling party will*

*always make sure that the vote goes in their favour so that they do not have to hold any of its members accountable.”*

The former National SCOPA Chairperson added by saying:

*“The extent to which the oversight committee members are allowed to follow up on oversight matters and make decisions depends on the internal democratic culture within the ruling party. Never mind the fact that during the struggle they used to say they are driven by values higher than those of the enemy and, at the practical level, I think the opposite has been the case.”*

The NWPL Rule 198(2) states that the members appointed to SCOPA may not be less than five (PMG, 2024). According to Opposition Party Member 5, every committee has seven members with four from the ANC and the remaining three from each opposition party being the DA, EFF and FF Plus. The chairperson for each committee is from the ruling party. This translates into the ANC’s dominance and control of the legislature through the majority.

Political party dominance deters and limits the accountability of the executive which is threatened by the fact that their position might be compromised in the next elections if they are found wanting. This implies that a continuous tenure in office of one party is likely to result in self-satisfaction and unscrupulous acts. Single-party dominance weakens the opposition parties. The evidence for this claim is in the previous sections where the opposition party members indicated that the ruling party used their voting powers to vote against the oversight committee reports submitted for approval.

The dominant party system undermines the work done by the opposition parties. It renders opposition parties powerless and unable to ensure effective oversight. A proportional political system does not allow for proper oversight function because the majority party will always have the upper hand over

opposition parties. Table 4 illustrates the vote weight percentage that the ANC has in the NWPL compared to the opposition parties.

*Table 5: NWPL committee structure*

<b>NWPL committee structure</b>		
<b>Political party</b>	<b>Number of representatives</b>	<b>Vote weight %</b>
ANC	4	57%
EFF	1	14%
DA	1	14%
FF Plus	1	14%
	7	100%

#### *4.3.2.1 Political muscle*

Most of the opposition party members revealed that political influence on oversight is due to the proportional political system. This is amplified in the current political makeup or political structure and what makes it difficult is when there is one opposition member against four of the ruling party members, making it easier for the ruling party to suppress aggressive oversight. There is always some kind of political allegiance, either towards one's political home or political colleagues or comrades.

Expert 2 thinks that the reason why political party members cannot find a balance between political party positions and fulfilling their oversight mandate is that they are always worried about their position or their affiliation with the political party; even if it were the ANC or a different ruling party, they would always put the interest of the party first. The decisions are not taken or implemented because they are right; decisions are taken because of the majority and most of the matters would go as the ruling party wanted because of its majority.

Partisanship proves to be a hindrance to the execution of the oversight function. This is in line with what Khmelko and Beers (2011) who indicate that

they identified partisanship as one of the possible influences on how legislative committees behave. The ruling party members are pressured by their party to act according to the mandate and the will of the party because party leaders decide on their appointments and their future. The ruling party leaders use their positional powers to drive the political party mandate and decide on how the oversight committee will function. This implies that the views of the opposition parties in the oversight committees are disregarded. Also, the fact that the opposition parties only have 42% of the votes, as calculated from Table 4, does not assist with dealing with the problem of the ruling party's partisanship.

Ruling Party Member 1 demonstrated how partisanship affects the decisions of the oversight committees:

*“Ordinarily what would be the practice is that the MEC would have gone to the Chief Whip of the party and briefed the Chief Whip. There would be handshakes behind the scenes and next there is a party caucus; and if the majority of the caucus support the matter, we process that particular issue with no questions asked.”*

Section 9 of the Public Service Act (PSA) states that an executive authority may employ anyone in the department they are responsible for in line with the prescriptions of the Act (Republic of South Africa, 1994). Further to that, the Public Service Handbook stipulates the following: “Selection committee constituted for the appointment of a HOD shall include head of a provincial administration or provincial department, at least three members of the Executive Council of the relevant province” (DPSA, 2003, p.13). This implies that political appointments are mostly influenced by the Premier and the MECs. Expert 1 agreed with that view when he mentioned the following:

*“Political influence is on a high level in CEO, DG and HOD positions because those are political positions.”*

To effect control over all centres of power, the ruling party exerts greater control over cadre deployment to ensure that positions are filled by unequivocally loyal people. Political leaders reward loyalty with high positions

in departments and it becomes difficult for the leaders to punish one of their own when they have done wrong. Opposition Party Member 3 agreed with this by stating that senior positions are occupied by ANC members and political leaders are lenient towards them.

The oversight committee fails to ensure accountability because of the protection that the public servants get from their political leaders. On 6 November 2023, the MEC for Health announced that the department's HOD had been granted a special leave of absence so that he could have time to attend to accusations of violating the PFMA against him (NWPL, 2023). The accusations were related to a R470 million tender for the Brits Hospital construction which he awarded in 2008 to two companies that did not meet the requirements when he was the HOD of the NW Department of Public Works (NWPL, 2023). This example shows that although the financial misconduct was committed 14 years ago, the HOD has still not been held accountable. Instead of being held accountable, the HOD was appointed in a different department.

Treasury Regulation 4.1.1 requires that disciplinary hearings be held for those who have committed financial misconduct but that has not been the case with the HOD (National Treasury, 2001). Opposition Party Member 5 stated the following:

*“Actually, what happens is that when a person sees that they are going to be investigated they decide to resign. You will see them in a year or two being employed in another department.”*

Considering the number of seats and the vote weight percentage, as shown in Tables 3 and 4, opposition parties do not stand a chance of deciding on who gets appointed to high positions and how to impose consequence management on them. Opposition Party Member 5 further stated that when recommendations made by the oversight committee are against a member of the ruling party, they vote against that report. At times they even go to the

extent of telling the opposition parties that they will only approve the report after they have removed some of the recommendations in the report.

Oversight in NW has been systematically weakened by the political influence of the ruling party. The former National SCOPA Chairperson agreed, indicating the following:

*“I think that depends on big political culture within that party and the extent to which it is committed to all the things that it says it is committed to and to what extent are they willing and able to give a free hand to their members of the provincial legislature to operate without fear. So far, the ruling party has not been that.”*

The members of the legislature are expected to have good faith and political consciousness and to do what is right in terms of the oath they took to protect the Constitution and abide by the standing orders. The oversight role must do more with the integrity and ethical conduct of members and there should be no political mandate. However, in the NWDoH the oversight function has been unfolding differently and the conduct of the ruling party members is questionable because they are not protecting the Constitution as expected.

The Constitution is clear that the legislatures must ensure that there is effective oversight on government departments but partisanship within the ruling party and their dominance has rendered the oversight function ineffective. The information provided by the opposition political party members and one member from the ruling party is that there is no political will from the political leadership to ensure accountability. Members are supposed to deal with issues the way they are presented or the way they analyse them, not out of fear of being victimised or what the political party wants. If members are going to be threatened and victimised by their leaders because they chose to do the right thing, then that conveys a significant message about the integrity of the leaders.

Political party members did indicate the consequences of going against party directives as a contributing factor to the ineffectiveness of the oversight

function because if the party says to do things this way and they go against them, then already they are in breach of their organisational mandate. Opposition Party Member 5 provided the following example to justify the consequences of going against party directives:

*“It once happened in 2021 that ruling party members voted with the opposition and those members that voted with the opposition parties got into trouble with their party and some of them are still being punished for it”.*

From this example members need to calculate whether standing for what is right is worth losing their benefits; they need to know where their bread is buttered before they even think of taking the right action.

