

Local Government
ETHICAL LEADERSHIP
— Initiative —

Code for Ethical Municipal Leadership

Draft for discussion

4 May 2023

Version 005

An initiative of:



Please send queries/comments to:

Kris Dobie: Kris@tei.org.za

Fatima Rawat: fatima@tei.org.za

In partnership with:



**cooperative
governance**

Department:
Cooperative Governance
REPUBLIC OF SOUTH AFRICA



moral regeneration movement

building an
**ethical
SOCIETY**

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INTRODUCTION

Draft for discussion

A. Introduction

1. Background to the Code

The Constitution of the Republic of South Africa (1996) envisions a local sphere of government that is ‘democratic and accountable’ and will ‘ensure the provision of services to communities in a sustainable manner’.

The White Paper on Local Government not only sets out the vision for democratic local government but also envisions the type of political leadership required to achieve that vision. A political leadership which:

- Provides community-wide leadership and vision
- Constantly builds its capacity to make policy judgements
- Is accountable and transparent
- Builds partnerships and coalitions
- Represents the diversity of interests
- Demonstrates value for money

The National Development Plan 2030 envisions a society which has a zero tolerance for corruption, with an empowered citizenry that hold leaders to account and ‘leaders who act with integrity and have high ethical standards’.

This is taken further in the National Anti-Corruption Strategy 2020-2030 that sets ‘ethical leadership’ as one of its seven strategic objectives, and envisages an ‘ethical, transparent and accountable state, business and civil society sectors in which those in positions of power and authority act with integrity’.

The absolute importance of ethical leadership – specifically in local government – is further elaborated on by the Local Government Anti-Corruption Strategy (2015) which envisions a local government sector where:

- Leadership is unquestionably committed to high ethical standards, service delivery and good governance;
- A sense of openness and accountability defines the relationship with the citizens;
- Robust governance and oversight processes are institutionalised and resourced;
- A professional ethical culture is embedded; and
- Corruption incidents are dealt with justly and decisively.

The Local Government Anti-Corruption Strategy (2015) goes beyond merely wishing for improved ethical leadership, and sets out a plan for a structured national dialogue to determine “Values and principles for ethical governance in municipalities”. It stipulates that the process should culminate in a widely consulted document that specifies not only abstract values, but specifically how to operationalise good governance and ethical leadership in practice.

The Local Government Ethical Leadership Initiative (LGELI) – a partnership between The Ethics Institute (TEI), the Department for Cooperative Governance (DCoG), the South African Local Government Association (SALGA), and the Moral Regeneration Movement (MRM) – was therefore established to develop the **Code for Ethical Municipal Leadership** as envisaged in the Local Government Anti-Corruption Strategy.

The Code was developed as part of a five-year project which commenced in 2020. The first year saw the establishment of the LGELI Advisory Committee to guide the project. During 2021, extensive research was conducted in all nine provinces to better understand issues surrounding municipal ethical leadership. From this, a draft code was developed that was taken back to the provinces in 2022 for consultation.

The process is summarised in the graphic below:



2. Why have a Code for Ethical Municipal Leadership?

A number of studies have indicated that challenges with ethical leadership impact negatively on the governance of municipalities and ultimately on their ability to deliver services. This includes the Auditor General of South Africa which has made repeated calls in the MFMA audit report for ethical and accountable leadership to drive the required change.

Ethical leadership is an absolute prerequisite for good governance and service delivery, but neither ethics, nor leadership can be legislated. In other words, one will not improve the standard of ethical leadership through more legislation. What is required is refocusing on the spirit of ethical leadership in local government, and bringing that to life.

It is the premise of this Code that the majority of leaders in local government are ethical people, who want to do the right thing.

At the same time, our research has indicated that leading ethically in local government can be very difficult, and that there are certain practices that undermine ethical leadership (making it more difficult) and others that empower ethical leadership (making it easier).

This Code therefore aims to be a tool to help municipal leaders navigate this challenging terrain. It helps guide leaders' own behaviours by clarifying what practices have been proven to undermine ethical leadership, and should therefore be avoided, and what practices are enabling, and should be pursued. At the same time the Code is also a resource to guide the collective behaviour of municipal leaders.

We are hoping that it becomes a rallying point for the majority of leaders who want to help to establish more ethical municipalities. It should become a widely accepted standard that can provide clarity when there are those who want to head in the wrong direction. This will invariably take courage, but as more and more people join in the conversation, it will positively impact the culture in municipalities, making it easier for other municipal leaders, staff and stakeholders to behave ethically.

