POLICY AND PROCEDURES IN LOCAL GOVERNMENT

Ladies and gentlemen before we can deal with the trends and differences in policy We need to understand the fundamental changes that the White Paper on Local Government, 1998 and various pieces of legislation have brought to Local Government. Not only did we change from a tier to a sphere of government but we also received the authority to govern, legislate, make policy and have executive decision making powers as stipulated in the Constitution.

Since the promulgation of new Local Government legislation in the form of the Structures Act and the Systems Act 32, Act no 32 of 2000, a new phenomenon in Policy for Local Government has been established- Ladies and Gentleman this paper will mainly deal with the following key issues;

1)   Definition of Policy;
2)   Factors involving the need for Policy;
3)   Elements of Policy;
4)   Process of policy-making;
5)   Hierarchy of policy;
6)   Public Participation and policy;
7)   Delegations and policy;
8)   Policy vs. Procedures; and
9)   Recognition of a good Policy.

DEFINITION OF POLICY

Various definitions of policy are to be found in the Oxford dictionary, but the one that clearly indicates what is meant by public policy is the following:

"Public Policy: can be described as an organized and established form of government or administration."

A more practical definition for today's local government environment *is "Policy is the direction from a Council of what their intentions are in terms of governance."* Thus, policy can be defined as the political direction of a municipality, which describes the clear objectives and the form of administrative measures.

WHEN IS THERE A NEED FOR POLICY?

The introduction of a new policy in Council is the task of the mayor, speaker or a councillor responsible for the portfolio to which the policy relates to. It is, however, the task of the Municipal Manager and senior managers to initiate policy.

The following factors have a direct influence on the need for policy:

1. Legislation

Various pieces of legislation provide for the drafting of policy documents of which the following are examples:

i.   Municipal Systems Act;
ii.   Property Rates Bill;
iii.   Municipal Finance Management Bill;
iv.   Water Act.

2. Problem and need Identification

Constituencies in the Municipal identify certain problems and demand action from Municipality. (e.g. Noise pollution)

3. Delegations

The Systems Act 2000, Act 32 of 2000 clearly indicates that any delegation should be accompanied by policy. This clearly refers to the setting of guidance by Councillors, which is to be found in a policy document.

4. Powers and Functions

Municipalities are established with a view to attain certain goals, such as:

• Good Health Services,
• Water provision to every citizen,
• Electricity,
• Libraries,
• Recreational services, and
• Various other services.

In order to achieve the latter goals certain powers and functions are being assigned to Municipalities in terms of the Structures Act. It is thus required from Municipalities to set policy goals to facilitate the implementation of these powers and functions.

3) ELEMENTS OF POLICY

A policy should be seen as a document, which gives direction to the administration on the implementation of the political will of Council to achieve its strategic intent.

It is therefore appropriate to indicate the following elements that should always be in a policy document:

a) Policy Vision

Any policy document should have a vision, which indicates the bigger picture regarding the outcomes of the policy. This should capture the dreams, aspirations and hopes of the community. The Vision should also indicate a benchmark against which all actions of the Municipality can be measured.

b) Policy goals and objectives

This section of the policy should be seen as the heart or engine room of the desired outcomes. Goals can be set to address a certain problem in the community such as water spillage. Goals can be set to instill some quality that is not part of the community such as economic growth. Goals may also grow from a desire to preserve certain heritage assets such as statues or specific conservation areas.

c) Legislative Framework

If the policy has its origin from legislation it would be necessary to refer to the legislation with specific reference to the section of the Act.

d) Role Clarification

One of the most important aspects in a policy is the role clarification between councillors and the administration. It is important to note that the role of Council in Local Government is the determination of policy, the promulgation of By-Laws and the overseeing that the administration is implementing the policies and By-laws. Councillors are therefore the supervisory authority and the administration with the Municipal Manager as head is the implementing authority.

e) Definitions

It is always good practice to write a policy document in such a way that it is understandable to the person in the street. It is also a good practice to give definition to certain words used in the policy document; especially if the word can have more than one meaning and the likelihood is that it might be misinterpreted.

f) Delegations

In order for the Municipal Manager to implement the policy, it is necessary that the questions "How should it be done? And by whom?" be asked. This section therefore mainly deals with who has the authority to do what. E.g. (Council has a policy on parking in Town. In the policy the task to enforce the policy is delegated to the Chief of Traffic, but the Municipal Manager will still remain accountable to Council.)