The political structure in NW has also created a problem in terms of how far the oversight committee members can go to seek accountability. The former National SCOPA Chairperson indicated that on the political level in NW, the Premier is also the Provincial Chairperson of the ruling party or the MECs are all senior people within the majority party and those who are running committees are very junior political members.

Ruling Party Member 4 disagreed with most of the members by indicating that there has not been much party-political influence within the oversight function. He explained that parties meet at effective political structures to reflect on their party mandate but when they meet at committee levels, they deal with issues the way they are presented. Ruling Party Member 4 added that although the majority party would always have more members compared to the rest of the parties, their conduct at that level has been on ensuring that there is oversight and that they deal with issues raised.

#### **4.3.3 Theme 3: Quality of reports and support**

Information received from the government lays the foundation on which the legislative oversight can be executed, therefore, high-quality information is necessary and important for the effectiveness of the oversight function.

According to Madue (2012), well-founded facts and analyses can add value to better insight into the problems and more feasible solutions.

Regarding the principal-agency theory, the legislature's (principal) weakness is often because the executive (agent) is not providing the principal with sufficient information to execute its mandate of legislative oversight (Madue, 2014). High-quality information is valuable in the promotion of accountability because financial misconduct will be exposed but, according to Karanicolas and Kwoka (2022), the provision of quality information regarding the activities of government has become less important and that affects accountability.

The political party members agreed that the information provided by the department was not of good quality. It is not detailed, and they are unable to make informed decisions on it. According to the Former National SCOPA Chairperson, the information provided is not necessarily the best, there is more room for improvement. Ruling Party Member 1 indicated as follows:

*“Unfortunately, the status quo on the ground contradicts what is in the report, leading to the conclusion is very safe conclusion that and that information is paid, that information that is brought today is not compliant in terms of what the legislation and the provisions of PFMA would be like.”*

Opposition Party Member 5 added the following:

*“You must dig to get the information. You must go at length fighting with them to get the information, you know, because I believe that they are reporting is not in-depth; it is limiting. You must ask questions before you get to where you want.”*

The committees receive AG reports and annual reports at the same time, but the reports are dealt with by SCOPA before portfolio committees deal with them (South African Legislative Sector, 2016). The analysis of the NWDoh's annual report should give extensive evidence of where it stands in terms of its mandate in the current financial year (South African Legislative Sector, 2016).

SCOPA hearings serve a two-fold purpose and are a joint sitting. The Chairperson and Health Portfolio Members should attend the SCOPA hearing, which will be chaired by the SCOPA Chairperson, for their department (South African Legislative Sector, 2016). The support staff is expected to attend the hearing and empower the committee with valuable information that will assist in engaging the department.

The support staff's work is coordinated in their own meetings and a joint briefing for the committee, which assists in the conceptualisation of questions to be posed to the department, is organised (South African Legislative Sector, 2016). The administrative assistant records all the matters raised during the hearings and assists with compiling the committee's report. When a committee is confronted with difficult issues that need to be undertaken, it will need support staff with skills to acquire, analyse and present information to the committee members in an understandable form. Good advice from support staff is important in deciding on appropriate and significant matters and making conclusions and recommendations on them. The support staff needs to be empowered in their duties for them to understand what is required of them. The effectiveness of the support staff depends on the number of staff, its quality and the mandate under which it works (Osy, 2009).

The political party members indicated that they are well-capacitated with the research support staff even though there is room for improvement on the legal side. Ruling Party Member 1 mentioned the following:

*“The oversight committee is well-staffed and capacitated in terms of their resource. The limping unit would be legal department.”*

Expert 2 added the following:

*“It's not just about the finance, you also need to understand the legal side of it, which is where the research come in.”*

Concerning the administrative support staff, the political party members were not satisfied with the support they got. This what Opposition Party Member 7 had to say:

*“There is a lot of issues that I address and that they can do. They can improve on the administrative side.”*

Ruling Party Member 1 added by saying that:

*“Level of the reports generated by these admin people; you would ask them which school they attended because they cannot even write a report. Their report writing skills is not up to standard.”*

#### *4.3.3.1 Value of reports and information received*

The process of a committee hearing starts with the researcher providing a briefing session to the committee members (South African Legislative Sector, 2016). This briefing session helps the committee to develop questions to which the department must respond in writing (South African Legislative Sector, 2016). The department’s written responses must be analysed and based on that analysis, the committee must decide whether a hearing with the department is required (South African Legislative Sector, 2016).

The department has the responsibility of providing the committees with all the required information to allow them to make an informed decision, such as making recommendations on the application of consequence management and accountability. The information provided should be of good quality; it should not be limiting, and committees should be able to use it to assist with improving the performance of the department. The political party members indicated that they had not received reports of good quality from the department, but the former Administrator stated that they had never received any complaints from committees regarding their reporting.

No one would want to provide information that would implicate them in any way which is why Expert 1 believed that in some cases the information was cleaned

up and sanitised to make the department look good for political reasons. Ruling Party Member 1 and Opposition Party Members 2 and 3 agreed, adding that if it involved burning and uncomfortable issues, there were occasions where the department would delay the submission of reports, submit poor reports, provide misleading information or omit information because they would not want it to be known by the public. Opposition Party Member 3 said:

*“At times there would be an information that is not included there. They would exclude certain information because they would not want it to be a known to the public.”*

It becomes problematic when instead of dealing with the content of the report, committee members now must deal with the quality of reports which takes the focus away and becomes a time-wasting exercise. According to Opposition Party Member 5, at times the departments do it deliberately so that the committee members lose interest, or they make it complicated so that the committee members do not probe. The provision of such information will be just for malicious compliance because it does not add value to the oversight function.

#### *4.3.3.2 Research and administrative support*

When an annual report is submitted, the researcher verifies the departmental reports against the annual report for the year under review and assists the committee by formulating questions for those departments attending the hearing (South African Legislative Sector, 2016). Most of the participants indicated that the committees are well-empowered with research support. The oversight committee needs to ask the department the right and relevant questions to gain the necessary insight into what the department is doing in terms of its mandate.

The researchers also have the role of empowering the oversight committee with sufficient departmental information that will enable them to pose quality questions to the executive. According to Opposition Party Member 3 and the former Administrator, the kind of questions that oversight committee members

ask the department about their activities shows that committees are well-resourced with the necessary researchers' support.

The information that the researchers use is obtained from the department. In the previous section, it was established that the department does not provide information on which users can rely. This implies that the department could also be providing the researchers with limited information. Ruling Party Member 4 agreed by indicating the following:

*“There is a need for improvement in terms of sufficient information that departments provide to empower the members in terms of quality of questions that need to be exposed to the executive.”*

If researchers were doing pre-oversight visits, which involve gathering information on the ground, the gap in the limitation of information would be closed. The researchers would be able to compare the information received from the department with the status quo on the ground. Ruling Party Members 1 and 4 indicated there used to be pre-oversight but the legislature decided to curtail it.

The researcher advises committees during the proceedings and when the need arises, the committee members should allow the researcher to add on a matter at hand because it is not likely that the committee members will have familiarised themselves with all the information (South African Legislative Sector, 2016). It is a challenge at times because committee members are always busy and do not have time to go through research reports thoroughly; sometimes even when they go through the reports, their ability to pick up the strategic points is limited.

According to the former National SCOPA Chairperson, sometimes committee members just cannot utilise the research work. Datta and Jones (2011) identified that grasping research work can be a challenge for legislators who often have a lack of capacity and inadequate time. It also places attention on the researchers to ensure that their work is easily accessible and understandable to the legislators.