The code will clarify the spirit of ethical leadership in local government, as well as provide guidance on practices to avoid and practices to instil. It does so through a set of principles that municipal leaders should aspire to abide by. It is recommended that municipal leaders always apply their minds (and debate) as to how the principles will best be applied in the spirit of ethical leadership, and in the interest of communities.

It is important to appreciate this upfront as local government is a highly regulated sector. The code therefore does not aim to give more regulation, but to provide guidance to individual leaders who want to lead for the public good. The code builds on existing legislation and addresses a piece of that puzzle which is currently missing, namely the spirit and principles of ethical leadership. We believe that if this spirit and principles are lived, it will breathe life into the existing legislation.

This Code aims to create an environment where the existing legislative and regulatory framework can thrive, by setting out: the spirit of ethical leadership; the principles to achieve ethical leadership (the how); and the outcomes of ethical leadership in municipal context.

It is important to understand the relationship between the spirit of ethical leadership, the principles as set out in the code and the outcomes of ethical municipal leadership.

- Spirit: The underlying ethos of how municipal leaders should lead
- Principles: these guide leaders on what they should do, or strive to do. Principles build on each other. They are deliberately phrased in a positive aspirational manner.
- Outcomes: through ethical leadership, these are the positive benefits which will then result to the municipality if the principles as set out in the code are lived.

3. How does this code differ from the Municipal Codes of Conduct?

The Municipal Structures Act Amendment Act (3 of 2021) sets out the Code of Conduct for Councillors, and the Municipal Systems Act (32 of 2000) sets out the Code of Conduct for Municipal Staff Members.

While these codes contain vital principles of general conduct, they are predominantly a list of *do's and don'ts* that councillors and staff members have to abide by in terms of their personal conduct. As the names say, they are codes of conduct.

While the Code for Ethical Municipal Leadership contains some elements of personal conduct, it is predominantly about the role that leaders can play to ensure an ethical and effective organisation. So instead of being a code of personal conduct, it is a governance code that gives guidance on how the organisation should be governed and administered, similar to the King Code for Corporate Governance.

4. Who does the Code for Ethical Municipal Leadership apply to?

The Code sets out principles that should be applied by anybody who finds themselves in a municipal leadership role. At the political level this includes councillors, and traditional leaders and at the administrative level it includes municipal managers and all other senior managers.

As explained above, the purpose of the Code is to provide guidance to municipal leaders on ethical leadership. It is therefore applicable at an individual level. Individual leaders should live by the spirit and principles of the Code, but the outcomes will only be achieved if leaders live these principles as a collective. The aspiration is therefore not only to live it oneself, but to influence others to do so as well.

To set the tone at a leadership level, and inculcate a culture of ethical leadership, Councils are encouraged to formally endorse/adopt the Code.

The Constitution specifies that the municipality consists of three components: the council, the administration and the community. Since the community is included in the definition of a municipality, the Code also sets out how it can support its spirit and principles.

There are a host of other role-players, for example political parties and business, who are not necessarily governed by municipal legislation and codes, but who also have a tremendous impact on the ethical culture in municipalities. These too should be guided by the spirit of the Code.

5. Who will enforce the Code for Ethical Municipal Leadership?

As has been indicated above, one cannot legislate or regulate ethical leadership. Leaders will either choose to abide by the Code, or they won't. They must believe they can make a difference, and they must want to make a difference. As such this is not an enforceable standard, but rather an aspirational one.

We believe there are enough good leaders who want to do the right thing – even when no one is watching.

Leaders will hold themselves accountable to the Code, but will also informally hold other leaders to its spirit and principles. In the same way, communities can expect their leaders to abide by the Code, and hold them to account.

The Code can also guide the spirit of the law. The Local Government: Municipal Structures Amendment Act (Act 3 of 2021), specifies that the Speaker of Council “is responsible for the ethics and accountability of the municipal council”. While the Speaker is not expected to hold councillors accountable to this Code, it may give the Speaker guidance when considering the spirit of ethical leadership. This will be easier in a municipality where Council has chosen to endorse/adopt the Code.

6. Who will promote the Code for Ethical Municipal Leadership?

While it won't be enforced, the Code of Ethical Municipal Leadership needs to be promoted, institutionalised, and supported. This will be the work of the project partners (TEI, DCoG, SALGA and the MRM), under the guidance of the LGELI Advisory Committee.

