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## **INTER-GOVERNMENTAL RELATIONS POLICY FRAMEWORK**

Stakeholders' Workshop on 12 August & 22 September 2010

To: Mayoral Committee: 27 October 2010

To: Ordinary Council: 6 December 2010

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## 1. INTRODUCTION TO INTERGOVERNMENTAL POLICY FRAMEWORK

The Constitution of the RSA (Act 108 of 1996) clearly indicates that the national, provincial and local spheres of government are distinctive, interdependent and interrelated. Section 41(1) of the Constitution alludes to co-operation, mutual trust and good faith between these three spheres.

Further, based on the parameters created by the Constitution and the IGR Framework Act (Act No.13 of 2005) and key to concept of the Developmental State, the Makana Municipality see it imperative to embark on a development planning, coupled with the policy imperative of coordination and integration between the three spheres of government.

The IGRF Act is intended to promote and facilitate co-operative decision making and make sure that policies and activities across all spheres encourages service delivery and meet the needs of citizens in an effective way. The mandate provided to this distinctive sphere of government is, that of facilitating and ensuring that service delivery take place in the Makana locality.

It is therefore against this backdrop that, the initiative to develop the IGR Strategic Framework has commenced to close the gap on none functioning of the IGR in the Municipality.

## 2. RATIONALE BEHIND ESTABLISHMENT OF MAKANA IGR FORUM

The IGRF Act explains the principles of IGR and cooperative government, providing the basic architecture of IGR structures, procedures and policies for settling intergovernmental disputes. IGR is an instrument for mobilising the distinctive efforts, capacities, leadership and resources of each sphere towards service delivery and government defined development objectives

Given the strategic role of IGR in facilitating integrated service delivery and development, the capacity of municipalities to manage IGR is of vital importance. For this reason, there is the need for a specific strategy to strengthen the functioning of the IGR system in respect of local government in the Makana local municipal area.

The establishment and development of this IGR Framework Policy is aimed at fostering co-ordination and co-operation between Makana Municipality, Sector Departments and other partners embroiled in development that are falling under its legal jurisdiction. It should and, must be highlighted that, during the process of this strategic IGR policy document operation, all members that will constitute the IGR structure will be fairly and equally treated and are expected when serving the structure to carry them in a professional manner.

## 3. LEGISLATIVE IMPERATIVES FOR IGR POLICY FRAMEWORK

### a) The Constitution of the Republic of South Africa (act 108 of 1996)

The constitution states that the national, provincial and local spheres of government are distinctive, interdependent and integrated. **Section 41 (1)** of the Constitution alludes to cooperation, mutual trust and good faith between the three (3) spheres. The constitution further binds the three spheres of government and organs of state to the basic principles of co-operative government and intergovernmental relations.

**b) The Intergovernmental Relations Framework Act (13 of 2005)**

The IGR framework act was introduced in 2005, **section (5)** of the IGR Act makes provision for the three spheres of Government in conducting their affairs must seek to achieve the object of this act, by –

- (i) Taking into account the circumstances, material interests and budget of other spheres of government and organs of state when exercising their statutory powers or performing their statutory functions;
- (ii) Avoiding unnecessary and wasteful duplication or jurisdictional contests;
- (iii) Taking all reasonable steps to ensure that they have sufficient institutional capacity and effective procedures.

The three acts that govern the operations of local government viz; Municipal Finance Management Act, (Act No. 117 of 1998), Municipal Structures Act, (Act No. 32 of 2003) and the Municipal Systems Act, (Act No. 32 of 2000) provide for legal co-operation governance to take course, and also emphasising the monitoring and supporting role that the national and provincial government should play in the affairs of local government. Coming closer to local municipality, it then becomes imperative that the sphere referred to here as, Makana Local Municipality, should be at the forefront of policy direction, and provide the Sector Departments, Civil Society and Stakeholders with the opportunity to exercise interaction, co-operation, communication guided by the IGR Framework Act to vertical and horizontal plan and work closely with one another in order to realise integrated service delivery.