This section should also make provision for sub-delegations to lower authority in line with sound administrative and public Law principles.

g) Conditions and Implementation of the Policy

This part of the policy document deals with the goals in section (b) above. It is in this part of the policy where the Municipality gives effect to their responsibility to govern as envisage in the Constitution.

This section should be used to organise the administration to deal with the problems and needs of the community and to ensure that they fulfil their Constitutional obligations.

h) Contravention of the policy

It is also important that the policy expressed the view on what penalties or what action will be taken if the conditions of the policy are violated.

4) Process of policy-making

Municipalities must realise that any policy that is adopted has an impact on their communities and as a result thereof, it is important that any policy document must be evaluated against its content, causes and consequences.

The next diagram indicates the process that a municipality may follow when policy is determined and drafted.

Figure: 1

| Process	Activity	Participants
<u>Step 1</u> • Legislation requirements • Problem Identification	Inform communities by: • Media Advertisements • Ward Councillors • Ward Committees	Obtain opinion of: • Mass Media • Interest groups • Communities involved • Council
<u>Step 2</u> • Draft report and agenda as basis for discussing content of the problem	Council decides what will be addressed and give the direction to address the identified need	• Relevant Council portfolio committee and political parties
<u>Step 3</u> • Policy formulation	Developing policy proposals to resolve the issues identified or prescribed.	• Council's portfolio committee and political parties. • Administration
<u>Step 4</u> • Policy Legitimation	Debating the policy deciding on the most appropriate solution with the desired impact. Translate policy into By-Law.	• **Council** • **Administration**
<u>Step 5</u> • Follow process of public participation	Conduct public hearings. Advertise proposed legislation	• Councillors • Public • Interest groups • Administration
<u>Step 6</u> • Policy and law implementation	Organise administration to implement	• Administration or services providers
<u>Step 7</u> • Policy Evaluation	Reporting to Council the outcome of the implementation of the policy	• Municipal Manager and service providers

Although the Council sets and approves policy, it remains the responsibility of the Municipal Manager to ensure that the policy and By-Law is implemented. The role of the Council is to oversee the implementation through its executive mayor, executive committee or the full council depending on the type of the Municipality.

5) HIERARCHY OF POLICY

The process of policy and decision making is not restricted to Councillors only,but it is to everybody working within the public administration. When looking at the Promotion of Administrative Justice Act, it is required from any administrative organ to account on its actions.

Every Municipality will consist of a hierarchy of policy makers. The simplest way to demonstrate this can be seen in Figure: 2.