The impact of the Code will be monitored and evaluated over time.

7. Acknowledgement to King IV

The King Report on Corporate Governance for South Africa (2016) (King IV) is now in its fourth iteration and has matured significantly since it was first released in 1994. It sets out 16 principles to assist governing bodies and organisations in achieving good governance outcomes.

The Code for Ethical Municipal Leadership has leaned strongly on many of the foundational aspects that have been developed by the King Committee, and especially in the following respects:

The Code:

- Follows King's example of an **outcomes-based approach** for a governance code.
- Adopts a **principle-based** (rather than a rules-based) approach to corporate governance. This approach requires leaders to mindfully apply the principles of the Code (in the intended spirit), rather than mindlessly complying with rules. **Mindful application** of codes of governance is about achieving the benefit of good governance in the interest of the municipality and applying the code as a way of adding value and not as a compliance burden that takes away value.
- Embraces the understanding as advocated by King of seeing governance as a **holistic and integrated** set of arrangements.
- Adopts the idea that all of the principles set out in the code are **collectively** required in order to work towards good governance.

What is good governance

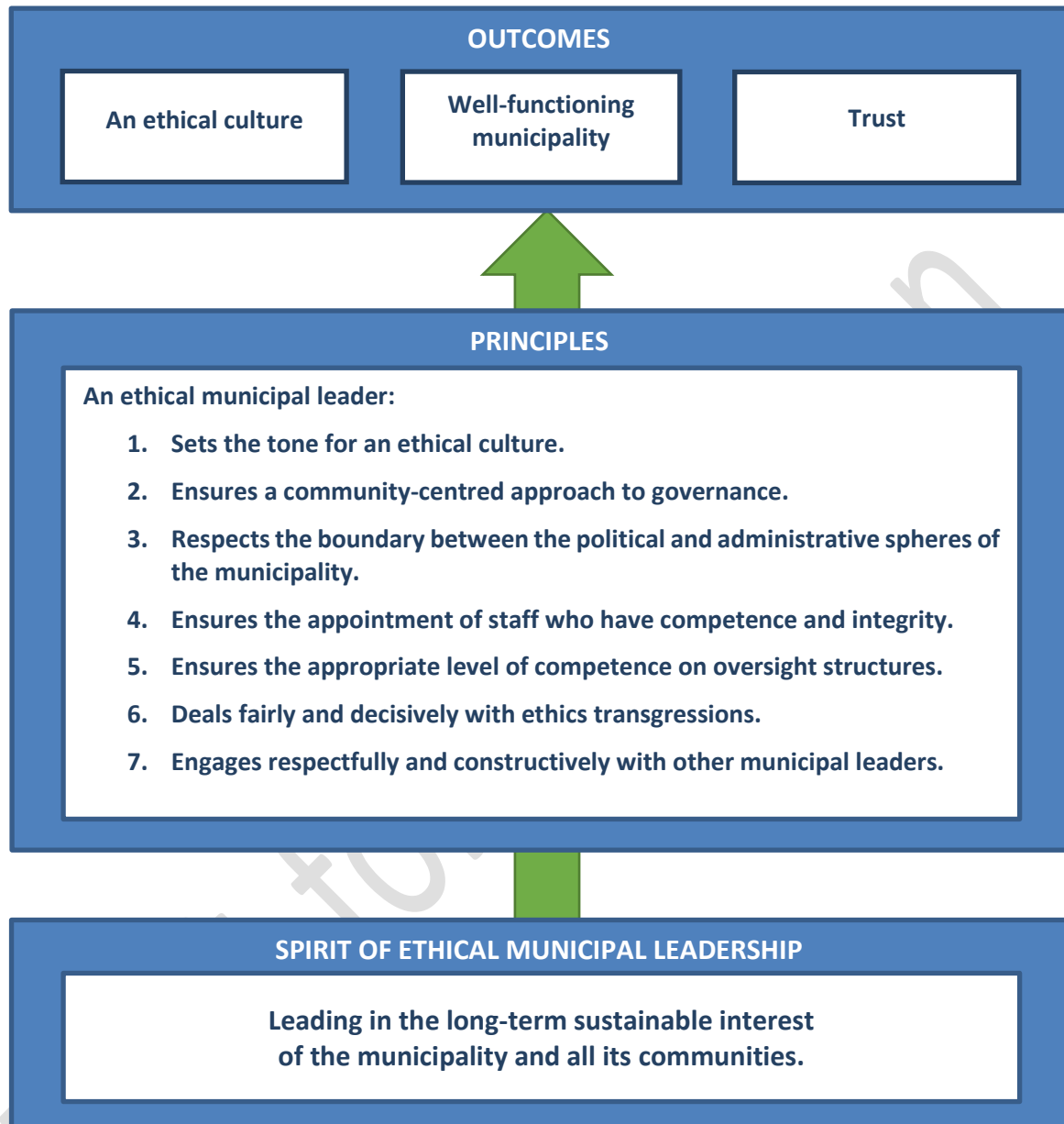
Good corporate governance is essentially about effective, ethical leadership. Whilst leadership starts with each individual leader, it finds its expression through the governing body as a collective, setting the appropriate example and tone which is referred to as ethical governance.