#### **4. PRINCIPLES OF UNDERPINNING INTERGOVERNMENTAL RELATIONS AND CO-OPERATIVE GOVERNMENT**

The guiding principle behind the existence of the Makana IGR Policy Framework is to facilitate effective co-operation between Makana Local Municipality, sector departments and private and para-statal located in the space of the municipality. Its main aim is to enhance integrated development and to consider various priorities programmes and projects in the area.

The Constitution of the Republic binds all spheres and organs of state to be guided by the by some of the listed hereunder **critical principles**:

 **Working Co-operatively:**

The intergovernmental Relations Framework Act provide ways for local government, national and provincial government to work together effectively to interpret national priorities. The aim is to find strategic consensus when planning g activities. IGR is about relations between democratically elected governments, its sector partners and the affected partners.

 **Distinctive governments:**

It is clear that, should these partners in development engaged into the IGR structure, their independency and distinctiveness must be adhered to by all. This implies that all spheres must be committed in ensuring service delivery reaches its intended communities of Makana Municipality residence.

#### **Effective and efficient government**

The IGR structure should be at the forefront to ensure maximum utilisation available resources for the betterment of local communities.

#### **Implementation of concrete measures**

Research has revealed that sectors Departments have been operating in silos and as such no grounded impact has been obtained due to this approach. For the structure to realise co-operative government they need to;

- Strengthen friendly relations – no partners should be treated as secondary
- Ensure consistent support and cushioning each other
- Communicate and inform each sector on matters of common interest
- Share resources when providing intervention in an area
- Minimise any prospective legal litigations against each other

#### **Poor alignment of IDP within its cycle of development could be easily identified**

#### **Absence of early warning systems within municipalities**

#### **Lack of streamline and support of one sphere by another**

#### **Reduced communication and information sharing between stakeholders**

### **5. GOALS AND OBJECTIVES OF MAKANA IGR FORUM**

The following objectives need to be pursued:

- (i) To establish a formalized forum and process to manage the relationships between the municipalities with regard to services delivery.
- (ii) To facilitate for a conducive platform for technical support, knowledge and expertise sharing in matters of mutual interest.
- (iii) To share appropriate information on planned projects and development initiatives.
- (iv) Sharing information on, and understanding of, the respective programmes of the other sectors and partners.
- (v) A commitment to collaborate, engage continuously.
- (vi) To facilitate constant and consistent interaction between the municipality and sector departments amongst that will create the necessary operational intelligence with regard to preventing duplication and wastefully expenditures.

### **6. ROLES & RESPONSIBILITIES OF THE MAKANA IGR FORUM**

The challenges for all spheres of Government is to put the intention of the IGRF Act into practise to ensure a coordinated and integrated approach to service delivery. The roles and responsibilities of the Makana IGR Forum will as follows:

- (i) To serve as a meeting platform for regional development issues are discussed at a strategic level, including the impact of legislation, policies and other matters of mutual interest.
- (ii) To serve as a consultative body designed to facilitate intergovernmental dialogue on matters of mutual interest, such as the implementation of national policy and legislation.
- (iii) Forums are in place so that various role players work closely together and that the activities they plan are integrated.
- (iv) Have a clear communication strategy and plan in between them in order to ensure effective implementation of government programmes.

## **7. CRITICAL SUCCESS FACTORS**

- (i) Representation at decision-making level.
- (ii) Availability of relevant and applicable information with regard to current and future projects
- (iii) Multi-departmental/sectoral focus in terms of achieving the objectives of government
- (iv) Frequent participation in Cluster meetings and activities.
- (v) Execution of IGR Cluster decisions and recommendations by various departments.
- (v) Improved effectiveness of protocols in amongst spheres to enhance incident resolution between the municipality and sector departments
- (vii) Elimination of red -tape.

## **8. ELEMENTS OF AN EMERGING IGR SYSTEM**

- (i) Institutional arrangements for co-ordination and consultation- A significant element of the IGR system is the institutional structures that have been established to facilitate intergovernmental dialogue, consultation and coordination.
- (ii) Intergovernmental planning and budgeting is of great importance to the achievement of the integrated service delivery and development. The pursuit of greater co-ordination of activities at the site of impact begins with effective intergovernmental planning and is given practical realisation through the appropriate allocation of resources to the appropriate sphere.
- (iii) Communication- Can be considered the lifeline of the IGR System. Whether formal or informal, the exchange of information between spheres of government is a vital element of the IGR System.
- (iv) Capacity strengthening and support- Improved capacity at national, provincial and local level is required to ensure effective participation in the IGR System. Also, national and provincial departments have a role to play in strengthening the capacity of local government to fulfill its constitutional responsibilities.