Apart from research support, the oversight committees also require administrative assistant support. The administrative assistant compiles the minutes of previous meetings and reports of the committees. This means that someone who has reporting and minute-taking skills and who listens and can take notes on salient points raised and the decisions taken in a meeting is required to be an administrative assistant. The administrative assistant must accurately record these in the form of meeting minutes so that all that was said in a meeting is well presented and that requires proper writing skills.

Political party members stated that the administrative assistant staff do not necessarily have the qualities and administrative skills required to produce authentic minutes and reports. Expert 1 added that this is because people employed are from various constituencies of political parties and qualifications were not considered when they were appointed. Ruling Party Member 1 gave an example of working with an incompetent administrator:

*“I was standing in for the Senior Committee Coordinator who reviews the minutes and reports of the administrators. The administrator brought the report to me for editing and a few minutes later she comes back saying that she does not know what is happening because the changes are not affected. When she was coming for the third time, I realised that she does not know how to save this report.”*

#### **4.3.4 Theme 4: Capacity and competency of oversight committee members**

The core competencies for undertaking the oversight function are public speaking and debating skills, analytical skills and critical thinking skills (Parliament of South Africa, 2009). Both public speaking and debating are important skills for oversight committee members. Public speaking is essential for members to present their ideologies, state their arguments and successfully relay messages. The public speaking skill is used by committee members when they have a question-and-answer session with the departments and

executive when conducting the oversight function (Parliament of South Africa, 2009).

Debate is essential for defending policies and regulations as well as participating in constructive conversations with colleagues (Parliament of South Africa, 2009). During oversight committee meetings, members from different political parties debate on non-compliance matters based on the policies of the department and the reports of the AG and determine what action to take for consequence management implementation.

Analytical and critical thinking is an individual's capability to identify a problem, investigate the problem, assess the facts, scrutinise and interpret the information, decide whether something is wrong or right and come up with a rational solution to the problem (Parliament of South Africa, 2009). Oversight committee members are supposed to make recommendations on the matters that have been raised by the AG and to do that they must have analytical and critical skills to produce solutions that are best for the department.

#### *4.3.4.1 Skills challenges for committee members*

When a report is presented, a competent individual is expected to understand and deliberate on the content of the report. When matters are highlighted, all members need to be able to analyse and identify what the issue is about and how it relates to non-compliance with regulations. Opposition Party Member 3 mentioned that some committee members do not read the reports with understanding to allow them to deliberate on the content of the report; some do not read them at all. If the content of the report is not understood, then it implies that committee members will not be able to come up with the recommendations that are supposed to hold the executive accountable. Opposition Party Member 2 said the following:

*“There are instances when reports are being presented; opposition party members fail or completely miss the point of why certain processes should have been followed and zoom in too deep on something that is not actually the problem.”*

The skills of committee members are not a priority when they are being appointed to oversight committees. Their appointment depends on how popular they are within the constituencies of political parties. Ruling Party Members 1 and Opposition Party Member 3 indicated that there are members who are only in the legislature because they are eligible in terms of their political party listing to be a member of the legislature.

Attending university has benefits as it provides a student with the necessary soft skills to flourish in the work environment. Some of the soft skills developed at university are communication skills and critical thinking skills. As a student, you are required to write assignments and communicate with lecturers and tutors. This improves a student's written communication skills. Students are also faced with difficult assignments which require some research skills, thinking outside the box and undertaking the problem from different angles. With all the various skills that the university can offer, the system of appointing committee members still does not require any form of qualification.

The political party members and Expert 2 indicated that only two opposition parties emphasised qualifications. The expert mentioned that she agrees with one opposition party member who said that legislators must have a certain undergraduate degree or a junior degree before being a member of the legislature. It does not have to be a political science degree or a law degree but just any degree to teach them critical thinking skills.

If all political parties emphasised qualifications, there would be quality members who would be able to ask questions from an informed position rather than having to depend on their support staff because of the lack of these novel qualifications. The former National SCOPA Chairperson indicated that even if a member was not a technical expert, they could still do their work. He referred to himself as an example:

*"I do not have a senior degree in finance but rather have a senior degree in history, but I was able to do my work."*

#### 4.3.4.2 Capacity-building programmes

Most of the political party members indicated that the legislature does offer capacity-building programmes, however, some of the programmes are not compulsory, ineffective and irrelevant to what committee members require because they do not assist with the oversight function. Opposition Party Member 5 justified the ineffectiveness of the programmes:

*“They are not guided by the technocrats. The programme facilitators are not qualified trainers. There are no competency tests and after the course, the only thing we get is a certificate of attendance.”*

Even if the programmes are relevant and compulsory, it defeats the purpose of development because members do not attend and that renders the programmes ineffective. If there is no accountability for not attending the programmes, members will not be encouraged to attend.

In this study, it has been established that a culture of impunity and lack of accountability has led to a continuum of wrongdoing. The enforcement of attendance should be from both the legislature and the political parties to which members belong. The committee members are representatives of their political parties and, therefore, the political parties must take responsibility for ensuring that their members keep themselves educated and knowledgeable. Opposition Party Member 6 stated:

*“At the start of term, most of the programmes are compulsory but members do not attend, and political parties do not necessarily hold their members accountable for not attending.”*

According to Coghill, Donohue and Lewis (2014), political parties should ensure that legislators participate in education programmes aimed at improving oversight functions by making it compulsory for them to attend because parties influence the decisions of their members.

#### **4.4 Conclusion**

This chapter summarised the key findings from the primary and secondary data presented. The findings of this study are from the semi-structured interview questions (Annexure 2) and the secondary data from reports. The findings were categorised into four themes: politics and oversight process, proportional political system, quality of support and reports and capacity and competency of oversight committee members. Oversight committee members are from different political parties that have seats in the Legislative Assembly.

The oversight committee function is supposed to be independent of politics, but political leaders have an impact on the non-existence of consequence management. The oversight committees make recommendations on non-compliance matters raised but they cannot enforce them because of the lack of powers. The lack of these powers also has an impact on the failure of the committee to hold the executive accountable. There is a lack of political will from the political leadership to ensure that there are punitive measures imposed on those who have not complied with the PFMA. AG reports show that the matters raised are recurring and there is a delay in dealing with them.

The ruling party's dominance was identified as a challenge to the oversight function. The ruling party flexes its political muscle to have things done its way even if it is not the right way. Political leaders also exert their influence on their members to do what the party wants and because the members want to secure their positions, they are forced to enact the will of the party. There is a lack of political will and that undermines the oversight function and contributes to the failure of the oversight committees.

The capacity and competency of oversight committee members are limited, and it affects the oversight function. The qualifications and skills of the members are not considered when they are appointed. The data show that only two political parties out of four believe that members should have some form of qualification. To close the skills gap, the legislature provides capacity-building programmes, but they are not always relevant or compulsory.

Committee members do not attend the programmes, and no one does anything about it.

The oversight committee is capacitated with research support, but the research function is limited because of the pre-oversight visits that were reduced by the legislature. Researchers must rely on the information that is provided by the department and the participants indicated that the departments do not provide quality information upon which can be relied. The other function that fails the committee is administrative support. The administrators are not competent and lack basic skills.