Figure: 2

Figure: 2
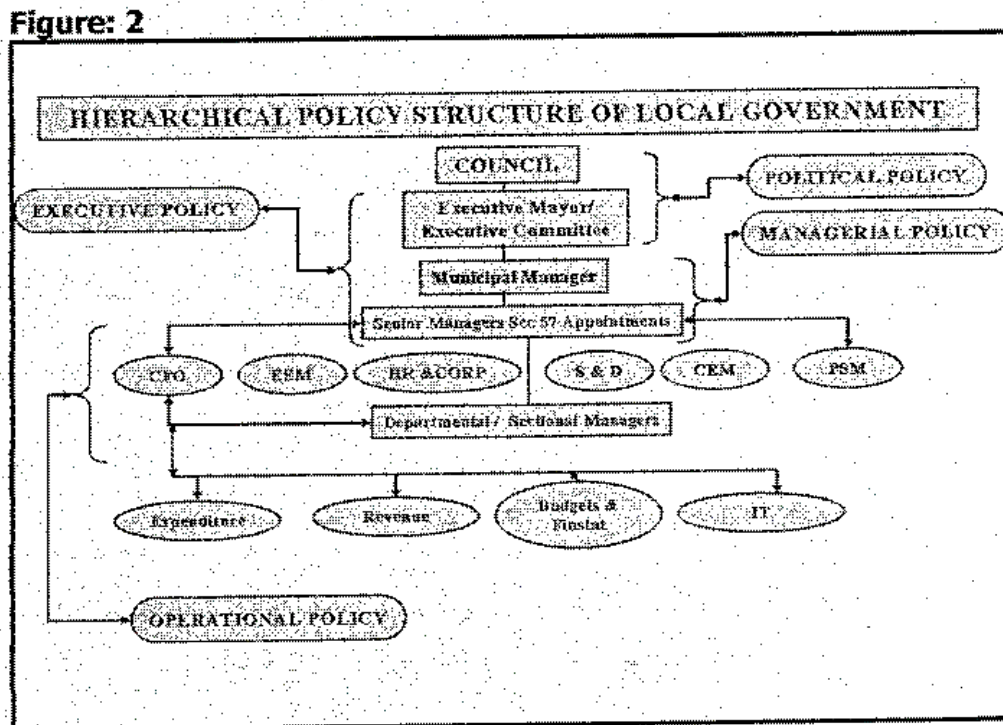
1. Political Policy

This level of policy can also be referred to, as the *"Political Party Policy"* and it is here where the ruling party in Council expresses itself over addressing the well being of the community. This is also where the policy objectives of the ruling party in Parliament are transferred to the local sphere, and where the public plays an important role through the ward Councillor and community stakeholders. A proper consultation process should be followed to ensure that the community has given their inputs.

It is therefore important that Councillors get actively involved in debate sessions during Council meetings to ensure the implementation of national policy objectives and they

must ensure that these objectives are entrenched in the IDP of their Municipalities through public participation.

It is also important to note that public officials have to be impartial in formulating political policy, and they cannot influence political policy one way or the other. Officials should also not take part in any debate on the objectives of political policy, and they should abstain themselves from dispute resolutions.

This does however not mean that officials cannot make a contribution on the formulating of the policy. To be realistic, political policy has to be based on professional knowledge and it is in this field of policy formulation where officials play a significant role.

2. Executive Policy

Executive policy is also referred to as *"Governing Policy"*. After the political policy has bee formulated, the political idealism must be transformed into workable realities and this is the task of the Executive Mayor, Executive Committee or the full Council if it is a plenary system, to carry out the policy of the government of the day.

The previous stage lay down the broad principles on the main objectives and goals that must be achieved. This level concentrates more on the political decisions and this is possible with the participation of the Municipal Manager and Managers directly reporting to the Municipal Manager.

At this level the executive management of a Municipality attempts to translate the political policy decisions into practical and manageable plans and actions.

3. Managerial Policy

The drive on this level of policy is to bring the previous two levels of policy into a practical and workable policy document. Managerial policy is mainly concerned with the practical Steps to give effect to the implementation of political policy.

4. Operational Policy

Once the policy has been formulated and it is ready to be implemented there is still a level of decision making on the implementation thereof. Decisions at this level will as a rule be taken by supervisors and will concern matters which will not really affect the nature and essence of the policy adopted.

Decisions on this level will be, for example whether all enquiries should be dealt with in writing or telephonically. This level of policy usually relates to routine work which can be done by supervisors at a lower level.

This level of policy is also the closest to the actual actions that formulates procedures, and it should be guarded against the trend to include procedures (actions) in this part. It should contain expression and not actions

In the implementation process of policy it should be remembered that the hierarchal structure is of high importance and no subordinate policy structure should contradicts the superior policy directions.

6) Public participation and policy

1. Role of the public

One of the objectives of Local Government in the Constitution is, the promotion of public participation, this is also one of the cornerstones on the White Paper on Local Government. The community is part of the Municipality, which is the most affected by any policy, and proper consultation and participation will enhance the implementation thereof.