## **9. MAKING IGR STRUCTURE FUNCTIONAL**

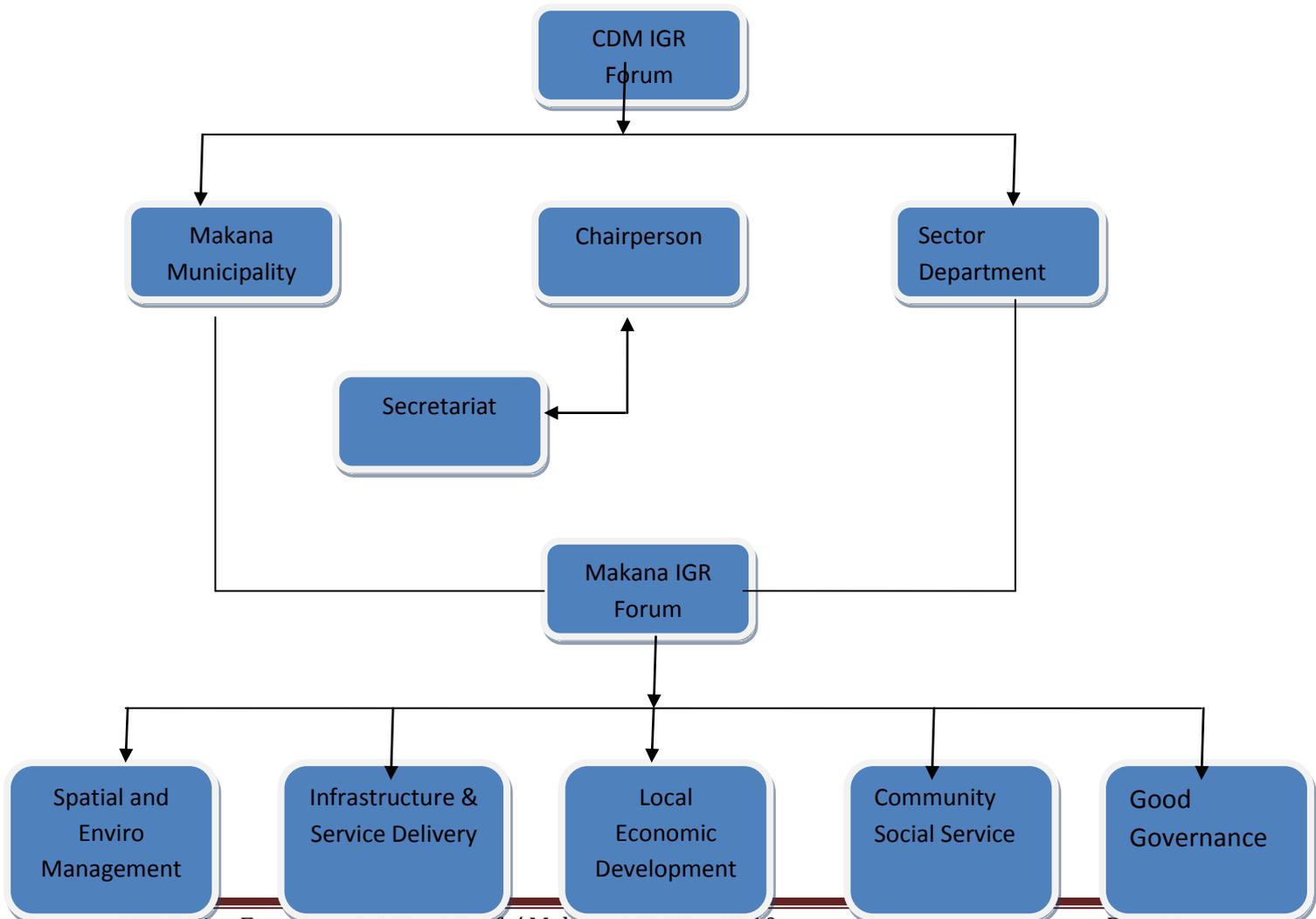
Many IGR structures are established, given terms of reference and launched and they sign a pledge committing themselves to effective functioning of the IGR forum, but after some time the structure collapses and pointing fingers to each members becomes the order of the day.