Good governance in the local government sector and wider public sector is about delivering priorities, achieving objectives, behaving with integrity and acting in the public interest in ways that are consistent with legal, regulatory and government policy obligations.

Councillors are predominantly responsible for the governance of the municipality, but the municipal manager and s56 managers play a supportive role in enabling municipal governance.

CODE FOR ETHICAL MUNICIPAL LEADERSHIP

A. Code for Ethical Municipal Leadership



1. OUTCOMES of ethical municipal leadership

Outcomes are the positive effects which the municipality will gain/benefit from as a result of ethical municipal leadership.



Through the mindful application of the spirit and principles of ethical leadership, municipal leaders will contribute towards the following outcomes being achieved within their municipalities.

- **Ethical culture**
 - Ethical leadership builds an ethical culture in the municipality as a workplace. This means that the systems and the culture make it easier for people to behave in the right way, rather than the wrong way, and people do the right things whether they are being watched or not.
 - Ethical leadership promotes an ethical culture in the community. Leaders are not just responsible for delivering services, but should also strive to promote healthy community relations, social cohesion, and positive societal values within their communities.
- **Well-functioning municipality**
 - The National Development plan emphasises that meeting our transformation agenda requires functional municipalities and a capable machinery at a local level that can create safe and healthy and economically sustainable areas where citizens and people can work, live and socialise.
 - Ethical leadership builds governance systems and processes that provide direction, create policy clarity, and ensure oversight and accountability.
 - Ethical leadership ensures developmental and sustainable provision of services to all citizens especially the most vulnerable – in fulfilment of the Constitutional mandate of local government.
 - Ethical leadership ensures that the right people are appointed and that resources are used fairly and wisely. This ensures that the municipality functions optimally.
- **Trust**
 - Ethical leadership creates trust between the municipality and all its stakeholders, as well as trust in its leaders that are able to fulfil their roles and responsibilities.

2. SPIRIT of ethical municipal leadership

Leading in the long-term sustainable interest of the municipality and all its communities.

In whose interest do municipal leaders lead?

*The foundational question of municipal leadership (against which all other questions are measured) is whose interests one considers when making decisions. In other words: **In whose interest do we lead?***

Municipal leaders should lead in the long-term, sustainable interest of the municipality and all its communities.

What does this mean for leaders?

Leaders should ask themselves the question:

- ✓ Is what we are doing in the long-term sustainable interest of the municipality and all its communities?
- ✓ Am I considering the long-term, sustainable interest of the municipality and all its communities above personal, political and factional interests?
- ✗ If not, that course of action would not be in line with ethical leadership and should not be pursued.

3. PRINCIPLES of ethical municipal leadership

The principles indicate what municipal leaders should do to ensure that they live the spirit of ethical municipal leadership.

An ethical municipal leader:

1. **Sets the tone for an ethical culture.**
2. **Ensures a community-centred approach to governance.**
3. **Respects the boundary between the political and administrative spheres of the municipality.**
4. **Ensures the appointment of staff who have competence and integrity.**
5. **Ensures the appropriate level of competence on oversight structures.**
6. **Deals fairly and decisively with ethics transgressions.**
7. **Engages respectfully and constructively with other municipal leaders.**

Principle 1: An ethical municipal leader sets the tone for an ethical culture

Unpacking the issue

Ethics is about doing what is good & right, both for the self and for the other. Ethical action is to achieve what is good, right and lawful both for the municipality, and for the community. Ethical leadership goes beyond simply acting ethically oneself. It also means setting an ethical tone in one's environment and positively impacting the ethical culture, both in the municipality and the community.

