

District municipalities: Powers, functions and funding framework

Executive Summary

The District Development Model (DDM) is a model that consists of a process of joint planning across the three spheres of government, resulting in a single strategically focused plan for each of the 44 districts and eight metropolitan geographic spaces in South Africa. In this model, district municipalities will play a leading role in the coordination of district-wide projects, district-wide planning and local economic development (LED). The purpose of this policy brief is to summarise the findings of the Commission's research on the readiness of district municipalities to play the leading role envisaged by the DDM.

Background

President Cyril Ramaphosa initiated the District Development Model in 2019 after identifying the pattern of operating in silos as a challenge, which led to a lack of coherence in planning and implementation in the three spheres of government. District municipalities are envisaged to play a critical role in the roll out of the DDM. The role of the district municipalities relates to the coordinating, planning and budgeting of district-wide projects. The DDM seeks to reverse service delivery failures at the local level through improved coordination, budgeting and planning. Functions such as the coordination of district-wide projects, undertaking district-wide planning and spearheading LED are all mandates of district municipalities, which the DDM is envisaged to reinforce and provide much need impetus. However, this model is established against the backdrop of district municipalities that are dysfunctional and in financial distress. This begs the question of whether district municipalities are well positioned to play the leading role envisaged by the DDM.

The Commission undertook a comprehensive and systematic analysis of the current state of district municipalities in South Africa, and their readiness to play this envisaged role in the DDM. It further provided recommendations on how district municipalities can be repositioned to play this role. The study adopted a case study approach in the form of interviews with the municipal officials of six district municipalities in six provinces in South Africa. This policy brief provides a summary of the Commission's findings and policy recommendations.



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The vision of the Commission is to provide influential advice for equitable, efficient and sustainable intergovernmental fiscal relations between national, provincial and local spheres of government. This relates to the equitable division of government revenue among three spheres of government and to the related service delivery of public services to South Africans.

Through focused research, the Commission aims to provide proactive, expert and independent advice on promoting the intergovernmental fiscal relations system using evidence-based policy analysis to ensure the realisation of constitutional values. The Commission reports directly to both Parliament and the provincial legislatures, who hold government institutions to account. Government must respond to the Commission's recommendations and the extent to which they will be implemented at the tabling of the annual national budget in February each year.

The Commission consists of commissioners appointed by the President: the Chairperson and Deputy Chairperson, three representatives of provinces, two representatives of organised local government and two other persons. The Commission pledges its commitment to the betterment of South Africa and South Africans in the execution of its duties.

Research findings

1. Powers and functions

The 1998 White Paper on Local Government, section 83 of the Local Government: Municipal Structures Act of 1998, and the Intergovernmental Fiscal Relations (IGFR) Act of 2005 outlines the roles of the district municipalities. The municipalities have been assigned 16 powers and functions to perform. From the stipulated powers and functions, many districts perform about 10 to 14 powers and functions. This is due to the sharing of functions, the adjustment of powers and functions by the members of the Executive Council (MECs) and insufficient funds. The district and local municipalities share powers due to insufficient capacity. The sharing of powers and functions between the local and district municipalities has some negative implications, such as poor cooperation between the parties and unfunded mandates. The most-shared function between local and district municipalities is the firefighting function and LED (tourism).

District municipalities are faced with the challenge of MECs adjusting powers and functions. The adjustment is mostly related to the bulk service supply of water. As a result, they lose their funding for bulk infrastructure. The IDP Manager of the Alfred Nzo District Municipality recommends that districts be capacitated sufficiently to resolve the issue of sharing powers and functions. The IDP Manager of the Kenneth Kaunda and the John Taolo District Municipality recommends that clear legislation and the consequences of not abiding by legislation should be stipulated. Another recommendation came from the West Coast District Municipality. The delegate recommends that district municipalities should be provided with the opportunity and funding from the national pool of funds to execute the mandated functions assigned to them in terms of sections 83 and 84 of the Municipal Structures Act (MSA) to solve the sharing of powers and functions. Lastly, the manager for the Gert Sibande District Municipality calls on section 85 of the MSA, which grants powers to the MECs of local government to adjust the powers and functions of district and local municipalities, to be reviewed as some of the adjustments are not objective and are driven by political pressure.

2. Funding framework

According to the analysis of the interviews with officials from the selected district municipalities, they are all faced with funding challenges. The district municipalities are operating on a limited budget and with insufficient funds. This hampers the districts from fully performing their constitutional mandates. The allocated funds to district municipalities do not correspond with the powers and functions they have to perform, which results in funding not following the functions. Another challenge is that district municipalities are not getting any benefits for the export activities operating in their regions, and are being denied the petrol levy, even in districts that have major roads such as the N1. Poor district municipalities are allocated less resources than those doing well. Therefore, the current funding model does not promote equality. A new funding model needs to be generated to promote fairness and equity.