## 10. ROLE PLAYERS

- (i) Executive Mayor of Makana(Chairperson)
- (ii) Makana Local Municipality(MM and Directors)
- (iii) Cacadu District Municipality
- (iv) Provincial and National Sector Departments(District Directors)
- (v) Parastals i.e. Eskom, Telkom, ECSCEEC

## 11. MAKANA IGR FORUM STRUCTURE

The Intergovernmental Relations Framework Act provides the legal framework for the establishment and functioning of IGR structure. The Act also provides for the technical support structure component over and above the political (DIMAFO) structure. Henceforth, the members of sector departments and a range of other stakeholders who may be able to influence deliberations and service delivery direction must also constitute the structure. The Makana IGR Forum structure is depicted below (aligned in terms of service delivery clusters) for ease of reference:





## CLUSTERS

### 12. INSTITUTIONAL ARRANGEMENT

It is critical to note the importance of clarity in the allocation of powers and functions to role players and a keen understanding of specific roles and responsibilities within the realm of service delivery. The IGR System function more effectively when the role players share a very specific objective that needs to be achieved within a non-negotiable period of time.

#### 1) Cluster Name: Spatial and Environmental Management

	Municipal Role Players	Responsibilities	Sector Role Players	Responsibilities
Planning / Monitoring & Review		IDP planning and implementation & monitoring	Land affairs National planning Dept	
Implementation				

#### 2) Cluster Name: Infrastructure Service Delivery

	Municipal Role Players	Responsibilities	Sector Role Players	Responsibilities
Planning / Monitoring & Review				
Implementation				

#### 3) Cluster Name: Local Economic Development

	Municipal Role Players	Responsibilities	Sector Role Players	Responsibilities
Planning / Monitoring & Review				
Implementation				

#### 4) Cluster Name: Community Social Services

	Municipal Role Players	Responsibilities	Sector Role Players	Responsibilities
Planning / Monitoring & Review				
Implementation				

#### 5) Cluster Name: Good Governance

	Municipal Role Players	Responsibilities	Sector Role Players	Responsibilities

Planning / Monitoring & Review				
Implementation				

### 13. COMPOSITION OF MAKANA LOCAL MUNICIPALITY IGR FORUM

As in accordance with the provisions of section 25 of the Intergovernmental Relations Act, this will be constituted in the form of a technical structure with members of the sector departments and other stakeholders complementing it, the composition of the forum shall be made up of:

- The Municipal Manager
- Directors
- Each government department will assign a person (full time) preferable a senior manager in the office within Makana local area
- Stakeholders senior officials, no junior official will be required

### 14. DEVELOPING AN EFFECTIVE IGR SECRETARIAT

The act provides that the Local Municipality is responsible for providing administrative and other support services to the Makana IGR Forum. Given the importance of the role played by the secretariat to the IGR structure, it is recommended that the Municipality establishes a strategic staff component or strategic unit dedicated to provide secretariat support to the IGR structure. Further to that the secretariat will play a more strategic role, which includes:

- Administration of Makana IGR Forum meeting
- Administration support to the IGR Forum
- Liaising with all other Cluster structures secretariat and the secretaries of other structures in the IGR forums
- Strategic agenda setting
- Developing and monitoring actions arising from the meetings

#### 14.1 Secretariat Services

Must ensure that the meetings of IGR forum are effectively run, the following activities are important to be carried out in the administration of IGR forum meetings:

##### a. General Administration

- The annual calendar of meetings of the IGR forum must be distributed to all members within 7 working days of the calendar being approved by the structure
- All the necessary administrative arrangements for the IGR meetings must be made by the Makana IGR secretariat
- Role players and key stakeholders who need to be invited to attend the IGR Forum meeting are determined and invited accordingly

##### b. Agenda

- Draft agendas must be circulated 21 days before the actual meeting and items and inputs are solicited from members of sector departments