## **CHAPTER 5: ANALYSIS OF DATA**

### **5.1 Introduction**

The analysis of data refers to the processes related to understanding different data that were collected through the research study (Rowley, 2014). This chapter presents the analysis of the data findings from the semi-structured interviews. These data findings are complemented by document analysis and the literature review. The data obtained from the interviewed participants were analysed and scrutinised using the thematic approach.

The purpose of this research was to identify the systemic challenges faced by the oversight institutions in the NWDoH that lead to failures in executing the oversight function. The oversight failures in the NWDoH were analysed against the research questions that interrogated the systemic weaknesses that contribute to oversight failures in the NWDoH, the impact of political influence on the oversight function, the extent to which the information provided by the department assists the oversight committee with the oversight function and the extent to which the skills that oversight committee members possess assist with executing the oversight function.

### **5.2 Data Analysis**

In this section, the data analysis is presented in terms of each of the research questions.

#### **5.2.1 What are the systemic weaknesses that contribute to oversight failures in the NWDoH?**

The following themes were analysed to address the primary question – What are the systemic weaknesses that contribute to oversight failures in the NWDoH?: politics and oversight process, proportional representation political system, quality of support and reports, capacity and competency of the oversight committee members.

A systemic weakness is an underlying problem that necessitates correction through change in processes, policies and regulations. In the context of this study, these systemic weaknesses are defects and flaws within the oversight function that can lead to the failure of the oversight committee to hold the executive accountable and undermine its constitutional mandate. The incidents that lead to these weaknesses are not random or siloed but rather organisational failures that exist within the structural system. In this study, they present themselves in the political system.

While the Constitution has bestowed the legislative oversight system with the powers and strengths to ensure effective oversight function, there are visible systemic weaknesses which have resulted in oversight failures over the years. The systemic weaknesses within the oversight function deter the correction of non-compliance with the regulations. Even though the AG has over the years reported on the recurring lack of the NWDoH's consequence management, accountability and non-compliance with the PFMA and Treasury regulations – a constitutional requirement, there have been no improvements in obviating these issues, showing systemic weakness.

The findings from the participants through the semi-structured interviews revealed that weak mechanisms of accountability and lack of consequence management are continuous systemic weaknesses that lead to oversight failures. The findings also revealed that the factors that contributed to the weaknesses were a lack of political will, the oversight committee's lack of capacity, partisanship, political interference and a dominant political party system.

It appears that lack of political will has a relatively huge impact on prohibiting efficient oversight within the ministry which is supposed to have a rooted culture of accountability. It also appears that there is a cavity in the oversight committee's teeth as the committee is inhibited from enforcing consequence management for financial misconduct. According to Baloyi (2023), in many African countries, the legislative oversight function is ineffective and driven by misconduct that is hard to overlook instead of thriving for effectiveness.

Baloyi (2023) adds that there is a lack of political will by political leaders and most of them find ways to undermine the oversight function of the legislature. The lack of political will was also highlighted by the United Democratic Movement (UDM) leader, Bantu Holomisa when he acknowledged that parliamentary oversight was weakened by the ANC in the sense that when they were at fault, most ruling party members would make sure that they protected one another from criticism by advancing the interests of the ANC (Jack, 2024).

This was also confirmed by the ANC's Secretary General, Fikile Mbalula when he made a startling admission that ANC members lied to protect former President Jacob Zuma when the Public Protector found that he had irregularly benefited from an extreme upgrade when a pool of R3.9 million was built at his home (Mzangwe, 2024). According to Mbalula, an ad hoc committee, which was established by the ANC to investigate, defended the pool and called it a 'fire pool' necessary in case of fire (Mzangwe, 2024). Parliament failed to fulfil its constitutional mandate of ensuring accountability.

This failure was also recognised by the State Capture Commission as a contributing factor to corruption in government during former President Zuma's administration. According to the Corder Report on Oversight and Accountability, the fact that committees are dependent on political parties is one of the reasons for parliament's failure to hold the executive accountable (PMG, 2000).

The oversight function is guided by the PFMA which stresses the importance of accountability, and which has determined a regulatory framework for public financial management. From the semi-structured interview responses, it is clear that the oversight committee's powers are limited only to making recommendations and not enforcing them. Committees offer a platform which facilitates the robust analysis of legislation, oversight of activities of the government departments and collaboration with the public. Committee reports must be considered because they work as agents between the citizens and the government.

In terms of the NWPL Rule 200(2), a committee reports on any matter within the scope of its mandate that it considers necessary (PMG, 2024). The oversight committees are allocated a budget to spend on their oversight function. They visit sites as part of oversight in the four districts of the NW province and after that, they come back to make recommendations that can be easily ignored by the executive. Ruling Party Member 1 demonstrated how the recommendations are ignored by saying the following:

*“The legislature end up making recommendations which by nature the expectation and the underlying provisions of both the Constitution and the Power and Privileges Act is that the executive must adhere to the recommendations and an instruction given by the oversight committees. Unfortunately, this is not the case. This instruction noted and recommendations are ignored. The department would appear before committees of the legislature and would make promises which they never fulfil. I have noted with concern that these appearances are just for malicious compliance.”*

This demonstrates that the department is also a contributing factor to the systemic weakness that leads to oversight failures in the NWDoH. The recommendations of the oversight committee for the department are corrective measures for matters that have been raised by the AG. If the NWDoH ignores those recommendations, it implies that it does not want to correct what has been raised and there is a possibility that the department will continue to do the same thing. If there are no corrections in place, these matters will recur in the next reports as they are not resolved. When matters recur, it means the failure of the oversight function.

According to De Wet (2006), one cannot expect SCOPA to hold the executive accountable for financial misconduct while it is being controlled by the same executive or without any possibility of political agenda. Party loyalty has hindered effective oversight as oversight committee members are hesitant to hold the executive, led by its own party, responsible, which leads to systemic weakness.

The hindrance occurs when loyalism takes over and the independence of the oversight committee members is compromised. Political party members would want to preserve their own political party interests by not airing their dirty linen in public. It should also be considered that the party belongs to them as well and they have an interest in defending its image and public stance. This attitude of the ruling party towards the oversight function has created a platform for the lack of political will to abide by the mandate of the Constitution.

Politics is seen as a way of achieving wealth by accessing positions in government because of the unemployment rate that has remained at a shockingly high level rather than a way of furthering the interests of the public (Southall, 2014). In the meantime, ANC party leaders can redeploy their members out of parliament and the constant entry and exit of those members through the legislature's doors weakens the capacity of parliament.

The overpowering grip that the ANC party leaders have over their legislators translates into how the executive controls parliament's agenda, consequently weakening the processes of the legislature. Usually, opposition parties are allowed limited time to state their views and limited capacity to have their own priorities added to the agenda of parliament (Southall, 2014). An example is when the DA requested the National Assembly to schedule a vote of no confidence in the government after public funds were spent on former President Jacob Zuma's residence in Nkandla (Hartley, 2012).

The ANC agreed that the motion of no confidence in the president was provided for by the Constitution but stated that the right was not automatic; subsequently, the ANC used its majority vote to bring the opposition party's call for that debate to an end (Hartley, 2012). The ANC suppressed the investigative function of the legislative oversight committee by controlling the procedures of the legislature.

The processes of the Select Committee of SCOPA were weakened when it investigated the 1998 arms deal corruption that transpired between international companies and the ANC government (Feinstein, 2010). When

opposition parties asked ministers questions regarding the deal, there was a reluctance from the ministers to respond to the questions, claiming that it was because of state security (Feinstein, 2010).