The roll of the public in the policy making process is vital and a Municipality must get every stakeholder on board.

2. How should the Public be involved?

There are various ways, which can be used to get the public involved, but the most popular one's are the use of ward councillors, printed media, pamphlets, local radio broadcasts, NGO's, community based organisations and advocacy groups which includes gender and disability.

The community must be encouraged to get involved in the affairs of the Municipality by taking part in public debates about political and executive policy issues.

Systems must be put in place for the community and individual citizens to raise and make representations on the need for policy issues, and this can be done by organisations or individual citizens through petitions or format letters.

Ward committee meetings are another form of community participation and members of wards must be encouraged to raise issues in the community with their ward representatives. A typical example of an issue that can be raised is the speeding of cars on a road. This will for example need a policy on traffic control by the Municipality

Another way of getting the public involved is through opinion polls surveys. By using this method, the Municipality can ask questions and request the public to vote on it. A question that a Municipality may ask is: *Should there be parking meters in the CBD?* And members of the community can vote on it. The outcome of the votes will determine what Council's policy will be on the implementation of parking meters.

7) DELEGATIONS AND POLICY

Each Municipality must develop a system of delegations that will maximize administrative and operational efficiency and provide for adequate checks and balances,

The above mentioned is a requirement of Section 59 of the Systems Act 2000, Act no 32 of 2000. The Act further indicates that the Municipality must issue guidelines and limitations to their delegations.

Section 55 of the Act also indicates that the Municipal Manager is the head of administration and accountable, subject to the policy directions of the Municipal Council

What is clear from Systems Act is that the Municipal Council must lay down policy directions for the Municipal Manager, all delegations flowing from the Municipal Manager to any other manager of official will also be bound to the policy directions of the Municipality.

It is, therefore sensible to say that any delegation must be accompanied by policy, which will give direction to the outcomes of the execution of the delegation. Further, any discretion allowed for in legislation should be executed in such a way that it will contribute to the Council's political Policy.

8) POLICY vs. PROCEDURES

There is often a misconception between policy and procedures. A policy is more strategic and vision directed; whilst procedures concentrates more on the implementation of the policy.

A policy addresses the will and need of the community and procedures on its part are there to direct administrators on good governance and accountability.

9) RECOGNITION OF A GOOD POLICY

There is not a "right or wrong" policy however there are good and bad policies. The following qualities may assist in defining a "good policy";

There is public Support: Usually when a policy is adopted by a majority vote of Council it reflects that it is a good policy. It is therefore important that Council rely on ideas from many sources, including staff, community members, interest groups, chamber of commerce and other Stakeholders.

Policies are Just: Good policy is fair and equitable. All policy decisions should "be based upon a due Consulting process that respects the Constitutional rights of individuals. Policy is not always about what is popular, sometimes it means protecting the interests of minority views too.

Sound decisions are backed by solid analysis: A good policy starts with clear goals and objectives, considers a range of alternatives, expresses evaluation criteria, and assesses the impact and measures the consequences of the policy.

Policy is relevant: The policy addresses a problem or issue that is generally perceived by the community a problem or issue.

Policy can be implemented: The policy can be implemented and is feasible to the Municipality. The adopted policy has a reasonable change of achieving the set goals and objectives.

Results can be monitored: There is always the risk that the policy has unintended consequences, or simply do not achieve the set goals or objectives. It is therefore good to monitor the policy and to change it when there is a possibility of unintended consequences. This wilt ensure increased effediveness.

10) CONCLUSION

In conclusion the drafting of policy is a legal requirement and it is up to us both politicians and administrators to see to it that good practical policies are drafted, and implemented.

Further, it is our duty to see to it that proper public consultation are taken place and that the inputs of the community have been considered when policy is determined and drafted.

Any Municipality that wants to be regarded as a successful Municipality in terms of good governance will have to have a good set of policy documents that will form part of the Municipality Code as envisaged in the Act.