- The final agendas for IGR forum meetings are distributed 7 days prior to the meeting of the Fora
- Every effort must be made to ensure that the local municipality consult all relevant sector departments prior to the finalization of the agenda for the IGR meeting
- Items on which there needs to be report backs from the previous meetings of IGR meeting must be included on the agenda
- A report back from Cacadu IGR forum meeting and any matters that need action must be reported by the Municipal Manager who is chairing the IGR Forum meetings

**c. Minutes of Meetings**

- All IGR Forum meetings and resolutions are minuted in the action minutes
- The minutes of all IGR forum meetings must be distributed electronically within 7 working days of the meeting to all persons who attended the IGR forum and a hard copy should be kept on record (thus a file should be established)
- An action list containing all the actions and timeframes identified at the meeting must be distributed with the minutes

**d. Liaison Role**

- Liaising with secretaries of other clusters and sectors forums to update on scheduled meetings, process of submitting reports timeously
- Liaise with any forum to matters to be discussed in the agenda
- Liaise with internal Municipal Section 57 managers for reports/ actions

**e. Strategic agenda setting**

- The municipal Manager as the driver of the technical local structure must convene the meetings and determine its agenda
- A participatory approach to ensure inputs are obtained from other partners and stakeholders, this would ensure alignment with the Cacadu district planning and budgeting
- The chair assumes the facilitative role as this is critical in ensuring effective intergovernmental relations and engagements at the IGR forum
- It is suggested that the Makana adopt the approach used in other District structures wherein the agenda is standard which include the following:
  - (i) Matters arising in the District (Cacadu) IGR forum affecting the local IGR structure
  - (ii) The integration of Municipal projects in the district
  - (iii) Sector & Municipal departments KPAs including the following:

**Frequency of Meetings**

The Act does not prescribe the frequency of IGR forum meetings and neither does it stipulate the critical points at which the local IGR Forum meetings should take place.

**But the following meetings must at least (once) taken place:**

- i) Meeting to pass IGR forum rules and procedures and discuss duties to comply with the act
- ii) Meet to discuss with service providers and other role players concerned with development and also to coordinate effective provision of services and planning in the Makana area

- iii) The Makana IGR Forum shall emulate other structures in their category and meet at least once in a quarter, and these meeting must be aligned with the IDP cycle together with Cacadu IGR plans for reporting purposes

#### **14.2 Municipal Transformation and Organizational development**

Reporting in this regard to focus on alignment of development priorities within the province, District and the Municipality.

#### **14.3 Basic Service Delivery**

Focus herein will be on service delivery backlogs as well as attainment of service delivery targets in the Municipality. Also alignment of sector plans with the municipal IDP.

#### **14.4 Local Economic Development**

Reporting in this regard will focus on support received by Municipality from other agencies and Provincial government in respect of enhancing the LED strategy and capacity; also focus on rate of employment and investment taking place

#### **14.5 Municipal Financial viability and management**

Reporting in this regard will focus on provision of financial management support to municipality, financial viability, billing, revenue collection, budget process, debt collection, and the use of equitable share for basic services and spending on MIG funding.