An ethical culture is one where it is easier for people to do the right thing rather than the wrong thing.

As leaders we create culture by what we do, and by what we don't do. Even if we allow others to set an unethical tone, we are busy creating a culture (but a negative one). It is therefore the responsibility of every municipal leader to always try to positively influence the ethical culture in their communities and municipalities.

Practical Implementation

An ethical municipal leader:

- Lives the values of ethical municipal leadership

The following values are key to the spirit and execution of ethical municipal leadership and each municipal leader should aspire to integrate these into their character:

- **Integrity** – consistently living in an honest and upright manner.
- **Community centredness** – objectively considering the long-term sustainable interest of communities (above personal, party-political or factional considerations), and engaging with communities meaningfully and respectfully.
- **Accountability** – holding oneself accountable, accounting to stakeholders for one's decisions and actions, and fairly holding others accountable for their decisions and actions.
- **Diligence** – working hard at achieving objectives, doing so to the best of one's abilities, and continuously striving to improve one's knowledge.
- **Courage** – standing strong in one's convictions, and standing up for what is right, especially when the above values are being compromised.

- Ensures compliance with the spirit and letter of the legislative and regulatory framework

- As part of ensuring a well governed entity, municipal leaders strive to know and understand the municipal regulatory framework, abide by it, and ensure that others abide by it.

- Ensures that the ethics of the municipality is governed and managed in a way that results in an ethical culture

This includes:

- Ensuring the establishment of ethics structures and capacity as set out in the Municipal Integrity Management Framework.
- Clarifying ethical expectations.
- Living the spirit and values of ethical municipal leadership consistently.

- Acting ethically beyond mere legal compliance
- As a minimum, abiding by the relevant municipal Code of Conduct.

- **Promotes an ethical culture in the community**

Ethical leaders are not just responsible for delivering services, but should also strive to promote healthy community relations, social cohesion, and positive societal values.

Pitfalls / Practices that inhibit good governance

Councillors sometime ask for, or accept party-political, or personal donations or funding from people or companies who are suppliers to the municipality. There is a serious risk that this could cause those involved to put the interest of the supplier before that of the community, which would be a conflict of interest. It means that one can't be objective in the best interest of the community, and places one's integrity at risk.

How other stakeholders support this principle

- Political parties should:
 - advocate the importance of abiding by the Code to the councillors that they deploy.
 - avoid accepting funding from companies/organisations who are suppliers to the municipality as this could lead to conflicts of interest.
- Business partners / suppliers should deal openly and transparently with municipalities and municipal leaders, and avoid giving donations where this could potentially lead to a conflict of interest.
- Communities should support the spirit of ethical leadership. As much as communities expect leaders to be ethical, they should similarly strive to abide by high ethical standards, and not put unreasonable demands that pressurise councillors into unethical conduct. They should engage respectfully with all municipal stakeholders.
- Council and council committees should set an ethical tone in all their deliberations.

Principle 2: An ethical municipal leader follows a community-centred approach to governance

Unpacking the issue

The Municipal Integrity Management Framework provides that communities must be acknowledged as the owners of municipalities and are therefore entitled to transparent and accountable government.

The community elects leaders (councillors) to represent their interests in the municipality. There is therefore a responsibility on all municipal leaders to put the interest of the community first, actively engage with them to understand their needs and give them feedback on the work of the municipality. Community engagement is the foundation of participatory democracy.

Practical Implementation

An ethical municipal leader:

- **Places the interest of the community first**
 - Where personal, party-political or factional interests are in clear conflict with the community's interests, municipal leaders should stand up for the community's interests and put them first.
- **Consults meaningfully with communities**
 - Councillors should have frequent engagement with communities, not just during elections. These engagements should be meaningful in that councillors should listen and be responsive to the community's needs.
 - They should build constructive relationships with the community and seek out opportunities for engaging with civil society.
 - Officials should similarly engage with communities to get a sense of realities on the ground.
 - Councillors should aim to be a source of civic education, informing communities of their rights and responsibilities as citizens, and how to access services in all of government.
 - Councillors should help communities think of their long-term sustainable interest and balancing that with short-term needs.
 - Officials should advise councillors appropriately and timeously to ensure accurate communication with communities.
- **Is open and truthful with communities**
 - Leaders actively give the community information about issues that concern them.
 - Councillors should be thoughtful about not making commitments to communities that cannot be kept– especially during campaigning. They should always give honest feedback on what is possible in line with municipal budgets and manage community expectations.
- **Is responsive to communities**
 - Officials should constructively support councillors to address community concerns, as far as it is lawful, sustainable and not at odds with the Integrated Development Plan (IDP).
- **Ensures the prudent use of resources**