The data collected in this study has shown that there is political influence on the appointment of CEO, HOD and DG positions, implying that they are political appointments. The officials are not held accountable because the political party systems and the structures of the political parties have bestowed the political leaders with vast dominance which has led to situations where there is unwillingness or inability from the political leaders to hold the officials accountable (Thebe, 2017).

The dominant parties centralise their power within the structures of the party to control the operations of government (Matlosa, 2004). The system of cadre deployment is embedded in structures and has been implemented to achieve the purpose of having loyal party hands on all forces of power, thus, weakening the government's accountability structures (Twala, 2014). Deployees do not account to their employer but to the political parties that deployed them to the position in question.

According to the responses from the semi-structured interviews, political party members indicated that cadre deployment poses a problem within the oversight function. This is what Opposition Party Member 3 had to say concerning cadre deployment:

*“In the departments, people who have been hired in high positions are active ANC members. I am saying somehow there are favours that are being done. Even if we can scream or shout as opposition parties, if they took a decision to not attend to a particular matter, they would not because they are in majority and they are in power, so that is how the decisions have been affected.”*

These political appointments ensure that the ANC government appoints people, particularly senior ones, who are loyal (Thusi, Matyana, & Jili, 2023). Having the executive achieve success in forcing the governing party's

mandate has been an accountability challenge. It has already been established from this analysis that the members of political parties normally protect the reputation of their parties. This implies that HODs and DGs are also obliged to do that. This implication would be the reason for the failure to address non-compliance and wasteful expenditure because the HODs who are responsible for implementing the PFMA are protected by the executive.

From the responses of the political party members, it has been deduced that the NWDoh always promises to implement the committee's recommendations, but such promises remain unfulfilled. This could be because they know that they are protected and there will no consequence management will be imposed on them. The committee reports that are meant to force the department to account are not being adopted because of political influence. According to Auriacombe and Mavanyisi (2003), the more access is gained in organisations and the more government departments have political appointments, the easier it will be to have political control. According to Mafunisa (2000), accountability is the duty to rationalise and explain the actions of the one responsible for executing an accepted duty and non-compliance in government departments will remain if public servants are not held accountable.

### **5.2.2 What is the impact of political influence on the oversight function?**

The role of enforcing the implementation of the oversight committee's recommendations lies with the Speaker; however, if the Speaker neglects that role it has a rippling effect on the oversight function by weakening it. The committee compiles the oversight reports in terms of the law and processes and submits the report to the House. The report is tabled through the Announcements, Tablings and Committees (ATC) report and, once accepted, becomes the House resolution. The Speaker of the legislature is responsible for ensuring that such resolutions are implemented and enforced.

The AG has indicated that the leadership of the NWDoh is not effective when it comes to oversight and this query has been repeated year in and year out

with no improvements; thus, non-compliance with the PFMA regulations has occurred. It can be deduced from the participants' responses that the Speaker does not enforce the implementation of the committee's resolutions, especially if they are related to the members of the ruling party of which the Speaker is also a member because it becomes a challenge for one to punish one of their own. This is how political influence and the lack of political will from the Speaker weaken the oversight function. When there is no enforcement of accountability, the department's accounting officer, who is the HOD and political head of the department and an MEC, will not be held accountable for the department's non-compliance with the policies and PFMA.

The data presented in Table 2 in Chapter 4 shows that most of the matters raised have not been resolved. This could mean that the committee made recommendations on how to resolve the matters raised by the AG but that they were never implemented by the department because the Speaker did not enforce implementation. Another way of looking at it could be that the reason for the failure to address non-compliance raised by the AG is because the comrades do not want to embarrass one another. This shows how politics influences and informs decision-making.

Based on the responses from the participants, the decisions on consequence management and accountability are politically based and the blame is on the ruling party. This was raised by the Former National SCOPA Chairperson when he said the following:

*"It is always viewed as if you are the de-campaigning the fellow comrade and embarrassing their departments; they are being made to look like they failed."*

Failure to correct non-compliance means that it is bound to happen again because no punitive measures are in place. This is evident from Table 2 because the consequence management and unlawful expenditures occur every financial year without being resolved. This undermines the effectiveness of the oversight role and its constitutional mandate.

According to Fox and Van Weelden (2010), whether an overseer benefits when the reputation of the executive is tarnished or boosted depends on the type of relationship, whether it is hostile or harmonious, that exists between them. An overseer may want to tarnish the reputation of the executive of the opposition party while trying to protect the reputation of the executive from their own party (Fox & Van Weelden, 2010).

The Minister of Health, Dr Joe Phaahla, was instructed by the Gauteng High Court to act on a report that uncovered tender corruption worth R1.2 billion in the NWDoH involving the former administrator during her four-year administration of the department (Clarke, 2003). According to the report, the minister allegedly ignored the report and failed to enact consequence management against the former administrator who allegedly contravened regulations when the tenders were awarded (Clarke, 2003). The Minister tried to protect his comrades by concealing the corruption which exposed how he undermined accountability and consequence management and promoted partisanship. This is another example of the existence of political influence and partisanship in the NWDoH.

When the department was put under administration, the Minister appointed the Administrator, who he is allegedly protecting, to run the department. During this period, the reporting lines were blurred because the Administrator was appointed by the minister and not the NWPL. According to the political party members, there were instances where she would not report to the legislature. Opposition Party Member 5 said the following:

*“At one point, the Administrator would not want to come and account to us because she felt that she did not report to us.”*

This implies that the committee was not going to be able to hold the Administrator accountable for the tender corruption; only the Minister had that capacity, but he failed because of how his protection of her. This creates a false impression that accounting officers and their departments are not accountable to oversight structures as they are protected by their political

leaders. Thus, non-compliance and financial misconduct prevail in the NWDoH because of the weakened oversight structures.

In a study on the relation between the legislature and executive and legislative oversight in West Africa highlighting the different factors that affect effective oversight function, political will was the critical one (Pelizzo & Stapenhurst, 2014). The non-political feature of administration assumes the promotion of government interest rather than that of political parties. The oversight function should not be dependent on partisan political affiliations. It should be a task with insignificant political agendas aside to ensure that oversight is constructive, efficient and unbiased. What is defined as an oversight function is contrary to what happens in the NWDoH.

The number of seats that the ANC has in the NWPL affects the oversight function as the ANC will always have dominance when determining how the results of the oversight committee unfold. The dominant party system is prevalent not only in South Africa but also in the whole of the SADC region and comes with domination on the determination of the public agenda and the establishment of governments (Matlosa, 2004). The dominant party system is considered unfavourable to democracy because members of the dominant party find it problematic to differentiate between party interests and the interests of government when there is no rotation in office (Matlosa, 2004). This translates into toeing the party line at the expense of the public and results in not holding the NWDoH and the executive accountable.

The committee structure in the NWPL consists of seven members with four from the ruling party and the remaining three from the opposition parties. Voting on matters is how the ruling party uses its influence to protect its members and compromise accountability. The ruling party uses this chance to not adopt the oversight reports that implicate their members and that weaken the oversight function. Just because it is in the majority, it does not mean that it is making the right decisions. The ruling party will always make sure that the vote goes in its favour so that it does not have to hold any of its members accountable.