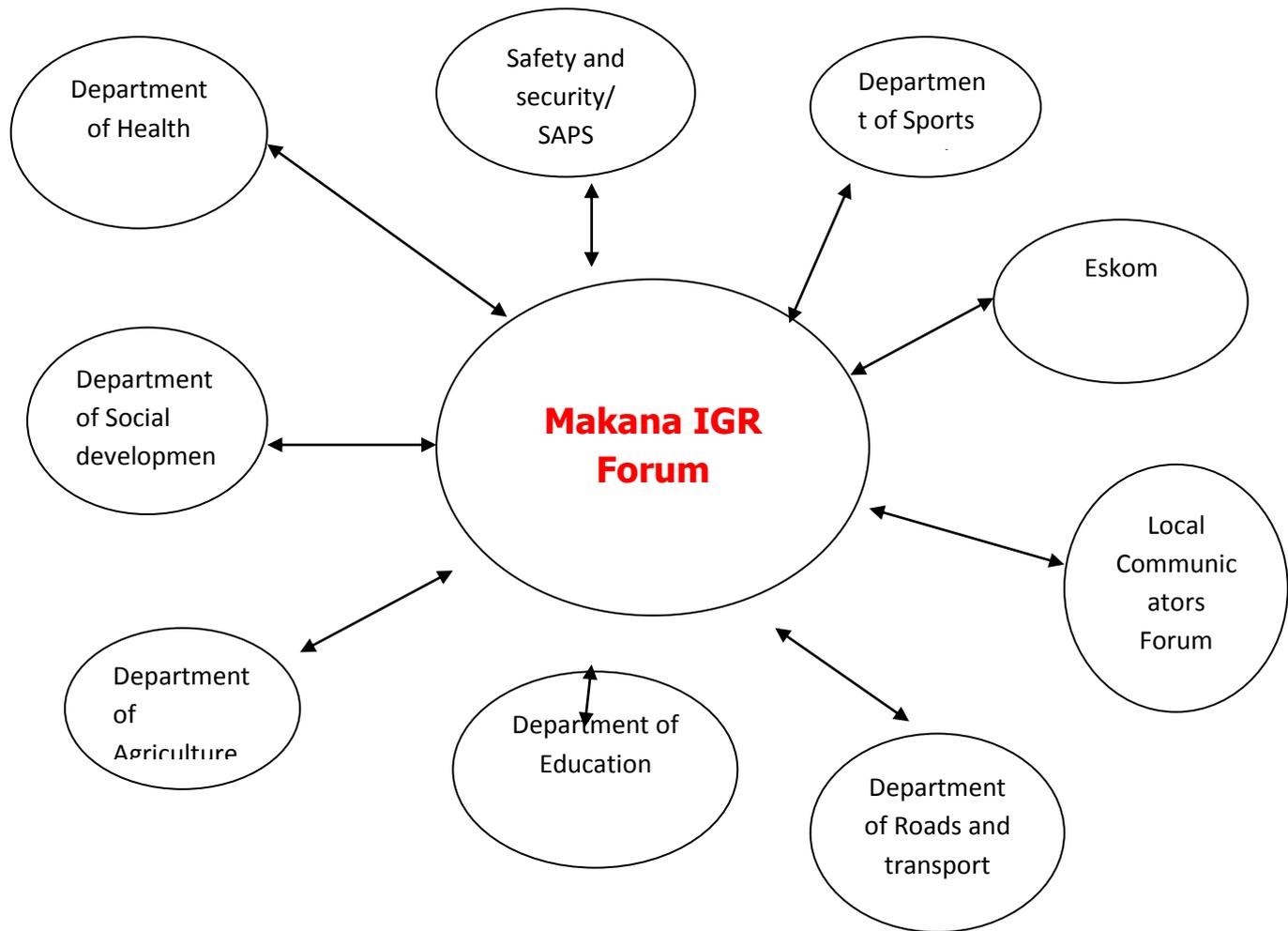
### **15. REPORTING**

The Act provides that the IGR Forum may refer a matter arising in the forum to the District IGR structure should it find unable to deal with; the MM shall forward that to the above structure.

It is recommended that the reports shall follow this sequence mentioned here below:

-  The chairperson shall lead discussions and give direction in terms of content and substance including matters for recommendations
-  The Chairperson will also provide reports from District Cacadu IGR structure for matters of mutual interest
-  Any matters of close cooperation presented by any sector department in the IGR forum and if an action is required, the chairperson must lead in the respect of pulling resources together, in order to ensure joint ownership and relations

**The structure of the Makana Local Municipality IGR Forum will look like this:**



Noticeable at the diagram centre is Makana local Municipality, whose main role is to coordinate, interact with committee members and drive the IGR forum structure meetings.

## 16. IGR CONFLICT RESOLUTION, DISPUTES AND INTERVENTIONS

The constitution requires that all spheres of government and all organs of state within each sphere must avoid instigating legal proceedings against one another. The constitution further provides all organs of state involved in an IGR dispute to make every reasonable effort to settle the dispute and must exhaust all other remedies available before it approaches a court to resolve the dispute.