- Leaders should always ensure that the resources of the municipality are used prudently, with long-term thinking in mind, and in the sustainable interest of the municipality and all its communities.
- **Considers the interests of everyone in the community, not just those who voted for them**
 - Councillors should be careful of unfairly favouring their party members or constituencies where opportunities and services are meant for the whole community (for example the allocation of local labour opportunities or housing).
 - This does not mean that they can't promote the specific needs of their wards and constituencies, especially when their needs are neglected.
- **Aspires to a shared, inclusive vision for the community**
 - Leaders should aim to bring together diverse role players and interest groups to formulate and realise a shared vision.
- **Where required, builds coalitions in the best interest of the community**
 - Where required, councillors should seek to build coalitions in the best interest of the community.
 - They should aim to negotiate coalition agreements which are in the best interest of the municipality and centred around what is best for the community. Coalition agreement should focus on achieving stability in the municipality and ensuring sustainable service delivery.
 - Coalition agreements should be made transparent so that communities can hold municipal leaders to account.

In November 2021, SALGA collaborated with members of executive councils and tertiary institutions to develop a Framework for Coalitions Governments. SALGA is seeking to have the Framework promulgated.

The Framework provides practical guidelines to political parties and councillors on the formation and management of coalitions in local government. It sets out the relevant law but also offers guidance on issues such as coalition agreements, kingmakers and the distribution of political offices. The Framework can be accessed <https://dullahomarinstitute.org.za/multilevel-govt/publications/04112021-a-framework-for-coalitions-in-local-government-1.pdf/view>

Pitfalls / Practices that inhibit good governance

The fact that councillors and senior municipal officials all have five-year terms, means that they want to achieve as much as they can in this timespan. Ethical leadership however also considers the long-term sustainability of the municipality and its long-term financial health. Being prudent in the short-term will likely put the municipality in a better position to provide services in the long-term. Achievement of short-term objectives should not be done at the expense of the long-term sustainability and financial health of the municipality.

An example of short-term thinking is the creation of positions that are not actually required. Unnecessary positions should not be created as these are expensive to fund, and detrimental to the community in the long run.

How other stakeholders support this principle

- Communities should actively participate in municipal engagements.
 - They should do so constructively and in good faith, and should aim to educate themselves on the functioning of municipalities.
 - They should ask for feedback, and require their councillors to account to them.
 - They should hold municipal leaders to the spirit and principles set out in the Code.
 - The destruction of property is never in the interest of the municipality or the community, and should never be promoted or condoned.

Key government partners can assist with stable coalitions (may not be for Code?)

- CoGTA should provide guidance to municipalities on establishing, maintaining and sustaining coalition governments.
- SALGA should support municipalities in establishing coalitions and support the process by ensuring that the Framework for Coalition Government is seen as a recognised guideline.

Principle 3: An ethical municipal leader respects the boundary between the political and administrative spheres of the municipality.

Unpacking the issue

The political sphere (council) and the administrative sphere (officials) of the municipality have differing functions.

Councillors are responsible for the governance of the municipality. That means that they should set the strategic objectives (through the Integrated Development Plan (IDP)) and the policy framework for the municipality.

Municipal officials (under the leadership of the Municipal Manager and senior managers) are responsible for the practical implementation of the objectives and policies.

Many ethical challenges in municipalities occur at the political-administrative interface, and this frequently leads to the politicisation of the administration. It is crucial that the administration be driven by professional values to ensure that it can effectively fulfil the mandate of the municipality.

Practical Implementation

An ethical municipal leader:

- **Respects the principle of separation of powers**

Councillors set the strategic objectives (through the Integrated Development Plan (IDP)) and the policy framework for the municipality. Thereafter councillors should guard against being overly operational in the management of the municipality. They should work at an arms-length (and following due process) with municipal officials to address community needs and service delivery, in line with the IDP.

They do not interfere in the administration and specifically not in the appointment of officials below section 56 managers, nor in tendering or procurement processes.

- **Actively guards against politicising or factionalising the administration**

- o Officials should be apolitical in the execution of their duties.