According to Opposition Party Member 5, the ruling party does not normally want to use the secret ballot voting method because it becomes easier for those who want to put the interest of the public first and vote with their conscience to do so. The Speaker decides on the method that will be used for voting. When the method of raising hands is used for voting, those who do not vote for the party are exposed and punished for it. This means that the Speaker intentionally uses that method to control how the members vote which is a form of political influence that weakens accountability. Expert 2 provided an example of when the secret ballot paper was used by stating the following:

*“The only time we saw a division within the ruling party was when the secret ballot method was used and even then, it was not enough to hold the president accountable at the time because although there were some members of the ruling party who voted against the ruling party, the ruling party still had the majority votes. It means that there were still other members who were loyal even in a secret ballot. So political party dominance is also empowered by party loyalty.”*

This is an example of how party loyalty and political influence have weakened the oversight role of the oversight committee in the NWDoH. Politics blurs the line between party interest and the constitutional mandate.

### **5.2.3 To what extent do the skills that oversight committee members possess assist with executing the oversight function?**

Institutional and individual capacity is essential to execute the role because the individual capacity of each legislation member is significant to the human capital management of the legislature, an important part of its institutional capacity. When issues are being discussed, some members are just out of touch and do not understand what is being discussed or why issues are being highlighted with so much emphasis. Members of the legislature are elected because of their political constituents' support regardless of their skills and level of education.

From the responses of the participants, it was highlighted that only one of the four political parties represented in the legislature deploys members with a certain level of qualifications and that party happens to be an opposition party. Considering that it is an opposition party and has only one seat on the oversight committee, this implies that of the seven members of the oversight committee, there is a high possibility that only one member has acquired qualifications. This means that the political leaders are not concerned about how their members are going to execute their roles because they know that they are the ones who will be running the oversight committee from the back through them.

If a committee member is not able to apply their own mind on matters being raised, they will always run to the political party for guidance on how to deal with the matter; this guidance is provided during the party caucus. This could be the reason why some committee members are not bothered about understanding the matters on the table because, eventually, it is not about what they think but what the party thinks. Opposition Party Member 2 provided an example of how unbothered other committee members can be by stating the following:

*“In committees in the North West, there are times when I look at my colleagues from other opposition parties and sometimes you will be trying to highlight an issue and you need that enforcement; you need that backup. You need a wingman, and you look at your wingman and they will be sitting there not understanding why you are fighting. They do not get where you are coming from because they are completely out of touch.”*

From what Opposition Party Member 2 said, it can be deduced that the members do not read the reports to understand the issues because it would serve no purpose considering that the decision does not lie with them but with the political leaders. This highlights how political influence affects and weakens the oversight function.

The study has already indicated that political interference from the ruling party has an adverse effect on oversight processes and that when members are being deployed to committees, their skills and qualifications are overlooked. If the ruling party wants everything to go their way, then it means they do not need someone knowledgeable to represent them because it will be just a waste of time. They just need someone who will follow the instructions of the party and not someone who will tell them about facts and what is wrong and right in terms of oversight. Opposition Party Member 5 gave an example to justify how those with skills are being disregarded:

*“You find that your professionals, doctors, lawyers, those with masters, they do not normally come for second term because they realise that they do not belong in the politics. It becomes so dirty that it is no longer about merit, and you do not do what is correct. When you start talking facts, the other members find you boring, you think that you know more than others.”*

It would seem as though those who think that they know more than others are not wanted in politics because they will ruin the plans. This implies that the committee is deliberately made weak so that it remains ineffective in dealing with oversight issues. If the political leaders are to infiltrate the oversight function, they will ensure that they employ those who will listen to them, those with no knowledge and skills to apply their own minds. Someone knowledgeable might question political leaders on why the HOD and MEC are being protected when they have contravened the regulations. It might be difficult for political leaders to influence the professionals because they have ethics and principles to maintain.

According to Opeoluwa, Oluwatobi and James (2023), political leaders habitually interfere in legislature activities to control their narrative and most of the time, the executive seeks to influence, dictate and direct the operations of government which leads to the instability and ineffectiveness of the legislative oversight function (Opeoluwa, *et al.*, 2023).

#### **5.2.4 To what extent does the information provided by the department assist the oversight committee with the oversight function?**

Research work is appropriate for providing perspective on the significant findings. However, it is also the responsibility of the oversight committee members to determine the usefulness of the information from the research analysis. From the semi-structured interview responses, it can be deduced that the research component is capacitated. However, it was also indicated that some oversight committee members struggle with comprehending the research reports. Considering that it was established that some members lack skills, this could be the reason why they struggle with the research reports because they are unable to analyse them and pick up strategic points.

This is another way of controlling, weakening and rendering the oversight function ineffective because if members were deployed into the committee knowing that they had no skills and knowledge, it means the political party they represent does not expect good quality performance from them. They do not expect the members to understand anything presented to them except for what they tell them. It serves no purpose for the researchers to provide information to the oversight committee if they fail to interrogate it and draw conclusions from it. The oversight structures in the NWDoH have been systemically made weak due to political influence and this weakness is manifested in partisan politics influencing the oversight function.

The oversight committee does not gather independent information and, thus, depends heavily on information from the departments. The departments do not always present reliable information; therefore, the oversight committee must take responsibility for more investigative methods because failure to do so damages its image unless it fiercely acts on the oversight function (De Wet, 2006).

Opposition party members indicated that when the department provided the oversight committee with the required information and when that information pertained to pressing issues that might put the department in a bad light, they

tended to omit that information. This is because when the department gets into trouble then that means the accounting officer and the executive authority get implicated and eventually the ruling party also gets affected. Considering also that some of the officials in the department are deployed by the ruling party, they are at liberty to protect the party, making it look good in the public eye and acting impartially.

Seniors in government departments tend to protect their organisation (Auriacombe & Mavanyisi., 2003). They have significant power in deciding what information to divulge to legislators and withhold information that they are aware will not be favourable for their organisation (Auriacombe & Mavanyisi2003). The reports and support provided to the committee remain weak because of the political influence on the HOD and the department. The department will continue to deceive the oversight committee by telling them that they will attend to the matters raised knowing very well that they will not.

The unresolved matters of consequence management highlighted in Table 2 in Chapter 4 could be because they relate to party loyalists, therefore, the department does not want to discipline them because it might lead to their being fired or going to jail. It could also imply that the department was instructed by the political leaders not to attend to it by just ignoring the recommendations of the committee and the AG which also leads to the delay in dealing with matters which are later written off on the instruction of the MEC.

The oversight committees are not able to hold the HOD and MEC accountable by concluding the incomplete information and reports they get from the department. This could be because the department is intentionally providing that information to weaken the oversight function and ensure that the HOD and MEC are protected. This means that non-compliance with the regulations in the NWDoH and failure to hold the HOD and MEC accountable will continue if political influence is part of the oversight function.

Public servants are expected to promote the agenda of their government to the extent that they are expected to communicate the message of government

in a way that is neither disreputable nor undermines impartiality (Cooper, 2023). According to Eichbaum and Shaw (2010), there is tension formed between the concept of a desirable level of independence and the inclination to serve political leaders. The tension goes further between assisted and influenced by political leaders, between public being public leaders' subordinate and being independent when they do execute their duties (Eichbaum & Shaw, 2010).

In a democratic system, public servants are supposed to be neutral and impartial and provide non-partisan public service. However, on the contrary, these factors are being influenced by political influence. According to Eichbaum and Shaw (2010), political interference focuses on the root of public servants' appointment by the ruling government and indicates that there are two types of politicisations which are partisan politicisation and managerial politicisation.