In terms of the Constitution chapter 3 of section 41(2)(b) prevents the parties from resorting to judicial; proceedings during the informal stages of the dispute resolution process unless the dispute has been declared a formal IG dispute in terms of section of this chapter, therefore it proposes that any "disputes should, where possible, be resolved at a political level rather than through adversarial litigation.

### 16.1 IGR Process: Conflict resolution and disputes

The act acknowledges that, to a greater extent there could be disputes that could not be settled at local level, hence the Minister developed 'Intergovernmental Dispute Prevention and

Settlement: Guidelines for effective Conflict Management” in the government Gazette. (*refer to the Gazette*)

## 16.2 IGR Dispute Resolution Guidelines/ Steps

This IGR policy framework further provides with clear procedure framework and steps to be undertaken by disputing organs of state, and they include:

Step	Process details
1. Determining the nature of the dispute	What is the issue at conflict
2. Negotiating	Engage in discussions to settle the matter
3. Declaring a Dispute	If no agreement reached, agree that a dispute exist
4. Convening a meeting	Arrange for convergence of parties in dispute to discuss issues in dispute
5. Defining the dispute & identify an existing dispute resolution mechanism	There are many procedures which can be followed, but a need to identify and defining the dispute in order to use a certain method is very significant
6. Appoint a facilitator	should the parties enter into loggerheads and project no future in handling dispute themselves, a third party could facilitate the process of negotiations
7. Participating in good faith in the dispute resolution process	Parties must be willing to negotiate and be open and transparent to each other
8. Asking for the assistance of the MEC or Minister	An MEC could be roped in to settle the matter if parties do not agree
9. Implementing and monitoring the agreement reached	When agreed on specific issue, all parties must be abided by such arrangements
( As a last resort) going to court	

## 17. IGR MONITORING AND EVALUATION

Each sphere of government exercises its mandated powers and functions as per their regulatory framework. Effective monitoring is essential to good governance, the achievement of policy objectives and integrated service delivery. In terms of section 123 (3) of the constitution, if a municipality fails to fulfil its executive obligations, the provincial government may choose to intervene in terms of section 139 of the Constitution.

KPA	Local Govt
<b>Engagement</b>	Process by which outcomes, policy directions and/or strategies in various plans are aligned with those in other plans (IDP)
<b>Alignment</b>	The result of coordination and collaboration in planning process
<b>Integration</b>	A process of bringing together different policies, projects, ideas to ensure the achievement of shared objectives
<b>Coordination</b>	A process of bring together different plans, ideas, etc that can collectively ensure the achievements of the key development outcomes
<b>Prioritization</b>	A process of ensuring that different actors in government (spheres and sectors) reach consensus on what it is that they seek to achieve
<b>Support</b>	A process of planning together, sharing resources, driving the activities jointly

T h	for a success of a partner/ sector objectives and goals viz ( IDP Forums/ Provincial events)
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tools and systems reflected hereunder must be the Monitoring and Evaluation guiding framework for the Makana IGR Forum:

The above factors present a focal area for IGR meetings, which must be held at least once in a Quarter to discuss the matters here above.

## 18. CONCLUSION

- ❖ However, given all the above process perspective, it is therefore imperative that, the IGR Forum as institutional mechanism must assist in reviewing performances, detecting failures and ensuring corrective action.
- ❖ There is a need for dedicated technical, legal and administrative support systems for the management of IGR disputes, the structure must dedicate technical judicial expertise who must facilitate dispute resolutions and mediate and undertake conciliatory dispute settlement.

# ANNEXURE (A)

## Terms of reference for Makana IGR Forum and its Clusters

### MAKANA MUNICIPALITY IGR FORUM (TERMS OF REFERENCE)

#### Section One: Rules

1. The IGR Forum and its member sector departments and municipalities hereby agree to adopt the rules as set out in this document
2. Any member municipality or sector department who does not adhere to these rules may be instructed by the Chairperson of the IGR Forum/ Cluster to leave a meeting of the IGR cluster or alternatively not attend future meetings until such time as the matter has been addressed through the dispute procedures as set out in this document, as annexure
3. The IGR /Cluster may amend these rules, provided that at least 75% of its members are in favor of the amendment.