- **Works in a constructive spirit with the other sphere of the municipality (i.e. council or administration)**

Officials should implement the IDP and the policies that are set by council in a constructive and supportive spirit. They should communicate proactively to councillors where there are challenges with implementation, to allow councillors to inform communities accordingly.

They should not abuse the political-administrative boundary to avoid accounting to councillors, and should not let their own political affiliations interfere with doing their work professionally.

They should remain within the confines of the law and the restrictions of the IDP and sustainability considerations.

Interference vs intervention

Interference: Sometimes councillors want to get involved in operational matters of the municipality where they should not be involved. The most destructive areas of such interference are where councillors try to influence Supply Chain Management (SCM) and tender outcomes, as well as the

appointment of staff below the level of section 56 managers. This can be done by interfering directly, or by utilising employees in the administration. Councillors should create a positive ethical environment where the SCM and appointment policies can be applied fairly and objectively.

Intervention: At other times councillors might want to intervene in the administration to ensure municipal responsiveness to community needs. There might be very legitimate reasons for this engagement, but at the same time it might place officials under pressure to bypass procedures or work schedules. To manage these pressures, council should, in consultation with the Municipal Manager, determine a procedure/protocol for engagement between councillors and officials. It should be made clear that the communication between councillors and officials should be to hold officials accountable to legitimate expectations and not to give instructions. Councillors should never require officials to bypass procedures, or to behave in a manner that is not in line with legislation, the IDP, policies or procedures.

How other stakeholders support this principle

Political parties should avoid becoming overly involved in the running of municipalities.

Council should set a process for engagement between councillors and officials in service delivery matters to ensure responsiveness to community concerns.

Municipal Public Accounts Committees (MPACs) should play an oversight role to ensure that there is not political interference in the administration.

Principle 4: An ethical municipal leader ensures the appointment of staff who have competence and integrity

Unpacking the issue

The appointment of strong, ethical leadership and staff can lay the foundation for a successful organisation. On the flipside, the appointment of inappropriate leaders and staff is one of the causal factors of unethical and unprofessional cultures in organisations.

The appointment of people who are too closely politically aligned to incumbent political leaders can be equally problematic in the long run. Politics is by its nature unstable (due to running in 5-year cycles) and one would want to avoid bringing this instability into the administration. Ideally leaders should aim to appoint apolitical, professional officials into the municipality.

Practical Implementation

An ethical municipal leader:

- **Ensures the appointment of the best possible staff (with competence and integrity) to fulfil the mandate of the municipality.**

This includes:

- Ensuring the appointment of staff who have competence and integrity.
 - Councillors should ensure the appointment of a municipal manager and s56 managers who have the competence (in line with the set competence requirements) and experience to fulfil their duties, and the integrity to build trust with staff, councillors and communities.
- Ensuring a robust and fair recruitment drive to fill the above positions, including conducting pre-employment background checks, as well as competency assessments.
 - Staff who have been dismissed for misconduct should not be appointed before the expiry of the prescribed sanction period.
- **Avoids appointing staff who can be seen as ‘political’**
 - Political party office-bearers should not be appointed into the administration.
 - Councillors should not attempt to influence the appointment of staff at any level below that of s56 managers.
 - Councillors should develop policies to distinguish between appointment of officials to political offices and those who are appointed into administrative offices in the municipality. The policy should clearly stipulate that those who are in administrative offices should not be political employees.
- **Strives to ensure stability in the management team of the municipality.**
 - Once a competent management team is employed, leaders should, as far as possible, aim to maintain stability in the team.
 - The practice of dismissing staff with every political change in council should be avoided. This is more attainable when professional, rather than political staff were appointed in the first place.

Pitfalls / Practices that inhibit good governance

1. Aside from destructive deployment practices, positions are sometimes created within the staff establishment of the municipality that are not necessary, or people are appointed to positions that do not exist in the staff establishment.
2. At other times, and perhaps because inappropriate people have been appointed, external consultants are used to perform the work that staff members should be able to perform.
3. All of these practices are extremely wasteful and deplete resources that should be used for service delivery.

Drafting note: The following two extracts from the 2022 Amendments to the Municipal Systems Act are for noting:

9. The following section is hereby inserted in the principal Act after section 71A:

“Limitation of political rights

20

71B. (1) A staff member may not hold political office in a political party, whether in a permanent, temporary or acting capacity.

(2) A person who has been appointed as a staff member before subsection (1) takes effect, must comply with subsection (1) within one year of the commencement of subsection (1).”