Partisan politicisation refers to the appointment of individuals who are widely known for being devoted to partisanship and will disregard anything from the opposition party. Managerial politicisation is the appointment of loyal senior managers to impose their authority in government (Eichbaum & Shaw, 2010). Political influence has rendered the oversight structure in the NWDoH weak, which is a contributing factor to the systemic weakness that has contributed to the non-compliance with the PFMA for all these years.

The current NWPL system does not allow researchers to engage in pre-oversight visits, which were undertaken before. This could be a political decision that was taken to weaken the oversight function by ensuring that researchers do not gather information that is detrimental to the ruling party. Ruling Party Member 1 explained pre-oversight visits as follows:

*“Visits which involves researchers going on the ground and gathering information before the oversight committee members could come on that specific day so that when the oversight committee goes there it is well prepared.”*

In the previous section, it was demonstrated that the department conceals information to protect the ruling party. If researchers were to undertake the pre-oversight visits and compare the information they received from the department with what is on the ground, the ruling party would be exposed. The only way for political leaders to avoid such exposure is to ensure that the pre-oversights are obviated. Ruling Party Member 4 demonstrated the problem that comes with the lack of pre-oversight:

*“Lack of pre-oversight visits is a problem because most of the time when the oversight committee members go for oversight visits, they find that due to the failure of having no pre-oversight, it becomes difficult to be fully aware of the conditions on the ground.”*

Without the proper analysis, the oversight committee will not be able to hold the HOD and MEC accountable and there will be a continuation of non-compliance because no corrective actions are put in place. Political influence is thus an adverse contributing factor to the oversight function. The political decisions taken have disadvantaged and weakened the oversight function.

### **5.3 Conclusion**

In examining the systemic challenges faced by the oversight institutions in NWDoH, it was found that to some extent the oversight committees try their level best to do what is required of them, but political factors negatively affect the effectiveness of the oversight function; the inadequate level of skills of oversight committee members also has an impact.

The research findings address the following research question: What are the oversight systemic weaknesses that lead to continuous non-compliance with the PFMA in the NWDoH? Findings show that the oversight function has not been effective, hence, the department has been continuously non-compliant with the PFMA and the oversight committees in place. Even though the oversight committees were established to be responsible for the oversight function in their respective departments to ensure that there is transparency and accountability, they have not been very effective in that regard. As the

findings indicate, the oversight committees cannot enforce accountability; their decision-making is dependent on their political allegiance.

The first objective, which was to identify the systemic weaknesses in oversight that lead to non-compliance with the PFMA in the NWDoH, was achieved. The oversight weaknesses that lead to non-compliance with the PFMA were discussed in depth when the data were presented in Chapter 4. The weaknesses were further analysed through the literature and the happenings in the NWDoH.

The oversight systemic weaknesses that were identified through the responses of the participants are the following: there is no consequence management from the political leadership for those who have transgressed; there is a lack of accountability due to politics; and there are delays in dealing with matters that have been raised. The AG has continuously reported on lack of accountability and consequence management without any improvements. This is because individuals who are supposed to be held accountable are the same individuals who are comrades to those who are meant to enforce accountability.

Leniency is shown towards individuals who are loyal to the ruling party and that has an impact on the effectiveness of the oversight process. Loyalty goes both ways, the committee members and government officials who are loyal to the governing party are rewarded with the same loyalty which comes in the form of not being held accountable and consequence management not being imposed on them as long as they do what the governing party wants. This demonstrates the power play challenge within the principal-agency relationship which is a weakness within the oversight function. Principals can influence the agents by presenting them with incentives which will result in them making decisions in the best interest of their principals and not in the interest of the Constitution. According to Madue (2014), for a smooth principal-agency relationship and accountability, neutrality in the political platforms is required but according to the political members this has been a challenge because of how the oversight function is politically influenced. Loyalism also

plays a part in the delay in dealing with matters raised. Political leaders take time to endorse the reports of the oversight committees, especially if their comrades are affected, and that undermines the oversight function. The capability of the principal to hold the agent accountable becomes a challenge when the agent has an influence on the proceedings of the principal. This is the reason why most of the participants indicated how powerless the oversight committee is because the last call does not reside with them. It is clear from AG reports that matters raised from previous financial years have not been attended to by the oversight committee, which is another weakness. The oversight committee does not attend to the matters as they arise, and this is a weakness that will persist even with future committees.

The second objective, which was to determine the impact of political influence on the oversight function, was achieved. This study determined that political influence on the oversight function is prevalent. The ruling party uses its dominance as political muscle to sway the decisions of the oversight committees. This creates a principal-agency problem of conflict of interest between the ruling and opposition parties who represent the principal in this relationship. According to Panda and Leepsa (2017) the majority owners use their voting power as an advantage to nurture their own interests, which impedes the minor shareholder's interests. The NWPL (principal) has failed to hold the NWDoH (agent) accountable because of how the oversight function is influenced by the ruling party. The decisions of the committees are not based on the merits of matters that have been raised but on what the ruling party wants. The study determined that political influence undermines the oversight function.

The third objective, which was to determine whether the information provided to the oversight committee enabled them to execute their oversight function, was achieved. The participants indicated that the information that they received from the department was not good enough for decision-making. At times, the department omitted crucial information that would raise eyebrows because the department wanted the political party to look good. The

relationship between the principal and agent is important in that the agents have an obligation to inform the principals about their conduct by providing information to their principals and providing clarifications and reasoning in cases of failure (Bovens, 2007). In the NWPL this obligation is compromised because of how the department protects the executive by providing the oversight committee with misleading information. Researchers are also provided information by the department which means that they also get misleading, politically biased information.

The fourth objective, which was to determine whether the oversight committee had the required skills and capacity to execute its oversight function, was achieved. The data collected determined that not all oversight committee members have the required skills and capacity to execute their oversight function effectively. According to Panda and Leepsa (2017) the principal-agency problem may occur from the principal side by exploiting the processes and being opportunistic. It has been deduced from this study that skills and capacity is not a requirement for one to be in the Legislature which implies that the political leaders are using that opportunity to ensure that they deploy those that they can use to exploit the oversight processes and that weakens the oversight function. If the principal does not have skills and knowledge, they will not be able to understand information presented by the agent which creates a problem of information asymmetry. However, skills are a non-issue for legislators because they make decisions based on what the political leaders want and not on what is presented to them, therefore, they do not even need to apply their minds and skills.

## **CHAPTER 6: CONCLUSION AND RECOMMENDATIONS**

### **6.1 Conclusions**

The department has continuously been non-compliant with the PFMA regulations despite oversight committees being in place. The findings from the AG suggest that the legislature has failed to fulfil its oversight role of holding the executive accountable. The purpose of this research was to identify the systemic challenges faced by the oversight institutions in the NWDoH that lead to failures in the execution of their oversight function.

Four research questions were posed:

- What are the systemic weaknesses that contribute to oversight failures in the NWDoH?
- What is the impact of political influence on the oversight function?
- To what extent does the information provided by the department assist the oversight committee with the oversight function?
- To what extent do the skills that oversight committee members possess assist with executing the oversight function?

The common denominator in answer to the questions was that political influence weakened the oversight structures by not holding the MEC and HOD accountable. Cadre deployment in critical positions was politically influenced and those deployed were protected by the ruling party. The politically biased reports that were being provided by the department were due to partisanship. All these contributed to the systemic weakness that led to the failure of the oversight structure in the NWDoH.