#### Section Two: Membership of IGR Forum

4. The name of this IGR Forum shall be **Makana IGR Forum**
5. The members of the Makana IGR Forum are the Executive Mayor, Municipal Manager of the Makana Local Municipality and the various Sector Departments representative as listed in the annexure herein attached for reference

#### Section Three: Chairperson of the IGR Forum

6. The Executive Mayor of Makana Municipality is the chair of this Makana IGR Forum.
7. The Chairperson shall unless an arrangement has been made prior to the actual meeting preside at the IGR Forum meetings and provides leadership to the IGR structure at all times
8. In the absence of the Chairperson, the member municipality present at the meeting may elect one of the Portfolio Chairpersons of the municipality at the meeting to act as the chairperson, a unanimous agreement must be reached prior to commencement of the meeting.

9. The Chairperson must identify the common needs of the member sector Departments and recommend strategies to address these needs as well as determine the best way to implement programs and strategies to enhance service delivery.

#### **Section Four: Agenda of IGR Forum/ Cluster**

10. The Chairperson determines the agenda for the IGR Forum Cluster meetings, in consultation with members of the IGR structure
11. The majority of the local municipalities in the district may request the Chairperson to include into the agenda any specific matter for discussion. Should the Chairperson reject such a request, s/he should provide a written motivation as to why this item had been rejected

#### **Section Six: Meetings of the DIF**

12. The Chairperson determines where and when the DIMAFO will meet.
  - a. The majority of the local municipalities in the district may request the chairperson in writing to convene a meeting of the DIMAFO at a time and place as set out in the request
13. The Chairperson may invite any person to be part of the DIMAFO.
14. A majority of the member municipalities constitute a quorum for a meeting.
15. The Chairperson has the casting vote in addition to a member's vote.

#### **Section Seven: Resolution and Recommendations**

16. The DIMAFO is a forum for consultation and deliberation. The members of the DIMAFO may decide on any matter through a resolution or a recommendation. The Mayors of the member municipalities shall honor and implement these recommendations/resolutions.
17. A resolution/recommendation of the DIMAFO should be considered by the member municipalities at their first council meeting following the DIMAFO meeting.
18. The Municipal Manager of the member municipality should inform the Secretary of the DIMAFO in writing about the outcome of the consideration of the DIMAFO resolution by Council

#### **Section Eight: Administration of the IGR Forum**

19. The Makana Local Municipality is responsible for the management and administration of the IGR Structure and will therefore budget annually for the effective functioning of the Forum. Each member municipality/ sector department will bear the cost of its representatives' travel to the IGR Forum meetings as well as any costs that may arise should it host a any ad hoc meeting.
20. The Municipal Manager of the Makana / an official designated by him shall act as the secretary of the Makana IGR Forum
  - a. The Secretary shall ensure that the agenda, minutes of meeting and all relevant documents are sent timeously to members.
  - b. The Secretary shall follow up on action items identified during the Makan IGR Forum meetings to ensure that these are being acted upon by the responsible people.

- c. The Secretary may, in consultation with the Chairperson, appoint specialist services to assist the Chair in performing executive functions, implementing resolutions and recommendations and conducting research and carrying out assignments.

### **Section Nine: Technical Support Structure**

21. The Municipal Managers of the Makana Municipality and the sector departments members shall be the core nucleus of the structure
22. The secretary of the IGR Forum will convene the meeting.

### **Section Ten: Dispute Settlement**

23. Disputes amongst member municipalities shall be settled in accordance with the provisions of Chapter Four of the Intergovernmental Relations Framework Act

#### **Additional IGR Forum Terms of reference**

- Co-coordinating joint integrated development planning
- Considering and co-coordinating service delivery continuity measures
- Providing a forum for sharing best practices experiences and learning
- Facilitate communication on, and formulating joint responses to provincial and district policy and legislative processes
- Considering any other matters referred to by both Municipality and sector departments
- Promotion of inter-sectoral dialogue, and mediation in case of disputes between municipality and other structures
- Improving cooperation between municipalities and sector departments and any other partners and stakeholders deems fit to work with
- Ensuring that there are coordinated programmes of implementation and the necessary structures with regard to such issues as rural development, urban renewal, safety and security, HIV & AIDS and special programmes
- To promote and enhance the principles of integrated governance at local level