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(g) by the substitution for subsection (7) of the following subsection:

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“(7) The contract of employment of a manager directly accountable to the municipal manager must be on a permanent basis.”

Principle 5: An ethical municipal leader ensures the appropriate level of competence, integrity, and diversity on committees and oversight structures

Unpacking the issue

The municipal environment is highly complex in terms of legislation, regulation and budgets. Governance and oversight in this complex environment requires not only personal integrity, but also a very specific combination of technical skills and experience that is built over time.

There may be some councillors who, though they have the required integrity, do not (yet) have the specific skill set required to provide oversight of complex municipal governance processes and budgets. Should they be responsible for providing oversight, it will likely mean that the best interest of the municipality and its communities will not be served. This means that councils need to apply their minds to remedy the situation to ensure proper oversight.

Practical Implementation

An ethical municipal leader:

- **Selects the strongest possible candidates (considering their competence and integrity) onto committees and oversight structures.**
- **Co-opts external expertise onto committees and oversight structures where the internal technical expertise is insufficient.**
 - In council, the first prize is for political parties to ensure that councillors are capable, thus avoiding extra expense of external experts.
- **Ensures an appropriate mix of skills and diversity on committees.**
- **Trains committee members on their responsibility, and then ensures stability on committees to allow for committee members to mature and gain experience.**
 - Committees might also include a minority of councillors who are still developing their governance skills and experience. The number of such members need to be balanced with the need for the committee to still fulfil its functions effectively in the interest of the community.

Pitfalls / Practices that inhibit good governance

Sometimes those with the appropriate competence and integrity are overlooked in favour of those who may be politically more favourable. The same would apply for officials – people who are more likely to toe the line may be preferred over those who may have the required skills.

How other stakeholders support this principle

Political parties should:

- As far as possible, and with due regard to the democratic process:
 - field councillors with competence and character.
 - ensure a diverse set of skills and competencies amongst councillors. (This can be done especially among Proportional Representation councillors.)

Principle 6: An ethical municipal leader deals fairly and decisively with ethics transgressions

Unpacking the issue

The overall focus of ethical leadership should be to proactively ensure a supportive ethical culture and strong governance environment, where transgressions are less likely to occur. Transgressions will however still occur in most organisations, and should be dealt with decisively. Failure to deal with transgressions creates a culture of impunity where people perceive that they can get away with misconduct without consequences. At the same time, disciplinary processes should not be abused to fight personal or political battles.

Practical Implementation

An ethical municipal leader:

- **Ensures that the spirit and process with which disciplinary cases are adjudicated is:**
 - Fair
 - Independent, and
 - Timely

This will require setting out specific policies and procedures for dealing with discipline/consequence management. Such policies should stipulate processes for ensuring that investigations and disciplinary matters relating to municipal leaders are dealt with independently. At the very least, external oversight should be involved.

- **Ensures that personal and political considerations do not trump the best interest of the municipality and all its communities in disciplinary cases.**
- **Deals decisively with conflicts of interest.**

This includes the development of policies and procedures to deal with conflicts of interest, including:

- Managing the information from conflicts of interest/disclosure processes.
- Conducting lifestyle audits when it is observed that a person's lifestyle appears excessive for their income.
- Taking action when conflicts are discovered.
- **Ensures that audit findings are addressed.**

Pitfalls / Practices that inhibit good governance

One of the biggest challenges is to investigate and discipline people who are viewed as 'powerful' or 'connected', and to do so through a process that is trusted to be objective and independent. It frequently happens that disciplinary processes have pre-determined outcomes because they are not independently dealt with.

How other stakeholders support this principle

Political parties should consistently hold the councillors they deploy into municipalities, accountable for their actions.

Communities should hold political parties and representatives to account.

Council committees should ensure strong oversight and accountability.

Principle 7: An ethical municipal leader engages respectfully and constructively with other leaders

Unpacking the issue

In addition, while councillors are likely to have differences with their political opponents, these differences should be dealt with maturely so that it does not detract from the work of the municipality.

Practical Implementation

Ethical municipal leaders:

- **Aspire to reciprocal relationships of trust and integrity with each other.**
 - o Councillors should constructively participate in council meetings – especially when there are differences of opinion.
 - o Officials should remain professional and committed when they have differences with others.
- **Ensure that personal, political and factional differences do not get in the way of doing the work of the municipality in the interest of the community.**

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