3. Local economic development

The district municipalities' role in the LED space is to coordinate and facilitate platforms, while establishing new ventures that allow them to grow and develop. Districts build a conducive environment for sustainable and inclusive economic development. Supporting small, medium and micro enterprises (SMMEs) with stipends, engaging mines to monitor social labour plans, and providing production inputs to upcoming agricultural and tourism programmes are some of the strategies that district municipalities have been using effectively to promote LED. However, the districts have not been completely effective as they are faced with the challenge of inadequate funding and the inability to charge capital on the projects they initiate. Budget constraints, the lack of relevant instruments to measure actual district growth, the uncoordinated approach of investors and a lack of access to economic opportunities are some of the major factors hindering the success of the LED strategies.

4. Views on the District Development Model

According to delegates from the selected district municipalities, the DDM is a well-constructed model that will assist the three spheres of government to co-plan, co-budget and co-implement. The DDM has the potential to make a difference, provided that it is legislated, and current legislated planning instruments are repealed. Some of the government officials interviewed believe that the DDM will be able to solve the powers and functions, funding and service delivery issues if it is effectively implemented. If resources are channelled towards projects and programmes that will achieve a greater impact, and create more economic spin-offs and more sustainable job opportunities, the model will allow them to maximise impact and align the resources at their disposal. However, the lack of capacity, both in terms of human and financial resources, is noted as a factor that may hinder the successful roll-out and implementation of the DDM; hence the need for a new funding model for district municipalities.

The Commission makes the following recommendation:

- 1. The Department of Cooperative Governance and Traditional Affairs should speedily review and repeal section 84 of the Municipal Structures Act to streamline the powers and functions of district municipalities to correspond with those of local municipalities*

The empirical analysis points to uncertainty and lack of clarity of municipal powers and functions within the two-tier local government system as one of the main reasons municipalities are unable to fulfil their constitutional mandates. As such, repealing section 84 of the MSA will help stabilise and better manage the environment for adjusting powers and functions, and better inform the local government funding model.

There is a need for a long-term sustainable funding model for district municipalities, which should be based on the outcomes of the review of district municipality functions being undertaken by the Department of Cooperative Governance and Traditional Affairs. Developing a sustainable funding model for district municipalities will require a clear specification of their powers and functions, a proper appreciation of the situational context and interrelationship with local municipalities, and a clear link between funding and functions. The Commission recommends that clarity on the functions and powers of district municipalities is needed as the first key step. Thus, the Commission encourages the Department of Cooperative Governance and Traditional Affairs to speed up the process of reviewing the functions of district municipalities.

- 2. The Commission advises the Department of Cooperative Governance and Traditional Affairs that its adjustment of powers and functions should be followed by the adjustment of funding to correlate with the powers and functions (funding following functions)*

The Member of the Executive Committee for Local Government in a province may, subject to other provisions, adjust the division of functions and powers between a district and a local municipality as set out in section 85(1) or (2), allocating any of the remaining functions and powers vested in the district municipality to the local municipality and vice versa. The exercise of these powers by the Member of the Executive Committee has the potential effect of creating a de facto asymmetrical system of allocation across district municipalities.

In the analysis of the interviews with the district municipalities, the Commission discovered a lack of formal service-level agreements in cases where municipalities perform functions on behalf of provinces and national departments, translating into unfunded (or underfunded) mandates. Unfunded mandates result in the diversion of financial resources from municipal core functions. The division of powers envisaged in section 84 of the Municipal Structures Act has been adjusted and re-adjusted in many provinces, making it difficult to find a fair funding model for district municipalities.

It is also advisable that some legally binding agreement is entered into between the parties involved prior to accepting and implementing assigned and delegated additional functions or powers.

3. *National Treasury should immediately abolish the Regional Services Council Replacement Grant and combine the Local Government Equitable Share for district municipalities and the Regional Services Council Replacement Grant under one funding instrument.*

This funding window should be distributed among municipalities using a formula anchored on the principles suggested by the Commission and the components proposed by the Commission. The principles and critical parameters should be consulted widely before adoption. The current funding model is not pro-poor. The research analysis showed a negative correlation between the number of indigents and the Regional Services Council Replacement Grant, meaning that a district municipality with a high poverty level is allocated less funds. To a certain extent, district municipalities with fewer functions are given disproportionately larger Regional Services Council replacement grants than district municipalities with more functions.

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