The objectives of this study were to identify the systemic weaknesses that contributed to oversight failures in the NWDoH, determine the impact of political influence on the oversight function, determine whether the information provided to the oversight committee enabled them to execute their oversight function and determine whether the oversight committee had the required skills and capacity to execute their oversight function.

The process followed to address the research questions and objectives was to collect primary data through semi-structured interviews with members of four different political parties that are part of SCOPA and the Health Portfolio committee in the NWPL were, two experts, a former Administrator of the department and a former National SCOPA Chairperson. These participants were purposefully selected based on their expertise regarding legislative oversight and their role in the oversight function.

Secondary data were also used to address the research questions and objectives of the study. Data were collected and analysed using thematic content analysis and the following themes were identified: politics and oversight process, proportional political representation, quality of support, reports and information and capacity and skills of oversight committee members. From the themes, it was revealed that political influence was at the centre of the systemic weakness in the department. Political influence was used intentionally to weaken the oversight function within the department. When oversight structures are weak, political leaders can influence the scope and direction of the oversight structure, determine the narrative on the oversight function and influence the agenda and tabling of reports.

The principal-agency theory has been employed to understand the relationship between the NWPL (principal) and the NWDoH (agent). According to Bandy (2011), the principal-agency theory is used a mechanism for accountability. The theory depicts that the NWPL has not been able to ensure accountability in the NWDoH because of how politics have influenced the oversight process. The oversight failures within the NWDoH emanates from both the principal and the agent. Both the principal and agent are loyal to their political party interest and that has undermined the oversight function. The principal employs the agents that will are loyal and in return the agents expects principals to be loyal to them, which has resulted in the principal not being able to hold the agent accountable for their actions. The theory has also established a conflict of interest between the principals being the ruling party and the opposition party.

The ruling party uses its dominance power to ensure that the agent is not held accountable.

According to Hayllar (2000), the wish to have a more accountable public service is universal. Therefore, the main role of the legislature is to hold the executive accountable through an effective oversight process. It is therefore apparent that in any democratic country, the main role of the legislature is the execution of oversight of the executive members of government. This requires the oversight committee members to apply vigilant, strategic and controlled scrutiny of the implementation of laws and austere compliance with regulations and the Constitution (South African Legislative Sector, 2016).

The NWDoH will not be able to fully comply with the PFMA when there is a dismal failure within the oversight function and when there is a deliberate undermining of the oversight function and systemic weakening of oversight processes. It became apparent throughout the research that the oversight function is one of the main liberal processes for change to control how public funds are being used and avoid financial misconduct in the public service. Failures within the role of the oversight committees provide opportunities for non-compliance with the PFMA, financial misconduct, corruption, lack of consequence management and lack of accountability despite its existence.

## **6.2 Recommendations**

The recommendations in this study are made for further study and policy intervention. This research can be used to expand on existing studies to contribute to the conceptual structure and understanding of the challenges and weaknesses within the oversight function. This study recommends that the standing rules be strengthened by diluting oversight committees with independent individuals so that committees operate independently from party-political pressure. Partisanship should be abolished by appointing independent experts on committees to advise committee members instead of members getting mandates from their political parties. This will allow oversight committees to uphold their constitutional mandate of holding the executive

accountable and ensure that there is consequence management for those who have transgressed. Working independently from political pressure will also promote political will and decisions will be made based on the information provided and not on what the political party wants.

The study showed that oversight committee members are toothless because their powers are limited to only making recommendations. Ruling Party Member 1 added the following:

*“Our reports are not supposed to be treated as recommendations from the committee. It should be that it is decisions and resolution decisions of the committee.”*

This study recommends that the oversight committee be bestowed with powers to enforce accountability. This role of enforcing accountability is currently the prerogative of the Speaker.

This study further recommends a rigid policy in consideration of the qualifications and skills of legislators. The system must have a level of education and skills requirement for members who come into the legislature. In Haryana State, legislators must have a certain level of qualification, and many states are also including a minimum level of educational qualifications for legislators (Karuturi, 2020). Education boosts a leader’s vision, enabling the leader to comprehend the complexities and degree of challenges presented, understand and participate in the deliberations in the legislature, reduce manipulation of legislators by others and provide legislators with the capacity required for better substantial power and the ability to present concepts (Karuturi, 2020).

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## ANNEXURES

### Annexure 1: Consent Form



Research Project

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### CONSENT

I \_\_\_\_\_ (full names of participant) hereby confirm that I understand the contents of this document and the nature of the research project, and I consent to participating in the research project.

I understand that I am at liberty to withdraw from the project at any time, should I so desire.

I understand that I can withdraw permission to use data from my interview within two weeks after the interview, in which case the material will be deleted.

I have had the purpose and nature of the study explained to me in writing and I have had the opportunity to ask questions about the study.

I understand that I will not benefit directly from participating in this research.

I agree to my interview being audio-recorded.

I understand that all information I provide for this study will be treated confidentially.

I understand that in any report on the results of this research, my identity will remain anonymous. Pseudonyms will be used as a form of anonymity

I understand that signed consent forms and original audio recordings will be retained in a password-protected computer during the research process and after the completion of the project

I understand that I am free to contact any of the people involved in the research to seek further clarification and information.

Signature of participant

Date

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Signature of researcher

Date

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## **Annexure 2: Semi-structured Interview Questions**

### *QUESTION 1*

*Objective: Identify the oversight systemic weaknesses that lead to the oversight failures in the NWDoH*

In your opinion and experience, what would you say contributes to the problems, limitations, hurdles, and failure of compliance with the PFMA regulations by the NWDoH?

In your opinion, why has the NWDoH continued to be PFMA non-compliant with the oversight structures/institutions in place?

In your opinion, why is the oversight committee/institution failing to ensure and enforce accountability in the NWDoH?

### *QUESTION 2*

*Objective: Determine the impact of political influence on the oversight function*

Considering that the legislature is a political institution, to what extent does the political meddling in general or partisanship influence the decisions of the oversight committee when conducting oversight and ensuring that the NWDoH comply with the PFMA regulations?

How do oversight committee members reconcile political party positions and fulfilling the oversight mandate by enforcing accountability?

How is the oversight function executed considering the power that the executive have on the legislature?

How does the dominant political party system affect the oversight and accountability mandate in the NWDoH?

### *QUESTION 3*

*Objective: Determine whether the information provided to the oversight committee/institution enables them to execute the oversight function*

3.1 Does the department provide quality reports and information that can assist the oversight committee/institution in addressing the NWDoH's non-compliance with the PFMA? Please elaborate.

3.2 Is the oversight committee adequately equipped with the research support that meets its research needs to produce quality reports that will assist with executing the oversight role and addressing the NWDoH's non-compliance with the PFMA?

3.3 How does the oversight committee/institution deal with the department's failure to provide the required information?

#### QUESTION 4

*Objective: Determine whether the oversight committee have required skills and capacity to execute the oversight function*

4.1 What needs to be done to ensure that the committee performs to its best when it comes to oversight and accountability?

4.2 In your opinion, do you think the level of knowledge on the oversight role of the legislature among the committee members and the support staff is enough to achieve the effective oversight or yield the intended results and ensure that the NWDoH complies with the PFMA regulations? Motivate your answer.

4.3 How effective, in your opinion, is the oversight committee/institution in executing the oversight function, enforcing accountability, and ensuring that the NWDoH is PFMA compliant?